

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date / Time of Incident:	February 15, 2018, approximately 5:18 p.m.
Location of Incident:	5353 West Altgeld Street, Chicago, Illinois
Date / Time of COPA Notification:	February 6, 2019, approximately 2:55 p.m.

On February 15, 2018, at approximately 5:18 p.m., while driving a personal vehicle near 5353 West Altgeld Street, in Chicago, Illinois, off-duty Chicago Police Department (“CPD”) Officer Jose Troche-Vargas (“Officer Troche-Vargas”) stopped his vehicle mid-block, causing a 14-year-old bicyclist, [REDACTED] to collide with the back of the officer’s vehicle. Officer Troche-Vargas then got out of his vehicle and a physical altercation ensued. [REDACTED] then called 911 from the scene; Officer Troche-Vargas made his own 911 call about three minutes later. OEMC then dispatched CPD Officers Chris S. Sloniec and Maria C. Kuc (“Officer Sloniec” and “Officer Kuc”) to the scene, along with CPD Sgt. Daniel Rosenthal (“Sgt. Rosenthal”).

Upon their arrival at the scene at about 5:37 p.m., Officers Sloniec and Kuc were met by Officer Troche-Vargas and [REDACTED] as well as by an adult male civilian and an adult female civilian who claimed to have information about the incident. Officer Sloniec activated his body-worn camera (“BWC”) almost immediately upon his arrival at the scene; Sgt. Rosenthal arrived at the scene at about 5:41 p.m., having activated his BWC prior to his arrival.

Officer Troche-Vargas and [REDACTED] gave conflicting BWC-recorded accounts at the scene. Officer Troche-Vargas said that [REDACTED] had kicked the back of Officer Troche-Vargas’ moving vehicle as [REDACTED] rode his bike to the side of that vehicle, and that as [REDACTED] did so, [REDACTED] made what Officer Troche-Vargas interpreted as a threatening gesture, indicating that he was armed with a pistol. Officer Troche-Vargas further told the responding on-duty CPD members that he (Officer Troche-Vargas) then braked hard and jumped out of his vehicle, that [REDACTED] (now off his bike) responded by threatening the officer with balled-up fists, and that the officer responded by taking [REDACTED] down. Officer Troche-Vargas also informed Sgt Rosenthal that the adult female at the scene had made a video recording of parts of the incident. [REDACTED] gave the responding on-duty CPD members a different account. [REDACTED] said that Officer Troche-Vargas swerved his vehicle in front of him and stopped suddenly, causing his bike and his body to collide into the back of the officer’s vehicle. [REDACTED] further said that Officer Troche-Vargas then got out of his vehicle and attacked him physically. At the scene, the adult male civilian approached Sgt. Rosenthal and told him that Officer Troche-Vargas’ account was not true.

While at the scene, Sgt. Rosenthal examined [REDACTED] bicycle and the rear of Officer Troche-Vargas’ vehicle, and he determined that there had been a traffic crash. Sgt. Rosenthal also called for an ambulance for [REDACTED] who complained of shoulder pain. [REDACTED] father then arrived at the scene. Sgt. Rosenthal then informed [REDACTED] father that [REDACTED] was under arrest, and that, while in custody, [REDACTED] would be taken by ambulance to a hospital for treatment. An ambulance then arrived and removed [REDACTED] from the scene. The responding CPD members

departed the scene at about 6:28 p.m. While at the scene, Sgt. Rosenthal and Officer Sloniec twice deactivated their BWCs.

COPA opened a preliminary investigation into the above-described events after being notified that [REDACTED] mother had filed a lawsuit alleging that Officer Troche-Vargas had battered [REDACTED] and alleging that the CPD had falsely arrested him.¹ COPA's preliminary investigation included our review of BWC footage recorded at the scene by Officer Sloniec and Sgt. Rosenthal, our review of CPD reports relating to the incident, and our interview of [REDACTED] in the presence of his parents. Among other things, that preliminary investigation showed that the CPD's reports contained descriptions of the incident that were inconsistent with the accounts given by Officer Troche-Vargas at the scene and, further, that those reports made no reference to the adult civilians who spoke with Sgt. Rosenthal, Officer Sloniec, and Officer Kuc at the scene.

COPA therefore opened a misconduct investigation by serving notifications of allegations upon Officer Troche-Vargas, Officer Sloniec, Officer Kuc, and Sgt. Rosenthal. After taking the statements of each, we concluded that Officer Troche-Vargas had engaged in misconduct by recklessly causing a traffic crash, by wrongly using force against [REDACTED] immediately afterward, and by submitting false reports about the events. We also concluded that Sgt. Rosenthal had committed misconduct by directing [REDACTED] arrest, by de-activating his BWC at the scene, by failing to conduct a thorough investigation, and by submitting and/or approving inaccurate and incomplete reports. We further concluded that Officer Sloniec had also engaged in misconduct by de-activating his BWC at the scene, by failing to conduct a thorough investigation, and by submitting an inaccurate and incomplete report. Finally, we concluded that Officer Kuc had also engaged in misconduct by failing to conduct a thorough investigation and by submitting an inaccurate and incomplete report.

II. INVOLVED PARTIES

Involved Member #1:	Jose Troche-Vargas, Star #6430, Employee ID# [REDACTED]; Date of Appointment: October 31, 2012; Rank: Police Officer; Unit of Assignment: 014/376, DOB: [REDACTED] 1982, M/WWH
Involved Member #2:	Daniel Rosenthal, Star #2451, Employee ID# [REDACTED]; Date of Appointment: October 10, 2000, Rank: Sergeant; Unit of Assignment: 012, DOB: [REDACTED], 1971, M/W
Involved Member #3:	Chris S. Sloniec, Star #5328, Employee ID# [REDACTED]; Date of Appointment: January 23, 2006; Rank: Police Officer; Unit of Assignment: 025; DOB: [REDACTED], 1980; M/W
Involved Member #4	Maria C. Kuc, Star# 15413, Employee ID# [REDACTED]; Date of Appointment: October 31, 2016; Rank: Police Officer; Unit of Assignment: 025; DOB: [REDACTED], 1979; F/W
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 2003; M/WWH

¹ Attachment #2 contains a copy of the complaint in that lawsuit.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Troche-Vargas	<p>On February 15, 2018, at approximately 5:18 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Officer Jose Troche-Vargas committed misconduct through the following acts and/or omissions:</p>	
	<p>1. stopping his motor vehicle suddenly, causing a traffic crash between ██████████ (riding a bicycle) and the vehicle operated by Officer Troche-Vargas; and/or</p>	SUSTAINED
	<p>2. engaging in a verbal and/or physical altercation with ██████████ without justification; and/or</p>	SUSTAINED
	<p>3. striking ██████████ (i.e., with a closed hand and/or by performing a takedown), without justification.</p>	SUSTAINED
	<p>On February 15, 2018, at approximately 9:45 PM, at or near 5555 W. Grand Avenue, Chicago, Illinois, Officer Jose Troche-Vargas committed misconduct through the following acts and/or omissions:</p>	
	<p>1. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of the CPD Arrest Report of ██████████ (RD# ██████████); and/or</p>	SUSTAINED
<p>2. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Tactical Response Report documenting Officer Jose Troche-Vargas' use of force against ██████████</p>	SUSTAINED	
Sergeant Rosenthal	<p>On February 15, 2018, at approximately 5:38 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Sergeant Daniel Rosenthal committed misconduct through the following acts and/or omissions:</p>	
	<p>1. arresting and/or directing the arrest of ██████████ without justification.</p>	SUSTAINED
<p>2. failing to operate his body-worn camera in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i>; and/or</p>	SUSTAINED	

Officer	Allegation	Finding
<p>Sergeant Rosenthal (continued)</p>	<p>3. failing to ensure that CPD members under his command operated their body-worn camera(s) in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i>; and/or</p>	<p>SUSTAINED</p>
	<p>4. failing to ensure that he or that other CPD members under his command conducted a thorough and accurate preliminary investigation of an incident as required by the provisions of CPD General Order G04-01, <i>Preliminary Investigations</i> (effective October 15, 2017) and/or the provisions of CPD Special Order S04-07-03, <i>Preliminary Investigations – Traffic Crashes</i> (effective November 30, 2017; and/or</p> <p>On February 15, 2018, at approximately 9:58 PM, at or near 5555 W. Grand Avenue, Chicago, Illinois, Sergeant Daniel Rosenthal committed misconduct through the following acts and/or omissions:</p>	<p>SUSTAINED</p>
	<p>5. making and/or approving one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Tactical Response Report documenting Officer Jose Troche-Vargas’ use of force against ██████████ and/or</p>	<p>SUSTAINED</p>
	<p>6. making and/or approving one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Original Incident Case Report documenting an altercation between Officer Jose Troche-Vargas’ and ██████████</p>	<p>SUSTAINED</p>
<p>Officer Sloniec</p>	<p>On February 15, 2018, at approximately 5:38 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Officer Chris S. Sloniec committed misconduct through the following acts and/or omissions:</p>	
	<p>1. arresting ██████████ without justification.</p> <p>2. failing to operate his body-worn camera in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i>; and/or</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p>

Officer	Allegation	Finding
Officer Sloniec (continued)	<p>3. failing to conduct a thorough and accurate preliminary investigation of an incident as required by the provisions of CPD General Order G04-01, <i>Preliminary Investigations</i> (effective October 15, 2017) and/or the provisions of CPD Special Order S04-07-03, <i>Preliminary Investigations – Traffic Crashes</i> (effective November 30, 2017).</p> <p>On February 15, 2018, at approximately 10:18 pm, at or near 5555 W. Grand Avenue, Chicago, Illinois, Officer Chris S. Sloniec committed misconduct through the following acts and/or omissions:</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
	<p>4. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Original Incident Case Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas; and/or</p> <p>5. making one or more false, misleading, inaccurate and/or incomplete statements in an Illinois Traffic Crash Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas.</p>	<p>NOT SUSTAINED</p>
Officer Kuc	<p>On February 15, 2018, at approximately 5:38 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Officer Maria C. Kuc committed misconduct through the following acts and/or omissions:</p> <p>1. arresting [REDACTED] without justification.</p> <p>2. failing to operate her body-worn camera in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i>; and/or</p> <p>3. failing to conduct a thorough and accurate preliminary investigation of an incident as required by the provisions of CPD General Order G04-01, <i>Preliminary Investigations</i> (effective October 15, 2017) and/or the provisions of CPD Special Order S04-07-03, <i>Preliminary Investigations – Traffic Crashes</i> (effective November 30, 2017).</p>	<p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>SUSTAINED</p>

Officer	Allegation	Finding
Officer Kuc (continued)	<p>On February 15, 2018, at approximately 10:18 PM, at or near 5555 W. Grand Avenue, Chicago, Illinois, Officer Maria C. Kuc committed misconduct through the following acts and/or omissions:</p> <p>4. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Original Incident Case Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas; and/or</p> <p>5. making one or more false, misleading, inaccurate and/or incomplete statements in an Illinois Traffic Crash Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas.</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 5, CPD Rules of Conduct (prohibiting the failure to perform any duty)
2. Rule 6, CPD Rules of Conduct (prohibiting the disobedience of an order or directive)
3. Rule 8, CPD Rules of Conduct (prohibiting disrespect to or maltreatment of any person)
4. Rule 9, CPD Rules of Conduct (prohibiting any unjustified verbal or physical altercation)
5. Rule 14, CPD Rules of Conduct (prohibiting false reports)

General Orders

1. G03-02-02 *Incidents Requiring the Completion of a Tactical Response Report* (effective October 16, 2017)
2. G04-01 *Preliminary Investigations* (effective October 15, 2017)

Special Orders

1. S03-14 *Body Worn Cameras* (effective October 15, 2017 through April 30, 2018)
2. S04-07 *Preliminary Investigations – Traffic Crashes* (effective November 30, 2017)

