



Log # 2019-0003345

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On August 20, 2019, the Civilian Office of Police Accountability (COPA) received a Chicago Police Department (CPD) initiated complaint from Sergeant Ivy Maldonado on behalf of the complainant, ██████████ reporting alleged misconduct by members of CPD. ██████████ alleged that on August 20, 2019, Officer Jason Davis closed a department vehicle door on her foot. Upon review of the evidence, COPA served additional allegations, as noted below, on Officer Davis, Officer Elyse Rodriguez, Sergeant Timothy Madison, and Sergeant Matthew McNicholas. Following its investigation, COPA reached **Sustained** findings against all of the accused officers.

II. SUMMARY OF EVIDENCE²

On August 20, 2019, CPD responded to a call of a battery in progress at ██████████ ██████████³ All parties were in front of the home when police officers began to arrive. The victim told police that she had come home and found ██████████ in bed with her boyfriend,⁴ and when she told ██████████ to leave, ██████████ began to batter the victim's face.⁵ ██████████ who was being detained by several officers including Davis and Rodriguez, claimed that the victim woke her up hitting her, so she hit the victim back to defend herself.⁶ At the time, the victim just wanted ██████████ to leave and the officers encouraged her to do so; she was not in custody.⁷

██████████ then started to walk back towards the victim's house, and the officers tried to prevent her from doing so. ██████████ became argumentative with the officers whereupon Officer Rodriguez placed ██████████ in handcuffs.⁸ During this period, Sgt. Madison told her to shut up,⁹ and Officer Davis stated, "Hey, stop talking. You're talking too much. Nobody cares what you have to say."¹⁰ As Officer Rodriguez and others began to lead her away, the boyfriend approached

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, ICC footage, police reports, medical records, and officer interviews.

³ Att. 2, pg. 3' Att. 3, pg. 2.

⁴ Att. 3, pg. 2

⁵ Att 3, pg. 2.

⁶ Att. 14 at 2:56.

⁷ Att. 56 at 15:56; Att. 64, pg. 49.

⁸ Att. 10 at 1:50.

⁹ Att. 10 at 2:20.

¹⁰ Att. 10 at 2:35.

██████████ with her shoes.¹¹ Sgt. Madison told the officers to “let her step in her shoes,” but ██████████ continued to argue, and did not put on her shoes. Officer Rodriguez told her to “put [her] big feet in the ugly shoes,”¹² and Officer Davis said, “Hey, stop talking. ‘Cause I don’t care about your shoes, cause I could care less if you have shoes on.”¹³

After ██████████ was placed barefoot into the backseat of the patrol car, ██████████ tried to open the car door by its handle, demanded to know why she was being arrested, and began to kick the inside of the vehicle.¹⁴ Officer Davis opened the backseat passenger door and stated, “Don’t you kick my fucking car. You crazy...hey stop talking, ... you don’t know nothing... shut the fuck up...you kick my door you catching another charge, you understand?”¹⁵ Officer Davis attempted to close the door, but ██████████ stuck her leg out with her foot on the door to prevent him from closing it.¹⁶ Officer Rodriguez tried to place ██████████ foot back into the vehicle, stating, “put your ugly foot back,”¹⁷ but Officer Davis told Officer Rodriguez “No, no, no. Move,” cleared Officer Rodriguez to the side, and told ██████████ “I’m going to slam the door on your foot if you don’t move.”¹⁸ ██████████ said, “go ahead,” and did not move her foot. Instead, she squinched her face in anticipation of the impact. Officer Davis said, “you ready?” Officer Davis then shoved ██████████ foot back in the vehicle and shut the door.¹⁹

Sgt. McNicholas was standing nearby observing the incident and asked Officer Davis if he wanted to use the wagon.²⁰ ██████████ continued to kick the patrol vehicle from the inside.²¹ Officer Davis partially opened the backseat passenger door again, whereupon ██████████ as seen on the in-car camera (ICC) video, immediately stuck her foot in the crack between the door and the vehicle.²² Officer Davis told ██████████ “You’re about to catch a felony,” to which ██████████ asked why she was getting arrested.²³ Officer Davis responded, “Cause you’re stupid, that’s why you’re getting arrested.”²⁴ Officer Davis then tried to shut the door again, but there encountered resistance preventing it from shutting completely.²⁵ He pushed it again and it closed, after which ██████████ cried out and began screaming that her foot was stuck in the door.²⁶

Another Officer opened the backseat passenger door and Officer Davis asked ██████████ if she needed an ambulance.²⁷ ██████████ continued to scream, whereupon Officer Davis went

¹¹ Att. 10 at 2:57.

¹² Att. 10 at 3:02.

¹³ Att. 10 at 3:10.

¹⁴ Att. 9 at 2:27.

¹⁵ Att. 10 at 5:45.

¹⁶ Att. 16 at 5:54.

¹⁷ Att. 10 at 6:03.

¹⁸ Att. 10 at 6:05.

¹⁹ Att. 10 at 6:15; Att. 9 at 2:59.

²⁰ Att. 10 at 6:22.

²¹ Att. 9 at 3:12.

²² Att. 9 at 3:15.

²³ Att. 9 at 3:15

²⁴ Att. 10 at 6:30.

²⁵ Att. 24, at 2:15.

²⁶ Att. 10 at 6:39; Att. 9 at 3:20..

²⁷ Att. 24 at 2:12

back to completing the paperwork he had been working on, and other officers began to interact with ██████████ to try to understand what happened.²⁸ Officers Davis and Rodriguez made numerous derogatory comments about ██████████ during this period. Sgt. Madison then spoke with ██████████ who complained about her foot being caught in the door. Sgt. Madison explained why she had been arrested and requested an ambulance for ██████████²⁹

EMS reported that ██████████ complained of right foot pain and was uncooperative and verbally hostile, had a strong odor of alcohol, and admitted to alcohol use.³⁰ EMS further documented that there were “no obvious signs of trauma or deformities to [right] foot,” and “no redness or swelling noted to [right] foot.”³¹ ██████████ was transported to St. Benard Hospital which noted that ██████████ said her foot was slammed in the car door, but she “feels better now.”³² The hospital further reported that she could move her all of her toes, “the bony structure of the foot [was] normal,” and it was a “radiographically normal right foot.”³³

██████████ was arrested for battery and trespassing.³⁴ The case was stricken off call with leave to reinstate after ██████████ forfeited her bond.³⁵

When Officer Davis was interviewed by COPA on September 20, 2023, he had no independent recollection of the events.³⁶ From his BWC, he was able to recall that upon his arrival to the scene, he spoke with other officers, did not speak with the victim due to a language barrier, and did speak with ██████████³⁷ Officer Davis stated that he activated his camera after he made contact with ██████████ and became aware of the situation.³⁸

When asked why he told ██████████ to “shut up” and “no one cares what you have to say,” Officer Davis stated that he used the harsh language to get ██████████ attention and resolve the situation peacefully, but admitted that he was frustrated by her belligerence and lack of cooperation.³⁹ In response to being asked about his use of profanities towards ██████████ when she had begun kicking the interior of the patrol vehicle, Officer Davis again indicated it was due to frustration with her belligerence and hostility to the officers.⁴⁰ Ultimately, Officer Davis agreed his conduct in that regard was unprofessional.⁴¹

In regard to ██████████ foot being slammed by the patrol vehicle’s door, Officer Davis denied that his statement, “I’m going to slam the door on your foot if you don’t move,” was a

²⁸ Att. 24 at 2:12.

²⁹ Att. 9 at 5:02.

³⁰ Att. 20, pgs. 4-5.

³¹ Att. 20, pg. 4.

³² Att. 22. Pg. 2

³³ Att. 22, pgs. 3, 4, 11, 13, 18.

³⁴ Att. 2, pg. 1.

³⁵ Att. 69.

³⁶ Att. 65, pg. 10.

³⁷ Att. 58 at 11:25.

³⁸ Att. 58 at 14:30.

³⁹ Att. 58 at 17:30.

⁴⁰ Att. 58 at 27:00.