V. INVESTIGATION²*Interview of* ██████████

COPA interviewed ██████████ in the presence of his parents on February 19, 2020.³ In non-verbatim material summary, ██████████ then gave the following account:

██████████ was riding a bicycle near the intersection of Long and Altgeld Streets in Chicago, when he was nearly in a collision with a vehicle driven by a person now known to be Officer Troche-Vargas.⁴ ██████████ then continued to ride, and Officer Troche-Vargas began to closely follow him in his vehicle.⁵ Officer Troche-Vargas then sped up, drove in front of ██████████ and slammed on his brakes, causing ██████████ and his bicycle to collide with the vehicle.⁶ Officer Troche-Vargas then got out of his vehicle, grabbed ██████████ by the shoulders, and threw ██████████ to the ground, where the two wrestled.⁷ An adult male civilian intervened and separated them.⁸ ██████████ and Officer Troche-Vargas then argued, and ██████████ called his father and 911 from the scene.⁹

██████████ denied making a fist prior to Officer Troche-Vargas' grabbing of his shoulders.¹⁰ ██████████ acknowledged that he struck the officer with his fist in the groin a couple of times while they were on the ground.¹¹ ██████████ stated that the officer punched him in the shoulder.¹² ██████████ further stated that he did not know (and Officer Troche-Vargas did not inform him) that Officer Troche-Vargas was a police officer until after the two were separated.¹³

██████████ denied having his hands in his front pockets during the incident or doing anything that could have made the officer believe that he was armed, except, perhaps, that his hands were near his waist when he was trying to get out from under his bicycle after the collision.¹⁴

██████████ stated that he was taken from the scene to the hospital, where he was examined.¹⁵ He further stated that, at the hospital, CPD officers informed him that he was going to be arrested.¹⁶

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Attachment #6 is an audio-recording of that interview; Attachment #7 is a transcription of that recording.

⁴ See Attachment #7, p. 5.

⁵ See *id.*

⁶ See *id.*

⁷ See *id.*, p. 6.

⁸ See *id.*

⁹ See *id.*, p. 8.

¹⁰ See *id.*, p. 15. In an Arrest Report and in a Tactical Response Report, Officer Troche-Vargas reported that ██████████ had provoked the physical altercation under review by balling his fists. See Attachments ##60 (the Arrest Report) and 61 (the Tactical Response Report), which COPA describes in detail below.

¹¹ See *id.*, p. 16.

¹² See *id.*

¹³ See *id.*, p. 6.

¹⁴ See *id.*, pp. 17 - 18.

¹⁵ See *id.*, p. 18.

¹⁶ See *id.*, pp. 18 - 19.

██████████ said that CPD officers then took him to a police station, where he waited in a lobby area for an hour or two, accompanied by CPD officers, before he was released.¹⁷

Body-worn Camera (“BWC”) Video Footage

Officer Sloniec recorded BWC footage depicting the scene beginning at approximately 5:37:29 p.m.; that footage then shows Officer Troche-Vargas, Officer Kuc, ██████████ a male adult civilian, and a female adult civilian standing near Officer Sloniec.¹⁸ The adult male civilian is apparently talking to Officer Sloniec, though there is no audio component to the footage for its first thirty seconds, and the civilian’s statements cannot be heard.¹⁹ After thirty seconds, the footage depicts Officer Sloniec telling ██████████ that he was being recorded and that a supervisor was on the way.²⁰ Officer Sloniec then apparently refers to the adult male civilian and asks ██████████ to identify him; ██████████ responds by calling him “a witness.”²¹ Officer Sloniec then asks ██████████ to describe what had happened, and ██████████ responds by gesturing towards Officer Troche-Vargas and by saying, “He stomped on his brakes and then hit me.”²² At approximately 5:39:40 p.m., Officer Troche-Vargas says words to the effect that he had been driving two blocks away, that ██████████ was in the middle of the street, and that the officer was intending to make a left turn.²³ Officer Troche-Vargas then says, “He comes up on the side. He goes like this. Like he has a pistol.”²⁴ Officer Troche indicates as he does so, by putting his hands in the front pockets of a hooded sweatshirt, as shown in Figure 1 below.²⁵



Figure #1²⁶



Figure #2²⁷



Figure #3²⁸

¹⁷ See *id.*, pp. 37 - 40.

¹⁸ See Attachment #49 at 23:37:29z and immediately following.

¹⁹ See *id.* and immediately following.

²⁰ See *id.* at T23:37:59z and immediately following. Because CPD BWC footage is time-marked using Greenwich Mean Time (or “Zulu Time”) styled designations, COPA uses those same designations throughout.

²¹ See *id.* at T23:38:15z.

²² See *id.* at T23:38:16z and immediately following.

²³ See *id.* at T23:39:40z and immediately following.

²⁴ See *id.* at T23:39:55z and immediately following.

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.*, at T23:40:17z.

²⁸ See *id.*, at T23:41:37z.

Officer Troche-Vargas then says words to the effect of, “So I jump out of the car and I say ‘I’m a cop mother f*cker, what have got in your hand?’”²⁹ Officer Troche-Vargas then says words to the effect of, “He then goes like this to go ball up on me,” indicating by holding his right arm out, with his right hand in a fist as he does so, as shown in Figure #2 above.³⁰ Officer Troche-Vargas then points and says, “I took him f*cking down over there. We started f*cking fighting over here.”³¹ Officer Troche-Vargas then says that the adult male civilian who had been speaking to Officer Sloniec was then “just watching us” and “pushing me off.”³² Officer Troche-Vargas subsequently says, “He was on his bike. In the middle of the street,” and “He hits the back of my car. He kicks the back of my f*cking car,” indicating with his foot as he does so.³³ Officer Troche-Vargas then says, “He says you hit me,” and “I jumped out of the car.”³⁴ Officer Sloniec then apparently tries to clarify, by saying, “So you’re driving, he kicked your car?”³⁵ Officer Troche-Vargas then says, “Yeah,” and “He’s like this,” again indicating, this time, with his right hand in his front pocket and with his left hand extended, mimicking the holding of handle bars, as shown in Figure #3 above.³⁶

Sgt. Rosenthal’s vehicle then appears, and Officer Troche-Vargas then walks away from Officer Sloniec, towards Sgt. Rosenthal.³⁷ Officer Sloniec then walks down the street, to where [REDACTED] is standing with Officer Kuc, the two adult civilians, and another female adult civilian who has arrived at the scene.³⁸ Officer Sloniec then asks what happened, and the adult male begins to speak.³⁹ Officer Sloniec then stops him, and, indicating towards [REDACTED], he says, “Let him talk.”⁴⁰ [REDACTED] then says words to the effect that he had been in front of Officer Troche-Vargas and that the officer went in front of him and stopped.⁴¹ [REDACTED] then indicates, using his hands, apparently to the effect that his bike collided with the officer’s vehicle.⁴² A female adult civilian then says words to the effect of, “We’re the witnesses.”⁴³ [REDACTED] then tells Officer Sloniec, “He was choking me and hitting me.”⁴⁴ The adult woman then says, “I’m a witness, my boyfriend’s a witness, and the other two witnesses, they left,” which Officer Sloniec acknowledges by saying, “Okay.”⁴⁵ Officer Sloniec then walks back down the street towards where Officer Troche-Vargas is speaking with Sgt. Rosenthal.⁴⁶ The video then ends at approximately 5:44:21 p.m.⁴⁷

²⁹ See *id.*

³⁰ See *id.* at T23:39:16z and immediately following.

³¹ See *id.*

³² See *id.* at T23:40:24z and immediately following.

³³ See *id.* at T23:40:46z and immediately following.

³⁴ See *id.* at T23:41:00z and immediately following.

³⁵ See *id.* at T23:41:30z and immediately following.

³⁶ See *id.* at T23:41:37z and immediately following.

³⁷ See *id.* at T23:42:00z and immediately following.

³⁸ See *id.* at T23:42:08z and immediately following.

³⁹ See *id.* at T23:42:18z and immediately following.

⁴⁰ See *id.* at T23:42:25z.

⁴¹ See *id.* at T23:42:26z and immediately following.

⁴² See *id.* at T23:42:30z and immediately following.

⁴³ See *id.* at T23:42:47z and immediately following.

⁴⁴ See *id.* at T23:42:55z and immediately following.

⁴⁵ See *id.* at T23:43:09z and immediately following.

⁴⁶ See *id.* at T23:43:20z and immediately following.

⁴⁷ See *id.* at T23:44:21z.

Sgt. Rosenthal recorded BWC footage showing him arriving at the incident scene at approximately 5:41:53 p.m.⁴⁸ That footage then shows Officer Troche-Vargas approach Sgt. Rosenthal, identify himself as a police officer, and point out ██████ who is in the distance with Officer Sloniec, Officer Kuc, and the adult civilians who are depicted in Officer Sloniec's footage.⁴⁹ Officer Troche-Vargas says, "I'm coming. I stop. I'm going. He's f*cking flying down the street. I look. I stomp on my brakes. He jumps in front of me."⁵⁰ The adult male civilian then appears in frame, walking towards where Officer Troche-Vargas and Sgt. Rosenthal are standing.⁵¹ Officer Troche-Vargas then tells Sgt. Rosenthal that ██████ kicked the back of his vehicle and says, "I look over, and he's like this," apparently placing his hand inside the front pocket of his hooded sweatshirt as he does so.⁵² Sgt. Rosenthal then responds by saying, "Like he may have a weapon."⁵³ Officer Troche-Vargas goes on, saying, "So I jump out of the car. 'I'm like I'm a f*cking cop. I'm a f*cking cop.'"⁵⁴ Officer Troche-Vargas then says that ██████ responded by saying, "I don't give a f*ck. You f*cking mother f*cker. You hit my f*cking bike."⁵⁵ Officer Troche-Vargas then tells Sgt. Rosenthal that ██████ balled his fists, saying, "He f*cking balls up. I went to grab him."⁵⁶ The adult male civilian then interjects, "That ain't what happened though, man. That's not what happened."⁵⁷ Sgt. Rosenthal then addresses the civilian, saying, "Look, I'm going to talk to you in a minute," and the civilian walks away.⁵⁸ Officer Troche-Vargas then resumes, telling Sgt. Rosenthal that he grabbed ██████ that ██████ got loose, that they started wrestling around in the snow, that ██████ punched him, and that the officer punched ██████ back.⁵⁹ Officer Troche-Vargas then tells Sgt. Rosenthal that he got control of ██████ that he was holding ██████ down, that he told the adult male civilian to grab ██████ and that "this girl comes and she starts videotaping the whole thing."⁶⁰ Officer Troche-Vargas then points, apparently toward the adult female civilian.⁶¹ After brief further conversation, Sgt. Rosenthal announces that he is going to deactivate his BWC, and he does so at approximately 5:45:02 p.m.⁶²

Sgt. Rosenthal and Officer Sloniec then recorded BWC footage beginning at approximately 5:52:27 p.m. and 5:53:03 p.m., respectively.⁶³ Those videos are largely overlapping, as both videos depict Sgt. Rosenthal speaking with ██████ in the presence of Officers Sloniec and Kuc. Sgt. Rosenthal's footage begins by depicting ██████ identifying himself, telling Sgt. Rosenthal where he lives, and informing Sgt. Rosenthal that his father was on the way.⁶⁴ ██████ then tells Sgt. Rosenthal that he and Officer Troche-Vargas nearly had a collision about two blocks away,

⁴⁸ See Attachment #52, at T23:41:53z.

⁴⁹ See *id.*, at T23:41:53z - T23:42:22z.

⁵⁰ See *id.*, at T23:42:27z - T23:42:34z.

⁵¹ See *id.*, at T23:42:41z and immediately following.

⁵² See *id.*, at T23:42:56z - T23:43:03z.

⁵³ See *id.*, at T23:43:04z.

⁵⁴ See *id.*, at T23:43:07z - T23:43:10z.

⁵⁵ See *id.*, at T23:43:11z - T23:43:13z.

⁵⁶ See *id.*, at T23:43:16z - T23:43:24z.

⁵⁷ See *id.*, at T23:43:24z - T23:43:27z.

⁵⁸ See *id.*, at T23:43:25z - T23:43:30z.

⁵⁹ See *id.*, at T23:43:30z - T23:43:53z.

⁶⁰ See *id.*, at T23:43:54z - T23:44:26z.

⁶¹ See *id.*, at T23:44:26z.

⁶² See *id.*, at T23:45:02z.

⁶³ Attachments # #53 and 50.

⁶⁴ See Attachment #53, at T23:52:50z and immediately following.

that [REDACTED] was then in front of the officer's vehicle, and that the officer then swerved around him.⁶⁵ [REDACTED] then says that the officer "stomped on his brakes" and that [REDACTED] then crashed into him.⁶⁶ [REDACTED] then shows Sgt. Rosenthal that part of Officer Troche-Vargas's rear bumper that he struck with his bicycle – a mark is visible.⁶⁷ [REDACTED] then says that Officer Troche-Vargas came out of the vehicle claiming that [REDACTED] was grabbing for a pistol.⁶⁸ [REDACTED] denied putting his hand in his pocket.⁶⁹ [REDACTED] says that the officer tackled him and choked him.⁷⁰ Sgt. Rosenthal shines a flashlight on [REDACTED] neck, which shows no apparent sign of choking.⁷¹ An adult male civilian then appears in frame – apparently [REDACTED] father – and Sgt. Rosenthal greets him.⁷² Sgt. Rosenthal then examines [REDACTED] bicycle.⁷³ Sgt. Rosenthal then asks Officer Sloniec if his BWC is activated.⁷⁴ Sgt. Rosenthal and Officer Sloniec then deactivate their BWCs.⁷⁵

Sgt. Rosenthal then recorded BWC footage beginning at approximately 6:04:30 p.m.⁷⁶ That footage begins with him telling [REDACTED] that "the other party here is claiming that you never crashed into his car" and with [REDACTED] responding by saying, "Didn't you see my bike?"⁷⁷ The footage depicts Sgt. Rosenthal asking [REDACTED] if he wants an ambulance, radioing for a Spanish language interpreter, and telling [REDACTED] father that an ambulance was on the way.⁷⁸ The footage then depicts Sgt. Rosenthal, Officer Sloniec, Officer Kuc, [REDACTED] and [REDACTED] father waiting at length for an ambulance to arrive.⁷⁹ The footage then depicts the arrival of CFD personnel, who attend to [REDACTED].⁸⁰ Officer Sloniec's footage then begins at approximately 6:12:24 p.m.,⁸¹ overlapping with footage recorded by Sgt. Rosenthal. At about 6:20:29 p.m., a Spanish language interpreting officer arrives, and Sgt. Rosenthal briefs him, saying, among other things, that [REDACTED] is "going to be an arrestee ... for assault."⁸² Sgt. Rosenthal then addresses [REDACTED] father, with interpreting, telling him that [REDACTED] is going to be arrested for assault, that [REDACTED] is going to be taken by ambulance to the hospital, that [REDACTED] will then be taken to the 25th District Station to meet with a youth officer, that the father should meet [REDACTED] at the hospital, and that he should then meet [REDACTED] at the station.⁸³ CFD personnel then depart the scene, and Sgt. Rosenthal then explains the circumstances to an adult female civilian who has arrived and who has identified herself as [REDACTED] sister.⁸⁴ Sgt. Rosenthal then walks to Officer Troche-Vargas, who

⁶⁵ See *id.*, at T23:53:24z and immediately following.

⁶⁶ See *id.*, at T23:54:32z.

⁶⁷ See *id.*, at T23:54:38z and immediately following.

⁶⁸ See *id.*, T23:54:55z and immediately following.

⁶⁹ See *id.*, at T23:55:47z.

⁷⁰ See *id.*, at T23:56:08z - T23:57:18z.

⁷¹ See *id.*, at T23:57:19z and immediately following.

⁷² See *id.*, at T23:57:28z and immediately following.

⁷³ See *id.*, at T23:57:49z and immediately following.

⁷⁴ See *id.*, at T23:58:12z.

⁷⁵ See *id.*, at T23:58:15z and Attachment #50, at T23:58:20z.

⁷⁶ See Attachment #54, at T00:04:30z and immediately following.

⁷⁷ See *id.*, at T:00:04:40z and immediately following.

⁷⁸ See *id.*, at T:00:04:55z and immediately following.

⁷⁹ See *id.*, at T:00:06:50z and following.

⁸⁰ See *id.*, at T00:11:04z and following.

⁸¹ Attachment #51.

⁸² See Attachment #54, at T00:20:29z and immediately following.

⁸³ See *id.*, at T00:21:40z and following.

⁸⁴ See *id.*, at T00:23:50z and following.

has been standing in the distance, and instructs him to go to the 25th District Station.⁸⁵ Sgt. Rosenthal then speaks with Officers Sloniec and Kuc, telling them to meet him at the 25th District Station, and giving them general instructions concerning the preparation of reports.⁸⁶ Sgt. Rosenthal's footage ends at approximately at 6:28:34 p.m.⁸⁷ Officer Sloniec's footage ends at approximately 6:29:01 p.m.⁸⁸

Sgt. Rosenthal's fourth and final BWC recording⁸⁹ begins at approximately 8:31:04 p.m. and ends at approximately 8:35:01 p.m. That footage shows Sgt. Rosenthal knock on the door of a house near the incident scene, followed by him looking in an adjoining back yard, apparently for access to the property.⁹⁰ A dog bark is heard, and then Sgt. Rosenthal departs the scene.⁹¹

Third-party Video Footage

COPA reviewed video footage apparently recorded by ██████ at the scene prior to the arrival of on-duty CPD members.⁹² The footage is approximately twelve seconds in length. It depicts Officer Troche-Vargas using his left hand to hold ██████ right shoulder as ██████ arises from the ground or the street (see Figure #4 below), it then depicts Officer Troche-Vargas releasing ██████ (Figure #5), and it then depicts Officer Troche-Vargas immediately afterwards (Figure #6). ██████ can be heard shouting at the officer throughout. As depicted in the video, Officer Troche-Vargas does not appear to be in distress.



Figure #4⁹³

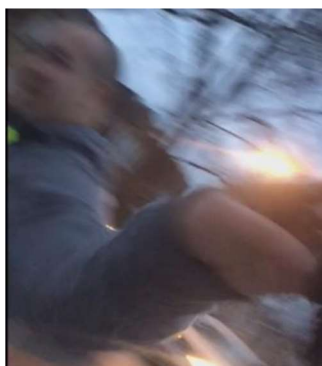


Figure #5⁹⁴



Figure #6⁹⁵

⁸⁵ See *id.*, at T00:26:28z and immediately following.

⁸⁶ See *id.*, at T00:27:05z and immediately following.

⁸⁷ See *id.*, at T00:28:34z.

⁸⁸ See Attachment #51, at T00:29:01.

⁸⁹ Attachment #55.

⁹⁰ See *id.*, at T02:31:30z and following.

⁹¹ See *id.*, at T02:34:24z and following.

⁹² Attachment #56 is a copy of that footage. COPA obtained that footage via subpoenas served upon the City's Department of Law. Those subpoenas sought access to materials that had been exchanged in discovery in the lawsuit commenced by ██████ mother's arising out of the incident. Those materials, which may be found at Attachment #79, consist of copies of various documents and electronic materials deemed by COPA to be duplicative of materials already in COPA's possession or otherwise not material for purposes of this investigation, including OEMC records, photographic images, CPD training and disciplinary records, and other documents, in addition to the video footage that is separately catalogued as Attachment #56.

⁹³ Attachment #56 at 0:01.

⁹⁴ *Id.* at 0:03.

⁹⁵ *Id.* at 0:04.

CPD's Case Report, Arrest Report, Tactical Response Report, and Traffic Crash Report

Officer Sloniec prepared the CPD's Original Case Incident Report relating to the events under review and Sgt. Rosenthal approved it.⁹⁶ In the report's narrative portion, Officer Sloniec wrote, among other things, that he met with Officer Troche-Vargas, who related that he had been involved in a traffic crash in which [REDACTED] and his bicycle struck the rear of the officer's vehicle.⁹⁷ According to that narrative, following that collision, Officer Troche-Vargas "stopped and excited [sic] his vehicle to check on" [REDACTED].⁹⁸ The narrative goes on to report that the officer approached [REDACTED] who had his hand in his coat pocket, and ordered [REDACTED] to take his hand out of his pocket.⁹⁹ The narrative then states that [REDACTED] balled his fists, and in response, the officer grabbed [REDACTED] torso.¹⁰⁰ The narrative then states that the two then "fell to the ground," they struggled, and that [REDACTED] struck the officer with a closed fist to the face causing a laceration.¹⁰¹ The narrative then reports that the officer called for "an unknown citizen" to assist him, and that that person held [REDACTED] hand so that the officer could get up.¹⁰² The report does not describe that unknown citizen or provide his name. Nor does the report list the name of any other witness. The report makes no reference to the account provided by [REDACTED] at the scene.

Officer Troche-Vargas prepared CPD's Arrest Report relating to the events under review.¹⁰³ The report's narrative portion provides essentially the same information that is set out in the narrative portion of the CPD's Original Case Incident Report, including that Officer Troche-Vargas "stopped and exited his vehicle to check on" [REDACTED] after a traffic collision, that [REDACTED] balled his fists, that the officer grabbed [REDACTED] torso, that the two fell, that [REDACTED] struck the officer with a closed fist to the face causing a laceration, that the officer called for "an unknown citizen" to assist him, and that that person held [REDACTED] hand so that the officer could get up.¹⁰⁴ Like the Original Case Incident Report, the Arrest Report does not describe that unknown citizen or provide his name, nor does it list the name of any other witness or make any reference to the account provided by [REDACTED] at the scene.

The CPD's Tactical Response Report relating to the events under review is comprised of several sections.¹⁰⁵ In the first section, Officer Troche-Vargas wrote, among other things, that [REDACTED] committed an assault or battery against him while he was performing a police function, and that, in response, the officer utilized a take down.¹⁰⁶ In the report's narrative section, Officer Troche-Vargas provided essentially the same information that is set out in the narrative portions of the Original Case Incident Report and Arrest Report, including that Officer Troche-Vargas "stopped and exited his vehicle to check on" [REDACTED] after a traffic collision, that [REDACTED] balled his fists,

⁹⁶ Attachment #59 is a copy of that report.

⁹⁷ See Attachment #59 at p. 3.

⁹⁸ See *id.*

⁹⁹ See *id.*

¹⁰⁰ See *id.*

¹⁰¹ See *id.*

¹⁰² See *id.*

¹⁰³ Attachment #60 is a copy of that report.

¹⁰⁴ See Attachment #60 at p. 3.

¹⁰⁵ Attachment #61 is a copy of that report.

¹⁰⁶ See *id.* at pp. 1 and 2.

that the officer grabbed ██████ torso, that the two fell, that ██████ struck the officer with a closed fist to the face causing a laceration, that the officer called for “an unknown citizen” to assist him, and that that person held ██████ hand so that the officer could get up.¹⁰⁷ In the witness section of the report, Sgt. Rosenthal checked the “unknown” box, and he left the remainder of that section blank, including a part calling for witness descriptions and parts calling for disclosure of whether a witness was interviewed, whether a witness refused an interview, and whether a witness was available.¹⁰⁸ In the reviewing supervisor comments section, Sgt. Rosenthal wrote that he looked for cameras and witnesses, that he rang a certain doorbell twice with no response, and that he called out for witnesses, with negative results.¹⁰⁹ The Tactical Response Report was approved by Lt. Angel L. Novalez, who wrote that, based on the information he reviewed and that was available to him, he concluded that Officer Troche-Vargas’ reported use of force was in compliance with CPD policy and directives.¹¹⁰

Officer Kuc prepared the CPD’s Traffic Crash Report in connection with the events under review.¹¹¹ The report states that Officer Troche-Vargas was travelling westbound and that ██████ bicycle struck the rear of Officer Troche-Vargas’ vehicle.¹¹² It does not state that or why Officer Troche-Vargas’ vehicle was stopped at the time of the crash, it lists no witnesses, and it says that the officer was “Not Insured.”¹¹³

Photographs

Photographic Images taken by CPD Evidence Technician C. Harrigan on the evening of the events under review variously depict Officer Troche-Vargas, ██████ the officer’s vehicle, and ██████ bicycle.¹¹⁴ Figures ##7 - 10 below are reproduced from some of those images.