⁴¹ Att. 65, pgs. 91, 99-100.

threat. Instead, he claimed he was just explaining to her the consequences, or “cause and effect” of her actions of refusing to move her foot when he was trying to close the door.⁴² Officer Davis was adamant that he did not intentionally close the door on her foot the second time he opened the door, explaining that had no idea her foot was in the door because he had only opened the door a crack and could not imagine that a foot could even fit within that small space.⁴³ He further explained that his removal of her foot from the door when he closed it the first time was a clear indication that he did not intend to close the door on her foot.⁴⁴ After her foot was closed in the door and ██████ began to yell, Officer Davis asked her if she needed an ambulance.⁴⁵ ██████ yelled about her foot, but Officer Davis assumed she might have hurt it from kicking the inside of the squad car, and that her yelling was a continuation of her being aggressive and upset from being detained, so he backed off to let other officers deal with her while he continued to work on getting the complaint signed by the victim.⁴⁶

Officer Rodriguez also had no independent recollection of the events when she provided her statement to COPA on September 13, 2023.⁴⁷ From watching her BWC, she was able to state that multiple officers and sergeants were on scene, and that she and her partner were the last to arrive.⁴⁸ She admitted that she failed to activate her BWC when she arrived on the scene.⁴⁹ She stated that her first interaction with ██████ was when ██████ attempted to enter the house, ██████ ██████. Officer Rodriguez and other officers told ██████ that she could leave the scene, but ██████ refused to do so.⁵⁰

When Officer Rodriguez was asked why she stated, “put your big feet in your ugly shoes,” Officer Rodriguez stated it is because ██████ had big feet and that she was frustrated with ██████ lack of cooperation.⁵¹ Officer Rodriguez did admit that officers should not speak to people that way.⁵² When asked why she referred to ██████ as “stupid bitch,” Officer Rodriguez stated that it was also out of frustration. Officer Rodriguez recalled that she did not want to arrest ██████ because ██████ smelled like alcohol and was acting inebriated.⁵³ Officer Rodriguez admitted that she made fun of the way ██████ had laughed.⁵⁴ Officer Rodriguez acknowledged that she was not professional on several occasions with ██████ while at the scene.

Officer Rodriguez did not witness Officer Davis closing the door on ██████ foot.⁵⁵ Officer Rodriguez stated that around the same time ██████ began screaming from the squad

⁴² Att. 58 at 34:00.

⁴³ Att. 65, pgs. 65, 74-82.

⁴⁴ Att. 65, pgs. 73-74, 101-02.

⁴⁵ Att. 65, pg. 58, 67-68.

⁴⁶ Att. 58 at 43:00; Att. 65, pgs. 59-71.

⁴⁷ Att. 56 at 11:25.

⁴⁸ Att. 56 at 12:05.

⁴⁹ Att. 56 at 12:45.

⁵⁰ Att. 56 at 16:00.

⁵¹ Att. 56 at 21:25.

⁵² Att. 56 at 22:40.

⁵³ Att. 56 at 29:40, 50:13.

⁵⁴ Att. 56 at 31:40.

⁵⁵ Att. 56 at 37:55.

car, she had heard Sgt. Madison say that the scene was secured, therefore allowing the officers to turn off their BWC recordings.⁵⁶ Other officers attempted to speak with ██████████ but ultimately Sgt. Madison was able to speak with ██████████ and requested an ambulance for her.⁵⁷

Sgt. Madison had no independent recollection of the events when he provided his statement to COPA on Augst 24, 2023.⁵⁸ Sgt. Madison could not recall why he stated “shut up” to ██████████ but suggested that it had to have been directly related to how ██████████ was talking to him.⁵⁹ Sgt. Madison denied hearing any of the derogatory comments made by Officers Davis and Rodriguez at the scene, indicating he was not within hearing distance or was focusing on something else.⁶⁰ After being shown BWC of Officer Davis’s comments during the arrest, Sgt. Madison indicated he did not believe Officer Davis disrespected ██████████⁶¹ Later, Sgt. Madison stated that if he had heard the verbal exchanges, he would have intervened.⁶²