Figure #7¹¹⁵

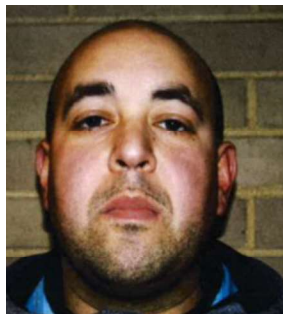


Figure #8¹¹⁶



Figure #9¹¹⁷



Figure #10¹¹⁸

¹⁰⁷ See *id.* at p. 2.

¹⁰⁸ See *id.*

¹⁰⁹ See *id.*

¹¹⁰ See *id.* at p. 3.

¹¹¹ Attachment #17 (Officer Kuc’s statement), p. 37, lines 12 - 14. Attachment #62 is a copy of that report.

¹¹² See Attachment #62 at pp. 1 and 2.

¹¹³ See *id.*

¹¹⁴ Attachment #63 comprises copies of all thirty of those photographs.

¹¹⁵ See Attachment #26, p. 1.

¹¹⁶ See Attachment #26, p. 2.

¹¹⁷ See Attachment #46.

¹¹⁸ See Attachment #47.

Evidence.com Data

COPA accessed and reproduced certain Evidence.com. data showing that Officer Kuc did not record any BWC footage on the date in question and also showing that Officer Kuc first uploaded BWC footage on March 18, 2018.¹¹⁹ That data also show that Officer Sloniec first uploaded BWC footage on December 4, 2017.¹²⁰

Interview of Officer Maria C. Kuc

Officer Maria C. Kuc gave an audio-recorded statement on July 14, 2020.¹²¹ Prior to commencing her statement, COPA permitted Officer Kuc to view BWC footage that Officer Sloniec had recorded at the incident scene.¹²² Officer Kuc then gave the following account, in non-verbatim material summary:

COPA directed Officer Kuc's attention to the fact that records show that she did not upload any BWC footage prior to March 18, 2018, and COPA asked Officer Kuc if she had any explanation for that fact.¹²³ In response, Officer Kuc stated that it was then that she was first issued a BWC.¹²⁴

COPA then directed Officer Kuc to Officer Sloniec's BWC footage, which depicted Officer Kuc at the scene, speaking with civilians, including ██████████¹²⁵ COPA then asked Officer Kuc if she knew the name of one of the civilians, a male.¹²⁶ In response, Office Kuc stated that she did not know his name.¹²⁷ Officer Kuc further stated that she did not take his name down, she acknowledged that the Traffic Crash Report did not include his name or the names of any persons depicted in BWC footage as claiming to have been witnesses, and she acknowledged that her failure to take down those names and to include that information in the Traffic Crash Report was a mistake.¹²⁸

Officer Kuc stated that Officer Troche-Vargas had claimed at the scene that ██████████ had kicked his vehicle, or that something had hit the back of his vehicle, and that that was what had caused Officer Troche-Vargas to stop his vehicle and to jump out.¹²⁹ COPA asked Officer Kuc if any traffic citations were issued in connection with the traffic crash under review.¹³⁰ In response, Officer Kuc stated that she did not issue any such citation, and Officer Kuc further stated that she did not recall if any other CPD officer issued any such citation.¹³¹ COPA then directed Officer

¹¹⁹ See Attachment #80.

¹²⁰ See *id.*

¹²¹ Attachments ## 15 and 16 comprise an audio recording of that statement; Attachment #17 is a transcription of that recording.

¹²² See Attachment #17, p. 9, line 14, through p. 10, line 1. Attachments ## 49 - 51 comprise that footage, which is described at Section V.B below.

¹²³ See Attachment #17, p. 10, lines 13 - 24.

¹²⁴ See Attachment #17, p. 11, lines 1 - 5.

¹²⁵ See *id.*, p. 24, lines 1 - 24.

¹²⁶ See *id.*, p. 25, lines 7 - 8.

¹²⁷ See *id.*, p. 25, line 9.

¹²⁸ See *id.*, p. 25, line 1, through p. 28, line 9; p. 43, line 19, through p. 44, line 1.

¹²⁹ See *id.*, p. 40, line 6, through p. 41, line 13.

¹³⁰ See *id.*, p. 44, line 2.

¹³¹ See *id.*, p. 44, lines 3 - 9.

Kuc's attention to a part of the Traffic Crash Report that listed Officer Troche-Vargas as "Not Insured," and COPA asked Officer Kuc if she had an explanation for why Officer Troche-Vargas was not cited for failing to produce proof of insurance.¹³² In response, Officer Kuc stated that that "Not Insured" notation must have been a misprint, and that she had no memory of making that notation.¹³³ Officer Kuc further stated that, in actuality, she didn't ask Officer Troche-Vargas for proof of insurance, because he was listed in the Traffic Crash Report as "Unit 2," that is, as not causing the collision.¹³⁴ Officer Kuc stated that she now knows that she is supposed to obtain proof of insurance from all drivers when conducting a traffic crash investigation.¹³⁵

Officer Kuc denied that she arrested [REDACTED] and she stated that she did not realize that [REDACTED] was in custody until after Sgt. Rosenthal arrived at the scene and said that an arrest report would be prepared.¹³⁶ Officer Kuc further stated that she did not participate in the preparation of any arrest report or in the preparation of the CPD's Original Case Incident Report relating to the events under review.¹³⁷

Interview of Officer Chris S. Sloniec

Officer Chris S. Sloniec gave an audio recorded statement on July 15, 2020.¹³⁸ Prior to commencing that statement, COPA permitted Officer Sloniec to view BWC footage that he had recorded at the incident scene.¹³⁹ The following is a material summary (not verbatim except where otherwise indicated) of that statement.

COPA directed Officer Sloniec's attention to apparent gaps in his BWC recordings at the scene.¹⁴⁰ In response, Officer Sloniec stated that he did not recall why those gaps existed, though he acknowledged that it appears, from the footage that he did record, that such gaps were caused by his deactivation of his BWC.¹⁴¹ Officer Sloniec also stated that he had only recently been provided with a BWC, just a few weeks before the incident,¹⁴² and that he was unfamiliar with BWC technology at the time.¹⁴³ Officer Sloniec further stated that he might have deactivated his BWC at the scene because he thought the investigation at issue had been completed and that he would soon be leaving the scene.¹⁴⁴

COPA directed Officer Sloniec's attention to part of his BWC footage that does not contain audio, which apparently depicts Officer Sloniec speaking to [REDACTED] and other civilians, and asked

¹³² See *id.*, p. 44, lines 10 - 19.

¹³³ See *id.*, p. 44, lines 20 - 24.

¹³⁴ See *id.*, p. 45, lines 1 - 6.

¹³⁵ See *id.*, p. 45, line 18, through p. 46, line 5.

¹³⁶ See *id.*, p. 28, line 21, through p. 31, line 2.

¹³⁷ See *id.*, p. 32, line 8, through p. 33, line 19.

¹³⁸ Attachments ## 23 and 24 comprise an audio recording of that statement; Attachment #25 is a transcription of that recording.

¹³⁹ See Attachment #25, p. 10, line 5, through p. 11, line 1.

¹⁴⁰ See *id.*, p. 26, lines 7 - 15.

¹⁴¹ See *id.*, p. 26, lines 16 - 24.

¹⁴² See *id.*, p. 27, line 20, through p. 28, line 7. Evidence.com data (Attachment #80) show that Officer Sloniec first uploaded BWC footage on December 4, 2017.

¹⁴³ See Attachment #25, p. 28, line 8, through p. 29, line 18.

¹⁴⁴ See *id.*, p. 30, lines 1 - 12.

Officer Sloniec to recount what was then said, if he was able.¹⁴⁵ In response, Officer Sloniec said that he could not recall exact words, but that the adult male who was depicted at that point in the footage was aggressive, uncooperative, and he did not respond to verbal direction.¹⁴⁶ COPA asked Officer Sloniec if he knew the name of that civilian; in response, Officer Sloniec said that he did not.¹⁴⁷ COPA pointed out to Officer Sloniec that neither that civilian's name nor the name of another civilian depicted at the scene was recorded in the Original Case Incident Report, and COPA asked Officer Sloniec if he could explain why; in response, Officer Sloniec variously stated that he was not sure, that he did not recall, and that he did not know.¹⁴⁸

COPA also directed Officer Sloniec's attention to the fact that the narrative portion of the Original Case Incident Report stated that "the victim [Officer Troche-Vargas] stopped and exited his vehicle to check on the offender," and COPA asked Officer Sloniec where and when he had obtained that information.¹⁴⁹ Officer Sloniec responded by stating that he obtained that information "from the person telling me what happened," and further, by stating that Officer Troche-Vargas might have provided that information while Officer Sloniec's BWC was deactivated.¹⁵⁰ COPA also pointed out to Officer Sloniec that Officer Troche-Vargas had claimed at the scene to have taken ██████ down,¹⁵¹ but that the Original Case Incident Report stated that Officer Troche-Vargas and ██████ had fallen.¹⁵² Officer Sloniec responded by saying, "I just wrote what was told to me. I mean, I didn't witness it."¹⁵³

COPA called Officer Sloniec's attention to the fact the Original Case Incident Report stated that Officer Troche-Vargas had sustained a facial laceration.¹⁵⁴ COPA also showed Officer Sloniec two post-incident photographs taken by a CPD evidence technician, which depicted Officer Troche-Vargas, and which showed no such injury.¹⁵⁵ COPA then asked Officer Sloniec if he could explain the discrepancy.¹⁵⁶ In response, Officer Sloniec stated:

Because that's what he told me. I don't – I don't take the pictures. I don't do the investigation. I just go by what I'm told. Whether – whoever's telling me, you know, I do a report. They tell me what happened, and I mean – I mean, this is basically what I go off of. As far as the pictures, I mean, I – the ET takes the pictures. ... It was wintertime. I mean, I'm not sure if he was wearing a hat or not. I mean, I'm not – I wasn't looking – I mean, I didn't see any injuries on – I mean, I wasn't looking for injuries on anyone.¹⁵⁷

¹⁴⁵ See *id.*, p. 22, lines 5 - 15; p. 22, line 24, through p. 23, line 24.

¹⁴⁶ See *id.*, p. 24, lines 13 - 18.

¹⁴⁷ See *id.*, p. 34, line 21, through p. 35, line 3.

¹⁴⁸ See *id.*, p. 35, line 9, through p. 36, line 7.

¹⁴⁹ See *id.*, p. 42, line 22, through p. 44, line 5.

¹⁵⁰ See *id.*, p. 44, lines 1 - 7.

¹⁵¹ See *id.*, p. 48, line 19, through p. 49, line 15.

¹⁵² See *id.*, p. 48, line 19, through p. 49, line 15.

¹⁵³ See *id.*, p. 48, line 19, through p. 49, line 21.

¹⁵⁴ See *id.*, p. 50, lines 2 - 23. See also Attachment #59 (the Original Case Incident Report).

¹⁵⁵ See *id.*, p. 51, line 1, through p. 52, line 2.

¹⁵⁶ See *id.*, p. 52, lines 3 - 9.

¹⁵⁷ See *id.*, p. 52, line 10, through p. 53, line 1.

Interview of Sergeant Daniel Rosenthal

Sgt. Daniel Rosenthal gave an audio-recorded statement on July 20, 2020.¹⁵⁸ Prior to commencing that statement, COPA permitted Sgt. Rosenthal to view BWC footage that he had recorded at the incident scene, as well as BWC footage that Officer Sloniec had recorded at the scene.¹⁵⁹ The following is a material summary (not verbatim except where otherwise indicated) of that statement.

COPA directed Sgt. Rosenthal's attention to the fact that there are gaps in his BWC recordings at the scene.¹⁶⁰ In response, Sgt. Rosenthal stated that he had deactivated his BWC at the scene purposely because he thought that the scene was secure, because there was no crime taking place during his presence there, and because the automobile accident in question and the battery in question "had been completed."¹⁶¹ Sgt. Rosenthal denied having any recollection of what he did, said, or heard during the time frames covered by those gaps.¹⁶² Sgt. Rosenthal acknowledged that it was his responsibility at the scene to ensure that Officer Sloniec's BWC was activated at all times at the scene,¹⁶³ and he further acknowledged that there were times, at the scene, when he knew that Officer Sloniec's BWC was not activated.¹⁶⁴ Sgt. Rosenthal stated, "I determined that the incident was over, that it was a use-of-force incident and that neither the traffic crash or the battery was occurring when I arrived, so I permitted the body cams to not function."¹⁶⁵ Sgt. Rosenthal acknowledged that his deactivation of his BWC at the scene and his failure to record conversations with witnesses there constituted non-compliance with the CPD's BWC directive, though he stated that, at the time of the incident, he thought that he was in compliance with that directive.¹⁶⁶

COPA inquired of Sgt. Rosenthal concerning whether he had engaged in at-scene communications with persons claiming to be witnesses that were not recorded by BWC.¹⁶⁷ In response, Sgt. Rosenthal stated that he had tried to engage at the scene with an adult male civilian, and Sgt. Rosenthal acknowledged that his BWC footage recorded that civilian as saying, in Sgt. Rosenthal's presence, words to the effect of "That ain't what happened man."¹⁶⁸ Sgt. Rosenthal further stated that his interaction with that civilian was contentious, that the civilian walked away, and that he was unable subsequently to re-engage with that civilian.¹⁶⁹ In response to COPA's inquiry

¹⁵⁸ Attachments ## 32 and 33 comprise an audio recording of that statement; Attachment #34 is a transcription of that recording.

¹⁵⁹ See Attachment #34, p. 11, line 24, through p. 13, line 8; p. 76, line 5, through p. 77, line 7.

¹⁶⁰ See *id.*, p. 11, line 22, through p. 14, line 5; and p. 14, lines 19 - 22.

¹⁶¹ See *id.*, p. 13, line 22, through p. 15, line 21; and p. 17, lines 16 - 24.

¹⁶² See *id.*, p. 15, line 22, through p. 17, line 15; and p. 18, lines 1 - 7.

¹⁶³ See *id.*, p. 56, lines 19 - 23.

¹⁶⁴ See *id.*, p. 57, lines 6 - 14.

¹⁶⁵ See *id.*, p. 57, lines 2 - 5.

¹⁶⁶ See *id.*, p. 98, line 24, through p. 99, line 12. The CPD's directive respecting body-worn cameras provides, among other things, that "[t]he Department member 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." See CPD Special Order S03-14 *Body Worn Cameras* (effective April 30, 2018), Section III.2. The directive prohibits BWC de-activation at an incident scene, unless "the entire incident has been recorded and the member is no longer engaged in a law enforcement activity." See *id.* at Section III.B.1. The version of the directive that was in effect at the time of the incident contained those same provisions. See, generally, CPD Special Order S03-14 *Body Worn Cameras* (effective October 15, 2017).

¹⁶⁷ See Attachment #34, p. 44, lines 1 - 6.

¹⁶⁸ See *id.*, p. 44, line 7, through p. 47, line 19.

¹⁶⁹ See *id.*, p. 44, line 7, through p. 45, line 12.

concerning why he did not record that interaction with his BWC, Sgt. Rosenthal explained that he “didn’t feel the need” to further record because the scene was secure and because the traffic crash and the battery had already occurred.¹⁷⁰ In response to COPA’s inquiry concerning whether he had made any notes of anything said by that civilian, Sgt. Rosenthal stated that he did not make any such notes:

Because I didn’t have his name and I wasn’t able to have any kind of calm conversation with him and I wasn’t able to clarify what he was really saying. It was a very brief and contentious conversation. At some point, he brought up – he was angry and he brought up a former member of the Chicago Police Department, that he had knew this person and that was – you know, that – he said something like ‘I’m going to call so-and-so,’ and it became a very contentious conversation. I think he walked away at some point and I did not memorialize it.¹⁷¹

COPA further inquired concerning whether Sgt. Rosenthal knew the man’s name.¹⁷² Sgt. Rosenthal stated that he did not, because “The conversation was of such a nature, it was contentious and argumentative and we never got to a calm enough place where I could get his name or he would offer his name and he eventually walked away.”¹⁷³ COPA directed Sgt. Rosenthal’s attention to the fact that the CPD’s reports of the incident make no reference to anything that the civilian said to Sgt. Rosenthal or to the fact that Sgt. Rosenthal had spoken with him, and COPA asked Sgt. Rosenthal why that was the case.¹⁷⁴ In response, Sgt. Rosenthal stated that the civilian’s identity wasn’t known to him, that the civilian’s statements were vague, that the civilian “disappeared,” and that his statements “were not necessarily statements of fact” but were “just generic statements describing that the – the flavor of what he saw.”¹⁷⁵ COPA then pointed out that the person is depicted in BWC video as claiming that Officer Troche-Vargas’ at-scene version of the events was inaccurate.¹⁷⁶ In response, Sgt. Rosenthal said, “[S]imply to say something didn’t happen isn’t to illuminate a version of what did happen.”¹⁷⁷

COPA then directed Sgt. Rosenthal’s attention to BWC footage showing Officer Troche-Vargas telling him that an adult female civilian who was present at the scene had made a video recording of some of the events under review.¹⁷⁸ COPA then asked Sgt. Rosenthal if he had spoken to that woman at the scene.¹⁷⁹ In response, Sgt. Rosenthal stated that he did not speak to that person, that he did not recall why he did not speak to her, that he had been trying to talk to Officer Troche-Vargas and [REDACTED], and that “I couldn’t talk to everyone at once.”¹⁸⁰

¹⁷⁰ See *id.*, p. 45, lines 13 - 21.

¹⁷¹ See *id.*, p. 46, lines 2 - 12.

¹⁷² See *id.*, p. 46, line 17.

¹⁷³ See *id.*, p. 46, lines 20 - 23.

¹⁷⁴ See *id.*, p. 49, lines 9 - 14.

¹⁷⁵ See *id.*, p. 49, line 15, through p. 50, line 2.

¹⁷⁶ See *id.*, p. 50, lines 14 - 15.

¹⁷⁷ See *id.*, p. 50, lines 16 - 18.

¹⁷⁸ See *id.*, p. 47, line 20, through p. 48, line 2.

¹⁷⁹ See *id.*, p. 48, line 9.

¹⁸⁰ See *id.*, p. 68, lines 12 - 16.

COPA asked Sgt. Rosenthal if he was aware of whether any of the officers at the scene had written down the names of anyone at the scene who claimed to have any helpful or useful information, to which Sgt. Rosenthal responded, “No.”¹⁸¹

COPA asked Sgt. Rosenthal to identify the officer who made the decision to arrest [REDACTED] in response, Sgt. Rosenthal said that it was he who made that decision.¹⁸²

Sgt. Rosenthal stated that he went from the incident scene to the 025th District Station, where he looked at Officer Troche-Vargas’ vehicle and he requested photographs to be taken of that vehicle.¹⁸³ Sgt. Rosenthal further stated that he then and there spoke to one of the on-duty lieutenants to inform him that that there had been an incident involving an off-duty officer, that someone was in custody, and that a Tactical Response Report would be prepared.¹⁸⁴ Sgt. Rosenthal also stated that he then checked in with Officers Sloniec and Kuc to make sure that they were starting on reporting.¹⁸⁵ He then asked them whether they had contacted a youth detective.¹⁸⁶ Sgt. Rosenthal stated an inability to recall whether he spoke with or saw Officer Troche-Vargas at the 025th District Station,¹⁸⁷ but he allowed that he must have spoken with the officer in connection with the preparation of the Tactical Response Report that was submitted in connection with the events under review.¹⁸⁸

COPA directed Sgt. Rosenthal’s attention to the fact that his BWC footage showed (and the Tactical Response Report stated) that he subsequently returned to the scene, and COPA asked Sgt. Rosenthal why he had done so.¹⁸⁹ In response, Sgt. Rosenthal said that he returned to the incident scene because he wanted to see if he could find additional witnesses, and that he did so on his own initiative.¹⁹⁰ Sgt. Rosenthal stated that he then returned to the 025th District Station and waited for the officers to complete their reports.¹⁹¹

COPA directed Sgt. Rosenthal to the fact that the CPD’s Traffic Crash Report indicated that Officer Troche-Vargas was uninsured, and asked Sgt. Rosenthal if he was able to explain why the officer was not cited for failing to produce proof of insurance.¹⁹² In response, Sgt. Rosenthal stated that he was unaware whether Officer Troche-Vargas was or was not in fact uninsured and that he had no knowledge concerning whether he had or had not been cited accordingly.¹⁹³

COPA directed Sgt. Rosenthal’s attention to the fact that reports he approved indicate that Officer Troche-Vargas sustained a facial laceration.¹⁹⁴ COPA then showed Sgt. Rosenthal

¹⁸¹ See *id.*, p. 52, lines 4 - 8.

¹⁸² See *id.*, p. 58, lines 5 - 7.

¹⁸³ See *id.*, p. 18, line 8, through p. 22, line 24.

¹⁸⁴ See *id.*, p. 19, line 14, through p. 21, line 16.

¹⁸⁵ See *id.*, p. 18, line 8, through p. 22, line 24.

¹⁸⁶ See *id.*, p. 29, line 20, through p. 30, line 2.

¹⁸⁷ See *id.*, p. 24, line 20, through p. 25, line 18.

¹⁸⁸ See *id.*, p. 31, line 3, through p. 32, line 7.

¹⁸⁹ See *id.*, p. 30, lines 9 - 11.

¹⁹⁰ See *id.*, p. 30, lines 12 - 20.

¹⁹¹ See *id.*, p. 31, lines 1 - 11.

¹⁹² See *id.*, p. 52, line 19, through p. 53, line 9.

¹⁹³ See *id.*, p. 53, lines 10 - 24.