Sgt. Madison did not recall witnessing Officer Davis closing the door on ██████████ foot, and stated that he was not made aware that her leg was injured until sometime after the event had transpired.⁶³ He did not remember that he was the one who called the ambulance for her.⁶⁴ Sgt. Madison denied that he was the sergeant in charge of the scene, did not know which sergeant was in charge of it, and did not know which sergeant was supervising Officer Rodriguez and Davis that day.⁶⁵ Sgt. Madison believed he had activated his BWC during the incident.⁶⁶

Sgt. McNicholas provided his statement to COPA on October 12, 2023.⁶⁷ Sgt. McNicholas was not able to recall how he was given the call to be at the location of the incident, but he vaguely remembered it concerned a domestic dispute.⁶⁸ Sgt. McNicholas was unsure why his BWC did not capture the entirety of the event.⁶⁹ He did not recall the comments about ██████████ made by the officers, so COPA showed Sgt. McNicholas BWC footage in which Officer Rodriguez stated: “put your big feet in these ugly shoes.”⁷⁰ Sgt. McNicholas opined that these comments were inappropriate for officers to make, but claimed he did not hear the comments as he was a distance away when they were made.⁷¹ He said if he had seen something inappropriate, he would have counseled the officers.⁷²

⁵⁶ Att. 56 at 34:00.

⁵⁷ Att. 10 at 8:30.

⁵⁸ Att. 52, pg. 9.

⁵⁹ Att. 50 at 19:55.

⁶⁰ Att. 52, pgs. 41-44, 63-64, 79.

⁶¹ Att. 50 at 35:35.

⁶² Att. 52, pg. 79.

⁶³ Att. 50 at 47:40; Att. 52, pg. 47.

⁶⁴ Att. 52, pg. 57.

⁶⁵ Att. 52, pgs. 60-63.

⁶⁶ Att. 52, pgs 58-59, 85, Ins. 10 to 17.

⁶⁷ Att. 63.

⁶⁸ Att. 63 at 5:30.

⁶⁹ Att. 63 at 6:55.

⁷⁰ Att. 63 at 13:30.

⁷¹ Att. 63 at 14:35, 17:30.

⁷² Att. 64, pg. 24.

Sgt. McNicholas was then shown footage of ██████████ being placed into the back of a patrol car and he noted that ██████████ was being resistive and combative.⁷³ Sgt. McNicholas was asked to opine on why he never stopped or reprimanded Officer Davis for calling ██████████ stupid, Sgt. McNicholas stated that he may have counseled Officer Davis after the incident but he did not correct Officer Davis out on the street because embarrassing the officer in front of other citizens would have a negative effect on policing.⁷⁴

In regards to Officer Davis struggling to close the patrol vehicle's door due to ██████████ resistance, Sgt. McNicholas stated that he had no explanation as to why he did not approach the vehicle to see what the issue was.⁷⁵ After he heard ██████████ yell from the door closing on her foot, Sgt. McNicholas stated that he did not think Officer Davis's actions were to the level of misconduct or nefarious, and that ██████████ did not make a formal complaint to him so he did not initiate a complainant against Officer Davis.⁷⁶ However, Sgt. McNicholas agreed that some of the comments made by several officers were inappropriate and not accepted by the Department.

III. ALLEGATIONS

Police Officer Jason Davis:

1. Directing profanities at ██████████ without justification.
 - Sustained, Violation of Rules 2, 6, 8, and 9.
2. Inattentive to duty, in that you closed the police vehicle door on ██████████ foot.
 - Sustained, Violation of Rules 2, 3, and 6.
3. Maltreating ██████████ with overall unprofessional behavior.
 - Sustained, Violation of Rules 2, 3, 6, and 8.
4. Failing to ensure the safety and security of arrestee, ██████████
 - Sustained, Violation of Rules 2, and 6.
5. Failing to timely activate body worn camera.
 - Sustained, Violation of Rules 6.
6. Failing to complete a tactical response report.
 - Not Sustained

Police Officer Elyse Rodriguez:

1. Maltreating ██████████ with overall unprofessional behavior, without justification.
 - Sustained – Violation of Rules 2, 3, 6 and 8.
2. Failing to ensure the safety and security of arrestee, ██████████

⁷³ Att. 63 at 23:10.