¹⁹⁴ See *id.*, p. 86, lines 12 - 23.

two photographs taken by a CPD evidence technician on the evening of the incident under review, which depict Officer Troche-Vargas' face and which do not depict any such laceration,¹⁹⁵ and COPA asked Sgt. Rosenthal if he had an explanation for that discrepancy.¹⁹⁶ In response, Sgt. Rosenthal said, "No. Other than that they must have been visible to me at some point and that they – the swelling went down or that they were cleaned up prior to the taking of the photographs."¹⁹⁷

COPA directed Sgt. Rosenthal to the fact that he did not contact COPA to register a complaint in connection with the incident, and COPA asked Sgt. Rosenthal why that was the case.¹⁹⁸ In response, Sgt. Rosenthal said, "Because I didn't believe that any use of force or conduct had occurred that was outside the scope of permissible force or conduct ... and I determined that there was probable cause to arrest [REDACTED] and that the force used by [Officer Troche-Vargas] was not outside of the parameters permitted by the Chicago Police Department."¹⁹⁹

In response to a question from COPA, Sgt. Rosenthal stated that he believed that the CPD's investigation of the incident was thorough and accurate,²⁰⁰ though he also stated that he should have and could have delegated the responsibility of obtaining the names of witnesses to Officers Sloniec and Kuc.²⁰¹ Sgt. Rosenthal further stated that he had only been promoted to the rank of sergeant a few weeks prior to the time of the incident.²⁰²

Interview of Officer Jose Troche-Vargas

Officer Jose Troche-Vargas gave an audio-recorded statement on March 25, 2021.²⁰³ Prior to commencing that statement, COPA permitted Officer Troche-Vargas to review the CPD's Arrest Report and Tactical Response Report relating to the events under review.²⁰⁴ COPA also permitted Officer Troche-Vargas to view the BWC footage that Officer Sloniec recorded immediately upon his arrival at the incident scene, BWC footage that Sgt. Rosenthal recorded immediately upon his arrival at the scene, and a segment of third-party video footage recorded at the scene.²⁰⁵ COPA provided Officer Troche-Vargas with an opportunity to clarify or amend the Arrest Report and the portion of the Tactical Response Report that he had prepared.²⁰⁶ In response, Officer Troche-Vargas stated that there was nothing in those reports that he wished to clarify or amend.²⁰⁷ The following is a material summary (not verbatim except where otherwise indicated) of the officer's statement.

¹⁹⁵ See *id.*, p. 87, line 3, through p. 88, line 12.

¹⁹⁶ See *id.*, p. 88, line 13.

¹⁹⁷ See *id.*, p. 88, lines 14 - 18.

¹⁹⁸ See *id.*, p. 69, lines 13 - 14.

¹⁹⁹ See *id.*, p. 69, line 13, through p. 72, line 4.

²⁰⁰ See *id.*, p. 102, lines 2 - 5.

²⁰¹ See *id.*, p. 102, lines 6 - 15.

²⁰² See *id.*, p. 106, lines 17 - 24. COPA has confirmed, through the CPD's *CLEAR* data base, that Sgt. Rosenthal's seniority date is December 16, 2017.

²⁰³ Attachments ## 43 and 44 comprise an audio recording of that statement; Attachment #45 is a transcription of that audio recording.

²⁰⁴ See Attachment #45, p. 6, lines 1 - 23.

²⁰⁵ See Attachment #45, p. 6, line 24, through p. 10, line 12.

²⁰⁶ See Attachment #45, p. 10, line 13, through p. 13, line 18.

²⁰⁷ See *id.*, p. 13, lines 16 - 18; p. 52, line 17, through p. 53, line 12.

Officer Troche-Vargas stated that the reason that he stopped his vehicle at the incident scene was that there had been traffic in front of him, and that, if he had not stopped, he would have been in a collision with a car that had stopped in front of him.²⁰⁸ He further stated, “I didn’t stop suddenly. I stopped with the flow of traffic.”²⁰⁹ Officer Troche-Vargas stated that [REDACTED] then rode his bicycle into the back of the officer’s vehicle.²¹⁰

Officer Troche-Vargas further stated that:

I know that he hit me from behind so I pulled over because I seen him pop up when I – when I looked back to see what had hit me. I don't know if it was a vehicle or if it was, you know, a person. I look up and then I seen him pop up. I seen his head and his body. So then I pull over to the side, like, ‘are you okay, dude.’”²¹¹

According to Officer Troche-Vargas, he then asked, “‘How are you? Are you okay?’ I mean, he just hit my car.”²¹² Officer Troche-Vargas stated that he got out of his vehicle at the scene because the wanted to check on [REDACTED] to make sure he was okay, and to see “what was the reason why he struck my vehicle from behind.”²¹³

COPA asked Officer Troche-Vargas why he hadn’t said anything at the scene about a car having stopped in front of him or having been in a traffic accident.²¹⁴ In response, Officer Troche-Vargas stated that he had just gotten into an altercation and that he was shaken up,²¹⁵ but that when he went to the 25th District Station afterward, he “was able to, you know, get myself together and I was able to put, you know, the stuff down on the paper.”²¹⁶ COPA asked Officer Troche-Vargas if he had an explanation as to why he didn’t write anything in his reports about a car having stopped in front of him; in response, Officer Troche-Vargas said that he did not know and he that was unable to provide any such explanation.²¹⁷

COPA pointed out to Officer Troche-Vargas that in the portion of the Tactical Response Report that he had written, he had claimed that he had been the victim of an assault or battery while performing a police function, and COPA then asked Officer Troche-Vargas to describe the police function that he had been performing.²¹⁸ In response, Officer Troche-Vargas said, “I had announced my office after he had stuck his hand in his pocket insinuating as he had a weapon and he refused to take his hands out of his pocket.”²¹⁹ According to Office Troche-Vargas, [REDACTED] provoked their physical altercation by balling his fists.²²⁰ The altercation was justified, according

²⁰⁸ See *id.*, p. 25, lines 3 - 11; p. 26, line 20, through p. 27, line 1; p. 28, lines 16 - 17.

²⁰⁹ See *id.*, p. 49, lines 4 - 17.

²¹⁰ See *id.*, p. 25, line 15, through p. 26, line 5.

²¹¹ See *id.*, p. 30, line 19, through p. 31, line 2.

²¹² See *id.*, p. 63, lines 10 - 17.

²¹³ See *id.*, p. 29, line 17, through p. 30, line 7.

²¹⁴ See *id.*, p. 27, lines 2 - 5; p. 31., lines 5 - 16.

²¹⁵ See *id.*, p. 27, lines 6 - 9; p. 31, lines 10 - 16.

²¹⁶ See *id.*, p. 27, lines 10 - 12.

²¹⁷ See *id.*, p. 27, lines 13 - 20.

²¹⁸ See *id.*, p. 31, line 22, through p. 32, line 4.

²¹⁹ See *id.*, p. 32, lines 5 - 7.

²²⁰ See *id.*, p. 40, line 6, through p. 42, line 1.

to Officer Troche-Vargas, “because this was a simple traffic crash. Didn’t need to be escalated but he escalated it and, unfortunately, you know, he battered me ...”²²¹ Officer Troche-Vargas said that he then tried to grab [REDACTED] wrists, but that [REDACTED] then slipped away. Officer Troche-Vargas stated that he grabbed [REDACTED] torso,²²² and that the two of them then slipped on ice and accidentally fell.²²³ COPA pointed out to Officer Troche-Vargas that, at the scene, he had told Officer Sloniec that he had taken [REDACTED] down,²²⁴ and Officer Troche-Vargas agreed with COPA that there is a difference between a fall and a takedown.²²⁵ Officer Troche-Vargas further stated that he should not have stated, in the Tactical Response Report, that he had employed a takedown at the scene.²²⁶

According to Officer Troche-Vargas, after their fall, [REDACTED] had gained control of him, and the officer tried to get [REDACTED] off of him.²²⁷ Officer Troche-Vargas said that [REDACTED] struck him several times with balled fists, and that he responded by striking [REDACTED] with a closed hand several times.²²⁸

COPA pointed out to Officer Troche-Vargas that he had written, in the Arrest Report and in the Tactical Response Report, that he had sustained a laceration to his face,²²⁹ and COPA gave the officer an opportunity to view photographs depicting him after the incident.²³⁰ In response, Officer Troche-Vargas stated that he should have used the word “abrasion” rather than “laceration,”²³¹ and he pointed out what he claimed was such an abrasion in two of those photographs.²³²

COPA asked Officer Troche-Vargas if he had any explanation as to why no names of witnesses were included in the Arrest Report; in response, Officer Troche-Vargas stated that the other officers at the scene did not provide him with that information, and that he didn’t ask them for that information because he had assumed that they would have given it to him without being asked if they had such information.²³³

OEMC Reports

OEMC Event Query Reports²³⁴ show that, at about 5:24 p.m. on the incident date, a 911 caller whose first name was recorded as [REDACTED] told an OEMC dispatcher that an off-duty police officer physically hit him after striking him with an orange Nissan, and that the off-duty officer was still on the scene.²³⁵ The reports further show that about three minutes later, a 911 caller who

²²¹ See *id.*, p. 50, line 49, through p. 50, line 10.

²²² See *id.*, p. 40, lines 14 - 17.

²²³ See *id.*, p. 43, line 19, through p. 44, line 17.

²²⁴ See *id.*, p. 41, line 21, through p. 42, line 1.

²²⁵ See *id.*, p. 42, lines 2 - 8.

²²⁶ See *id.*, p. 58, lines 1 - 10.

²²⁷ See *id.*, p. 50, lines 22 - 23.

²²⁸ See *id.*, p. 51, lines 3 - 16.

²²⁹ See *id.*, p. 34, lines 8 - 10.

²³⁰ See *id.*, p. 37, line 8, through p. 38, line 12.

²³¹ See *id.*, p. 38, lines 13 - 23.

²³² See *id.*, p. 38, line 24, through p. 40, line 1.

²³³ See *id.*, p. 53, line 13, through p. 55, line 22.

²³⁴ Attachment #57.

²³⁵ See *id.* at p. 4.

identified himself by name as “Officer Vargas” and as an off-duty police officer stated that he “got into a confrontation with a kid who swung on him[,] he had to hold him down and now he’s making a big deal of it.”²³⁶ The report of the officer’s 911 call states, “no mention of weapons.”²³⁷

GPS Data

COPA obtained GPS Data²³⁸ showing that CPD Vehicle #9379 (determined by COPA to have been occupied by Officers Sloniec and Kuc) arrived at the incident scene at about 5:37 p.m. and departed the scene at about 6:28 p.m.²³⁹ That data also show that CPD Vehicle #9609 (determined by COPA to have been occupied by Sgt. Rosenthal) arrived at the incident scene at about 5:41 p.m. and also departed the scene at about 6:28 p.m.²⁴⁰

VI. LEGAL STANDARD

For each allegation, COPA must make one of the following findings:

- (1) Sustained – where it is determined that the allegation is supported by a preponderance of the evidence;
- (2) Not Sustained – where it is determined that there is insufficient evidence to prove the allegation by a preponderance of the evidence;
- (3) Unfounded – where it is determined by clear and convincing evidence that the 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 that the conduct was lawful and proper.

For the purposes of COPA’s investigations, a “preponderance of evidence” is evidence indicating that it is more likely than not that the alleged misconduct occurred. 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 establishes that it is likely that the alleged misconduct occurred, even 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 it is a lower standard than is the “beyond a reasonable doubt” standard required to convict a person of a criminal offense. *People v. Coan*, 2016 IL App (2d) 151036 (2016). “Clear and convincing evidence” is 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 allegation is true. See *id.* at ¶ 28.

²³⁶ See *id.* at pp. 1 and 2.

²³⁷ See *id.* at p. 2.

²³⁸ Attachment #58.

²³⁹ See *id.* at p. 1.

²⁴⁰ See *id.* at p. 3.

VII. ANALYSIS

A. Allegations against Officer Troche-Vargas

Allegation #1 – Officer Troche Vargas committed misconduct by stopping his motor vehicle suddenly, causing a traffic crash

At the scene, ██████ said that he had been riding in front of Officer Troche-Vargas and that the officer swerved in front of him and braked hard, causing ██████ and his bike to collide with the rear of Officer Troche-Vargas' stopped vehicle. In his subsequent COPA interview, ██████ gave a similar account. At the scene, Officer Troche-Vargas likewise told Sgt. Rosenthal that he had braked hard; he also told Sgt. Rosenthal that ██████ had been "flying down the street." He told both Sgt. Rosenthal and Officer Sloniec that he stopped because ██████ had ridden his bicycle near him, while indicating that he might have a gun. Officer Troche-Vargas later claimed in his COPA interview that he actually stopped because a car had stopped in front of him, and further, that he didn't brake hard. Sgt. Rosenthal examined ██████ bike and the officer's vehicle, and he determined that ██████ bike had, in fact, collided with the back of that vehicle.

The above evidence supports the conclusion that Officer Troche-Vargas was reckless, that he stopped his vehicle suddenly with the knowledge that ██████ was immediately behind him on a bicycle, thereby maltreating ██████ in violation of Rule 8 of the CPD's Rule of Conduct. COPA cannot credit Officer Troche-Vargas' claim to the contrary, which he made for the first time during his statement to COPA, that he stopped with the flow of traffic. That new claim is entirely inconsistent with the officer's at-the-scene explanations. Allegation #1 against Officer Troche-Vargas is accordingly SUSTAINED.

Allegation #2 – Officer Troche-Vargas engaged in an altercation with ██████ without justification

COPA also cannot credit Officer Troche-Vargas' at-the-scene explanation for why he stopped to engage with ██████ that ██████ had ridden his bike next to him, making a threatening gesture as he did so. Officer Troche-Vargas contradicted that explanation during his COPA interview by claiming that he stopped only to avoid an accident with another car that had stopped immediately in front of him. COPA likewise cannot credit Officer Troche-Vargas' claim (also made for the first time during his COPA statement) that he and ██████ ended up on the ground because they had slipped on ice, because that claim is inconsistent with the officer's at-the-scene statement to Officer Sloniec, which was that he took ██████ down. That Officer Troche-Vargas has been so inconsistent in accounting for the why and the how of his engagement with ██████ at the scene leads COPA to the conclusion that there can be no explanation that justifies the officer's engagement or the altercation. COPA accordingly concludes that Officer Troche-Vargas' engagement with ██████ violated Rule 9 of the CPD's Rule of Conduct, which prohibits CPD members from engaging in unjustified verbal and physical altercations. Allegation #2 against Officer Troche-Vargas is accordingly SUSTAINED.

Allegation #3 – Officer Troche-Vargas struck [REDACTED] with a closed hand and/or by performing a takedown without justification

COPA cannot credit Officer Troche-Vargas' explanation, made during his statement to COPA, that he didn't take [REDACTED] down, but that, instead, he and [REDACTED] inadvertently fell to the ground because they had slipped on ice. That explanation cannot be reconciled with the officer's statements made at the scene and in the Tactical Response Report (which COPA credits), which was that the officer took [REDACTED] down. As with the officer's inability to provide a consistent account of his reasons for engaging with [REDACTED] his inability to provide a consistent account concerning how he ended up on the ground with [REDACTED] leads COPA to the conclusion that that there can be no justifying explanation. COPA therefore finds that Officer Troche-Vargas did in fact perform a takedown, and that by doing so without justification, he violated Rule 8 of the CPD's Rule of Conduct, which prohibits maltreatment. Allegation #3 against Officer Troche-Vargas is accordingly SUSTAINED.

Allegations ## 4 and 5 – Officer Troche-Vargas made false, misleading, inaccurate and/or incomplete statements in the Arrest Report and in the Tactical Response Report

COPA finds that Officer Troche-Vargas' statement, set out in the narrative sections of the Tactical Response Report and in the Arrest Report, to the effect that he got out of his car *to check on* [REDACTED] *status* following an auto accident is false or misleading. A reader of the officer's narratives who did not also have the benefit of viewing video footage containing the officer's at-the-scene explanations would necessarily and wrongly conclude that Officer Troche-Vargas had sought to aid a bicyclist thought by him to have been involved in an auto accident, when, in fact, the officer made no claim at the scene that there had been an auto accident, much less that he ever had any concern about the bicyclist's post-accident status. The statement is also inconsistent with and unreconcilable with the officer's at-the-scene statements, with which he told responding officers that he had exited his vehicle, not to check on [REDACTED] status, but because [REDACTED] had indicated that he might be armed. COPA finds that the false or misleading statement is material, given that it had an obviously significant propensity to cause reliance by a reviewing supervisor, whether to approve probable cause (in the case of the Arrest Report) or to draw conclusions about the propriety of the officer's use of force (in the case of the Tactical Response Report). COPA further finds that the false or misleading statement was willfully made, as Officer Troche-Vargas made it after having significant time for reflection. COPA cannot credit the officer's explanation for the discrepancies between his at-the-scene statements and the false or misleading statement in his reports – that he was “shaken up” at the scene – as that explanation is not supported by video footage depicting the officer at the scene. The false or misleading statement therefore renders Officer Troche-Vargas' Tactical Response Report narrative and the Arrest Report narrative violative of Rule 14 of the CPD's Rules of Conduct. For the above reasons, Allegations ## 4 and 5 against Officer Troche-Vargas are SUSTAINED.

B. BWC Allegations against the On-duty Officers

The CPD's directive respecting body-worn cameras provides, among other things, that “[t]he Department member 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.”²⁴¹ The directive prohibits BWC de-activation at an incident scene, unless “the entire incident has been recorded and the member is no longer engaged in a law enforcement activity.”²⁴² The directive requires that “[a]ll supervisors assigned to oversee Department members utilizing Department-issued BWCs ... will ensure [that] Department members are utilizing their BWCs consistent with this directive.”²⁴³

Sgt. Rosenthal has acknowledged that he failed to comply with that directive by deactivating his BWC at the scene and by failing to record conversations with witnesses there. The evidence shows that Officer Sloniec also disobeyed the directive when he, too, de-activated his BWC at the scene, and that Sgt. Rosenthal further disobeyed the directive by failing to ensure Officer Sloniec’s compliance with it. The evidence therefore shows that Sgt. Rosenthal’s conduct and Officer Sloniec’s conduct constituted violations of Rule 6 of the CPD Rules of Conduct, which prohibits the disobedience of a directive. Allegations ## 2 and 3 against Sgt. Rosenthal are accordingly SUSTAINED; Allegation #2 against Officer Sloniec is also accordingly SUSTAINED. Allegation #2 against Officer Kuc is NOT SUSTAINED, as COPA is aware of no evidence contradicting Officer Kuc’s claim that she had had not been supplied with a BWC at the time of the incident under review.²⁴⁴

C. Investigation Allegations

On the date in question, CPD directives in effect required Sgt. Rosenthal, Officer Sloniec, and Officer Kuc to conduct a thorough and accurate investigation of the incident under review, and, as part of that investigation, to collect identification or contact information from witnesses.²⁴⁵ One of those directives required enforcement action to be taken against a vehicle driver who did not produce adequate proof of insurance.²⁴⁶ Video evidence shows that Sgt. Rosenthal, Officer Sloniec, and Officer Kuc disobeyed those directives by conducting an investigation that was neither thorough nor accurate, by failing to collect identification or contact information from witnesses to the incident, and by failing to take enforcement action against a vehicle driver who did not produce adequate proof of insurance. That evidence shows that two adult civilians at the incident scene attempted to provide information to Sgt. Rosenthal, Officer Sloniec, and Officer Kuc, that one of those civilians expressly described the two of them as witnesses, and that the other expressly informed Sgt. Rosenthal that Officer Troche-Vargas’ version of the events was inaccurate. And yet, Sgt. Rosenthal, Officer Sloniec, and Officer Kuc all failed to collect contact information from those civilians. What is more, even though Officer Troche-Vargas told Sgt. Rosenthal, at the scene, that one of those civilians had made a video recording of part of the incident, Sgt. Rosenthal made no

²⁴¹ See CPD Special Order S03-14 *Body Worn Cameras* (effective October 15, 2017), Section III.A.2.

²⁴² See *id.* at Section III.B.

²⁴³ See *id.* at Section VI.A.1.

²⁴⁴ COPA has attempted to verify Officer Kuc’s claim by reviewing BWC footage recorded at the scene by Officer Sloniec and Sgt. Rosenthal. However, due to poor lighting conditions at the scene, that footage does not clearly and convincingly show whether Officer Kuc was or was not equipped with a BWC at the time. As we have noted above, Evidence.com records (Attachment #80) show that Officer Kuc’s first uploaded BWC footage on March 18, 2018, thereby supporting Officer Kuc’s claim.

²⁴⁵ See CPD General Order G03-02-02 *Incidents Requiring the Completion of a Tactical Response Report* (effective October 16, 2017), General Order G04-01 *Preliminary Investigations* (effective October 15, 2017), and Special Order S04-07 *Preliminary Investigations – Traffic Crashes* (effective November 30, 2017).

²⁴⁶ See Special Order S04-07 *Preliminary Investigations – Traffic Crashes* (effective November 30, 2017).

effort to ensure that that person remained at the scene so that he could view that video evidence and secure it. And though the Traffic Crash Report indicates that Officer Troche-Vargas was not insured, no enforcement action was taken against him.

None of Sgt. Rosenthal, Officer Sloniec, or Officer Kuc provided any exculpatory explanation for their failures. Though Officer Sloniec described the male adult civilian who disputed Officer Troche-Vargas' account at the scene as aggressive and not cooperative, video footage does not support that description. Instead, video footage shows that that person was eager to describe the facts of the incident: he approached Sgt. Rosenthal to do so after he had similarly approached Officer Sloniec. Therefore, COPA cannot give credit to Sgt. Rosenthal's claim that his interaction with that male civilian was so contentious that Sgt. Rosenthal was prevented from asking that person for his name. Video evidence shows that the female adult civilian was at the scene when Officer Troche-Vargas identified her to Sgt. Rosenthal as having made a video recording. Therefore, COPA cannot credit Sgt. Rosenthal's claim that she left the scene before she could have been interviewed. COPA accordingly finds that Sgt. Rosenthal, Officer Sloniec, and Officer Kuc violated Rule 6 of the CPD's Rules of Conduct, which prohibits disobedience of directives, by failing to conduct a thorough and accurate investigation of the incident under review. Allegation #4 against Sgt. Rosenthal is accordingly SUSTAINED. Allegation #3 against Officer Sloniec and Officer Kuc are also accordingly SUSTAINED.

D. Unjustified Arrest Allegations

In his statement to COPA, Sgt. Rosenthal took responsibility for the CPD's decision to arrest ██████████ and that claim of responsibility is supported by video evidence, which does not show Officer Sloniec or Officer Kuc taking any apparent steps to place ██████████ in custody at the scene. Allegation #1 against Officers Sloniec and Kuc are accordingly NOT SUSTAINED.

Whether Sgt. Rosenthal's decision to arrest ██████████ was justified turns on whether ██████████ arrest was supported by probable cause.²⁴⁷ Probable cause exists "where the arresting officer has knowledge of facts and circumstances that are sufficient to justify a reasonable person to believe that the [person arrested] has committed or is committing a crime."²⁴⁸ COPA has determined, based on that standard, that Sgt. Rosenthal did not likely have probable cause to arrest ██████████. Though Officer Troche-Vargas alleged at the scene that ██████████ took threatening action by implying that he was armed with a gun, and though such conduct would have constituted the criminal offense of assault,²⁴⁹ COPA finds that other evidence at the scene should have caused Sgt. Rosenthal to reject the officer's allegation as unreliable and improbable. That evidence includes ██████████ stated account of the events, which Sgt. Rosenthal partially corroborated by determining that the incident involved a mid-block traffic collision. That evidence also includes the statement of an adult third party, claiming to be a witness, to the effect that the officer's account of the events was untrue. Allegation #1 against Sgt. Rosenthal is accordingly SUSTAINED.

²⁴⁷ See *People v. Jones*, 215 Ill. 2d 261, 273 -74, 830 N.E.2d 541 (2005).

²⁴⁸ *Id.*, 215 Ill.2d at 273.

²⁴⁹ See 720 ILCS 5/12-1(a).