⁷⁴ Att. 64 pgs. 29, 53-54.

⁷⁵ Att. 64 pg. 40.

⁷⁶ Att. 40.

- Not Sustained.
- 3. Failing to timely activate body worn camera.
 - Sustained – Violation of Rules 2 and 6.

Sergeant Timothy Madison:

1. Failing to supervise CPD officers during the maltreatment of [REDACTED]
 - Not Sustained.
2. Failing to activate body worn camera.
 - Sustained – Violation of Rules 2 and 6.

Sergeant Matthew McNicholas:

1. Failing to intervene CPD officers in the maltreatment of [REDACTED]
 - Sustained, Violation of Rule 2, 3, and 6.
2. Failing to record the incident in its entirety with your body worn camera.
 - Sustained – Violation of Rules 2 and 6.

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals who provided statements.

V. ANALYSIS⁷⁷

ALLEGATIONS AGAINST OFFICER DAVIS

- 1. Directing profanities at [REDACTED] without justification, and**
- 2. Maltreating [REDACTED] with overall unprofessional behavior.**

Department directives commands officers to “act, speak, and conduct themselves in a courteous, respectful, and professional manner...[and] not exhibit a condescending attitude or direct any derogatory terms toward any person in any manner and will not use language or take action intended to taunt or denigrate an individual, including using racist or derogatory language”.⁷⁸

⁷⁷ For a definition of COPA's findings and standards of proof, see Appendix B.

⁷⁸ Att. 37, General Order 02-01, III, B, Protection of Human Rights.

Here, the BWC established that Officer Davis used profanities and derogatory language toward [REDACTED] including, “Shut the fuck up,” and calling her “stupid.” Officer Davis admitted to the use of this language as well. Thus, COPA finds that there is a preponderance of evidence establishing that Officer Davis used unprofessional, demeaning language not condoned by the Department to be used when speaking with the public while conducting official law-enforcement-related activities. As such, Allegations 1 and 2 are **Sustained**.

3. **Inattentive to duty, in that you closed the police vehicle door on [REDACTED] foot.**
4. **Failing to ensure the safety and security of arrestee, [REDACTED]**

Arresting officers are tasked with the safety and security of an arrestee when the arrestee, is taken into custody and being transported to a facility for processing.⁷⁹ In this instance, [REDACTED] did not have shoes on when placed in the squad car and was possibly inebriated. [REDACTED] was uncooperative and verbally argumentative. Officer Davis was impatient, condescending, and would not provide [REDACTED] with the reasons for her arrest. [REDACTED] had previously placed her foot in the door while talking to the officers, after which Officer Davis threatened to close the door on [REDACTED] foot, before moving her foot inside the car.⁸⁰

While COPA does not find that Officer Davis closed the door the second time with knowledge that [REDACTED] foot was in the way, his admitted frustration with [REDACTED] contributed to his impatience in his dealings with her, leading to his closure of the door without taking due care that her body was safe. Instead, he forcefully pushed the vehicle door not checking to see what if anything was obstructing the door from closing, after having knowledge that [REDACTED] had previously placed her foot in the door.⁸¹ Therefore, COPA finds these allegations are established by a preponderance of the evidence and are **Sustained**.

5. **Failing to timely activate body worn camera.**

Special Order S03-14 outlines the procedures related to the wear, use, and recording requirements for BWC’s. The order states that all officers assigned to the bureau of patrol are required to wear a BWC and must activate the camera, when practical, in order to record “...the entire incident for all law-enforcement-related activities.”⁸² Officer Davis has two recordings for this incident, one which lasted 18 minutes 16 seconds, the other lasted for two minutes and 30 seconds.

Based on the first recording, Officer Davis was already on scene while conducting law-enforcement-related activities for some time before actually activating his camera. Officer Davis’s BWC timestamp showed an activation at 00:08:18 Zulu time. On Sgt. Elmer Fabian’s BWC,⁸³ we can see Officer Davis standing near one of the civilians on scene at approximately 00:02:18 Zulu

⁷⁹ Att. 47, General Order G06-01-01, II, A, Field Arrest Procedures.