E. Allegations of Inaccurate and Incomplete Reporting

On the date in question, a CPD directive-imposed duties upon all CPD members to be accurate and thorough in reporting use of force incidents.²⁵⁰ That directive also imposed certain specific responsibilities upon Tactical Response Report reviewing supervisors, including the responsibility to ensure that required information is recorded in appropriate reports and the responsibility to return a Tactical Response Report to a subordinate if it is incomplete or insufficient.²⁵¹

The evidence shows that Officer Sloniec breached those duties of accuracy and thoroughness when he submitted the Original Case Incident Report relating to the incident, and that Sgt. Rosenthal breached those duties in approving that report. That report is incomplete and misleading because (1) it contains no reference to any of the claims made by [REDACTED] at the scene, (2) it omits any reference to the presence of two civilian adults at the scene who claimed to have been witnesses, (3) it omits Officer Troche-Vargas' at-the-scene explanation for his conduct, but, instead, (4) it includes only an entirely contradictory explanation apparently given by Officer Troche-Vargas much later. COPA cannot credit Officer Sloniec's claimed defense, which is that he merely wrote down information that was provided to him by Officer Troche-Vargas, because Officer Sloniec included only the officer's later-given and self-serving statements; he omitted contradictory inculpatory statements that the officer gave at the scene. In addition, the report's claim that the officer sustained a laceration is shown by photographs to be inaccurate. Officer Sloniec's explanation for reporting that the officer sustained a laceration, as well as Sgt. Rosenthal's explanation for approving a report containing that false information, are entirely unsatisfactory.

The evidence also shows that Sgt. Rosenthal breached duties of accuracy and thoroughness as a Tactical Response Report reviewing supervisor when he failed to reject and return Officer Troche-Vargas' portion of that report. And, as COPA has found above, the Tactical Response Report's statement to the effect that Officer Troche-Vargas left his vehicle to check on [REDACTED] status following a traffic crash cannot be reconciled with the explanation given by the officer to Sgt. Rosenthal at the scene. Sgt. Rosenthal's omission of the names of witnesses, coupled with his statement, made by checking a box, that witnesses were unknown, is indefensible. What's more, Sgt. Rosenthal made that false omission and that false check-box worse when he indicated that he returned to the scene in search of witnesses. That statement, though literally true, is materially misleading as it implies that Sgt. Rosenthal was unaware of the presence of witnesses at the scene.

Finally, the evidence shows that Officer Kuc breached duties of accuracy and thoroughness by failing to include [REDACTED] explanation of the events in the Traffic Crash Report and by omitting in that report any reference to the presence of persons at the scene who claimed to have been witnesses.

For the above reasons, COPA finds that Sgt. Rosenthal, Officer Sloniec, and Officer Kuc violated Rule 5 of the CPD Rules of Conduct, which prohibits the failure to perform a duty. Allegations ## 5 and 6 against Sgt. Rosenthal are accordingly SUSTAINED. Allegation #4 against Officer Sloniec and Allegation #5 against Officer Kuc are also accordingly SUSTAINED. Allegation #5 against Officer Sloniec is NOT SUSTAINED, as COPA is aware of no evidence showing that he made

²⁵⁰CPD General Order G03-02-02 *Incidents Requiring the Completion of a Tactical Response Report* (effective October 16, 2017).

²⁵¹*See id.*, Section V.5.

any statement in the CPD’s Traffic Crash Report relating to the events under review; COPA Allegation #4 against Officer Kuc is similarly NOT SUSTAINED, as COPA is aware of no evidence showing that she made any statement in the CPD’s Original Case Incident Report relating to the events.

VIII. FINDINGS

Officer	Allegation	Finding
Officer Troche-Vargas	On February 15, 2018, at approximately 5:18 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Officer Jose Troche-Vargas committed misconduct through the following acts and/or omissions:	
	1. stopping his motor vehicle suddenly, causing a traffic crash between ██████████ (riding a bicycle) and the vehicle operated by Officer Troche-Vargas; and/or	SUSTAINED
	2. engaging in a verbal and/or physical altercation with ██████████ without justification; and/or	SUSTAINED
	3. striking ██████████ (i.e., with a closed hand and/or by performing a takedown), without justification.	SUSTAINED
	On February 15, 2018, at approximately 9:45 PM, at or near 5555 W. Grand Avenue, Chicago, Illinois, Officer Jose Troche-Vargas committed misconduct through the following acts and/or omissions:	
	1. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of the CPD Arrest Report of ██████████ (RD# ██████████); and/or	SUSTAINED
2. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Tactical Response Report documenting Officer Jose Troche-Vargas’ use of force against ██████████	SUSTAINED	
Sergeant Rosenthal	On February 15, 2018, at approximately 5:38 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Sergeant Daniel Rosenthal committed misconduct through the following acts and/or omissions:	
	1. arresting and/or directing the arrest of ██████████ without justification.	SUSTAINED

Officer	Allegation	Finding
Sergeant Rosenthal (continued)	2. failing to operate his body-worn camera in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i> ; and/or	SUSTAINED
	3. failing to ensure that CPD members under his command operated their body-worn camera(s) in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i> ; and/or	SUSTAINED
	4. failing to ensure that he or that other CPD members under his command conducted a thorough and accurate preliminary investigation of an incident as required by the provisions of CPD General Order G04-01, <i>Preliminary Investigations</i> (effective October 15, 2017) and/or the provisions of CPD Special Order S04-07-03, <i>Preliminary Investigations – Traffic Crashes</i> (effective November 30, 2017; and/or	SUSTAINED
	On February 15, 2018, at approximately 9:58 PM, at or near 5555 W. Grand Avenue, Chicago, Illinois, Sergeant Daniel Rosenthal committed misconduct through the following acts and/or omissions:	
	5. making and/or approving one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Tactical Response Report documenting Officer Jose Troche-Vargas’ use of force against ██████████ and/or	SUSTAINED
	6. making and/or approving one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Original Incident Case Report documenting an altercation between Officer Jose Troche-Vargas’ and ██████████	SUSTAINED
	Officer Sloniec	On February 15, 2018, at approximately 5:38 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Officer Chris S. Sloniec committed misconduct through the following acts and/or omissions: 1. arresting ██████████ without justification.

Officer	Allegation	Finding
Officer Sloniec (continued)	<p>2. failing to operate his body-worn camera in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i>; and/or</p> <p>3. failing to conduct a thorough and accurate preliminary investigation of an incident as required by the provisions of CPD General Order G04-01, <i>Preliminary Investigations</i> (effective October 15, 2017) and/or the provisions of CPD Special Order S04-07-03, <i>Preliminary Investigations – Traffic Crashes</i> (effective November 30, 2017).</p> <p>On February 15, 2018, at approximately 10:18 pm, at or near 5555 W. Grand Avenue, Chicago, Illinois, Officer Chris S. Sloniec committed misconduct through the following acts and/or omissions:</p> <p>4. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Original Incident Case Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas; and/or</p> <p>5. making one or more false, misleading, inaccurate and/or incomplete statements in an Illinois Traffic Crash Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>NOT SUSTAINED</p>
Officer Kuc	<p>On February 15, 2018, at approximately 5:38 pm, at or near 5353 W. Altgeld St., Chicago, Illinois, Officer Maria C. Kuc committed misconduct through the following acts and/or omissions:</p> <p>1. arresting [REDACTED] without justification.</p> <p>2. failing to operate her body-worn camera in accordance with the provisions of CPD Special Order S03-14, <i>Body Worn Cameras</i>; and/or</p>	<p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>

Officer	Allegation	Finding
Officer Kuc (continued)	<p>3. failing to conduct a thorough and accurate preliminary investigation of an incident as required by the provisions of CPD General Order G04-01, Preliminary Investigations (effective October 15, 2017) and/or the provisions of CPD Special Order S04-07-03, Preliminary Investigations – Traffic Crashes (effective November 30, 2017).</p> <p>On February 15, 2018, at approximately 10:18 PM, at or near 5555 W. Grand Avenue, Chicago, Illinois, Officer Maria C. Kuc committed misconduct through the following acts and/or omissions:</p>	SUSTAINED
	<p>4. making one or more false, misleading, inaccurate and/or incomplete statements in the preparation of a CPD Original Incident Case Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas; and/or</p>	NOT SUSTAINED
	<p>5. making one or more false, misleading, inaccurate and/or incomplete statements in an Illinois Traffic Crash Report (RD# [REDACTED]) completed in connection with a traffic crash between [REDACTED] and Officer Jose Troche-Vargas.</p>	SUSTAINED

IX. DISCIPLINARY AND REMEDIAL RECOMMENDATIONS

Officer Troche-Vargas - Separation

Officer Troche-Vargas has the following complimentary history: 2019 Crime Reduction Award, 1. Attendance Recognition Award, 1; Complimentary Letter, 2; Department Commendation, 1; Honorable Mention, 17.²⁵²

Officer Troche-Vargas’ material and willful false or misleading statements, made in the Arrest Report and in the Tactical Response Report, render him so untrustworthy that he is no longer capable of submitting a reliable report or giving reliable in court testimony. What is more, the poor judgment that the officer demonstrated in “stomping” on his brakes, knowing that a teenage boy was immediately behind him, and in subsequently engaging in a physical altercation with that boy, raises significant doubt concerning the officer’s suitability to serve as a law enforcement officer.

²⁵² See Attachment #101, p. 10.

Sergeant Rosenthal – Separation

Sgt. Rosenthal has the following complimentary history: 2004 Crime Reduction Ribbon, 1. 2009 Crime Reduction Award, 1. 2019 Crime Reduction Award, 1. Complimentary Letters, 2. Department Commendations, 4. Emblem of Recognition – Physical Fitness, 1. Honorable Mentions, 89. Honorable Mention Ribbon Award, 1. Life Saving Award, 1. NATO Summit Service Award, 1. Presidential Election Deployment Award 2008, 1. Problem Solving Award, 1. Unit Meritorious Performance Award, 1.²⁵³ Sgt. Rosenthal has no applicable disciplinary history within the past 5 years.²⁵⁴

Sgt. Rosenthal's carelessness and inattention in leading and documenting an investigation involving a Department member significantly discredited the Department.²⁵⁵ COPA accordingly recommends as separation.

Officer Sloniec – Ninety-day Suspension

Officer Sloniec has the following complimentary history: 2009 Crime Reduction Award, 1. 2019 Crime Reduction Award, 1. Attendance Recognition Award, 1. Complimentary Letters, 4. Department Commendations, 3. Honorable Mentions, 43. NATO Summit Service Award, 1. Presidential Election Deployment Award 2008, 1. Unit Meritorious Performance Award, 1.²⁵⁶

Officer Sloniec has no applicable disciplinary history within the past 5 years.²⁵⁷

Officer Sloniec's misconduct is mitigated by the fact that his actions were taken under the direction of a supervisor. However, the officer's participation in the creation of a misleading report that omits important facts cannot be legitimately attributed to following orders. COPA accordingly recommends as discipline a ninety-day employment suspension.

Officer Kuc – Sixty-day Employment Suspension

Officer Kuc has the following complimentary history: 2019 Crime Reduction Award, 1. . Emblem of Recognition – Physical Fitness, 2. Honorable Mentions, 23. Unit Meritorious Performance Award, 1.²⁵⁸

Officer Kuc has no applicable disciplinary history within the past 5 years.²⁵⁹

Officer Kuc's misconduct is mitigated by the fact that she had less than two years of service at the time of the events under review, and further by the fact that she was obviously taking the lead from more senior officers at the time. However, the officer's participation in the creation of a misleading

²⁵³ See *id.* at p. 2.

²⁵⁴ See *id.* at pp. 1 - 4.

²⁵⁵ See Investigation of the Chicago Police Department, United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois (January 13, 2017), p. 75.

²⁵⁶ See *id.* at p. 6.

²⁵⁷ See *id.* at pp. 5 - 8.

²⁵⁸ See *id.* at p. 14.

²⁵⁹ See *id.* at pp. 13 - 16.

report that omits important facts cannot be fairly attributed to a lack of experience. COPA accordingly recommends as discipline a sixty-day employment suspension.

Approved:



11/29/2021

Deputy Chief Administrator

Date



11/29/2019

Andrea Kersten
Interim Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	2
Investigator:	Francis Tighe
Supervising Investigator:	Robert Coleman
Deputy Chief Administrator:	Matthew Haynam