⁸⁰ Att. 10 at 6:11 mins.

⁸¹ Att. 10 at 6:40 mins. pushing the vehicle door several times.

⁸² Att. 68, Special Order S03-14, Body Worn Cameras.

⁸³ Att. 29 at 5:16.

time, a six-minute difference. Because he failed to timely activate his BWC, conversations and any other law-enforcement activity was not recorded. For this reason, COPA finds this allegation against Officer Davis is **Sustained**.

6. Failing to complete a tactical response report.

Department directives state that officers are required to write a Tactical Response Report (TRR) whenever any type of force is used, other than holding techniques used in conjunction with handcuffing, but it does include incidents in which “cooperative actions or passive resistance by a subject when the subject who is injured or alleges injury resulting from the member’s use of a force option.”⁸⁴

In this case, Officer Davis explained that his closing of the door on ██████████ foot was not a “force option,” as he had no idea he was using force against her because he had no knowledge her foot was in the door.⁸⁵ COPA did not find that Officer Davis’s closing of the door on ██████████ foot was intentional. Sgt. Madison stated that when an injury is accidental, and not a known use of force, it is “the watch commander’s discretion” whether a TRR should be completed.”⁸⁶ Accordingly, COPA cannot find by a preponderance of the evidence that Officer Davis was required to complete a TRR in this instance. As such, COPA finds this allegation **Not Sustained**.

ALLEGATIONS AGAINST OFFICER RODRIGUEZ

1. Maltreating ██████████ with overall unprofessional behavior, without justification.

The BWC showed here that Officer Rodriguez Davis insulted and mocked ██████████ including, calling her foot and shoes “ugly,” and making fun of the way she talked and laughed. Officer Rodriguez admitted to the use of this language as well. Thus, COPA finds that there is a preponderance of evidence establishing that Officer Davis used unprofessional, demeaning language not condoned by the Department to be used when speaking with the public while conducting official law-enforcement-related activities. As such, this allegation is **Sustained**.

2. Failing to ensure the safety and security of arrestee, ██████████

Officer Rodriguez was on the other side of the patrol vehicle when Officer Davis closed the door on ██████████ foot. As such, COPA cannot find by a preponderance of the evidence that Officer Rodriguez failed to ensure the safety and security of ██████████ in terms of preventing injury to her foot from Officer Davis’s action. Therefore, this allegation is **Not Sustained**.

3. Failing to timely activate body worn camera.

⁸⁴ Att. 69, pg. 2.

⁸⁵ Att. 65, pgs. 82-89.

⁸⁶ Att. 52, pgs. 73, 77.

Officer Rodriguez stated that she arrived at the scene and began speaking with other officers on scene. As shown by the BWC footage, Officer Rodriguez did not activate her camera until after she began engaging with ██████████ which was after she began conducting law-enforcement-related activities. Because she failed to activate her camera pursuant to Special Order S03-14, this allegation is **Sustained**.

ALLEGATIONS AGAINST SGT. MADISON

1. Failing to supervise CPD officers during the maltreatment of ██████████

Although Sgt. Madison appeared to be within proximity when Officer Davis and Rodriguez made inappropriate comments toward ██████████ he told COPA that he did not hear the comments as he was located some distance away and focused on other things. Therefore, COPA finds there is insufficient evidence, facts, or witnesses to prove or refute that Sgt. Madison failed to supervise CPD officers during this incident and the allegation is **Not Sustained**.

2. Failing to activate body worn camera.

Although Sgt. Madison denied this allegation under the belief that he actually did activate his BWC, COPA conducted a thorough search of the database entrusted with storing all BWC footage, evidence.com. This search did not produce any video footage for Sgt. Madison in relation to this incident. Because there is no footage found, COPA finds it is more likely than not that Sgt. Madison failed to activate his BWC in accordance with Special Order S03-14. Thus, this allegation is **Sustained**.

ALLEGATIONS AGAINST SGT. MCNICHOLAS

1. Failing to intervene CPD officers in the maltreatment of ██████████

Several BWC videos captured Sgt. McNicholas at close proximity to various incidents when Officer Davis and Rodriguez made numerous inappropriate comments towards ██████████ After the first time Officer Davis opened the door when ██████████ was kicking it, Sgt. McNicholas approached to less than ten feet away towards the front of the squad car and asked if they needed the wagon, suggesting that he had heard and seen what preceded, which included Officers Rodriguez and Davis both using derogatory language towards ██████████⁸⁷ He was also shown on BWC standing down the sidewalk about ten feet from the rear of the squad car immediately after the closing of the door on ██████████ foot, suggesting that he was able to hear the unprofessional language Officer Davis used during that incident and the language officers Davis and Rodriguez used in its aftermath when he ended up right next to the backseat passenger door before Sgt. Madison began to talk to ██████████⁸⁸

⁸⁷ Att. 24 at 1:15.

⁸⁸ Att. 24 at 2:07; Att. 10 at 6:45, 7:55, 8:14.

Sgt. McNicholas failed to intervene or file a complaint against them. When asked why, Sgt. McNicholas could not recall or explain the reasons why, but related that he might have counseled or coached them after the incident (but not during the incident due to the public nature of the situation) however he could not recall if he did or of completing any paperwork related to doing so. Therefore, COPA finds this allegation **Sustained**.

2. Failing to record the incident in its entirety with your body worn camera.

Although it is clear that Sgt. McNicholas activated his camera when he arrived at the scene, he ended his recording at 00:01 Zulu time. This is approximately 12 minutes before [REDACTED] was arrested, secured, or taken away from the scene. As a result, Sgt. McNicholas' BWC failed to capture the incident where [REDACTED] foot was slammed by the door, and Officer Davis's behavior before and after that incident when Sgt. McNicholas was standing no more than 10 feet away from him. Since the scene was not secured during those incidents because officers were still conducting law-enforcement-related activities, Sgt. McNicholas was mandated by department directives to continue recording the incident in its entirety. Because he deactivated his camera prior to the completion of the law-enforcement-related activity, COPA finds this allegation is **Sustained**.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Jason Davis

i. Complimentary and Disciplinary History⁸⁹

Officer Davis was appointed to CPD on December 12, 2016. In that time, he has received 78 awards including for Crime Reduction, Attendance, Traffic Stop of the Month, and 69 Honorable Mentions. He has had one complaint register (Log # 2019-0000691) with sustained allegations for "Verbal Abuse/Profanity," for which he ultimately received a Reprimand on December 14, 2022, based on an incident occurring on April 6, 2019. He has received one SPAR for "Non-compliance with Motor Vehicle Pursuit Requirements, with the date of incident April 29, 2023, and the discipline received was a Reprimand.

ii. Recommended Discipline

In mitigation, COPA will consider Officer Davis's numerous awards.

In aggravation, COPA will consider his recent SPAR and his sustained complaint based on similar allegations. (COPA will note, however, that the incident in his previous complaint occurred prior to the instant incident, and the complaint was not resolved until December of 2022).

⁸⁹ Att. 68

COPA will also consider that throughout his interview with COPA, Officer Davis seemed to justify his actions by his frustration with ██████ behavior.⁹⁰ Although ██████ was uncooperative and verbally argumentative, CPD members are held to a higher standard than the general public and must adhere to department directives. Officer Davis's disrespectful attitude and abusive language towards her aggravated the situation to the point where he could have caused a more serious injury. While COPA agrees with Officer Davis that he did not intentionally close the door on ██████ foot, he did not take any responsibility for the result of his action or considered how his attitude contributed to the accident. Only at the very end of his interview did Officer Davis admit that his conduct was unprofessional, and suggested that he has since learned better ways to handle such situations as he has gained more experience.⁹¹ COPA recommends a 30-day suspension.

b. Officer Elyse Rodriguez

i. Complimentary and Disciplinary History⁹²

Officer Rodriguez was appointed to CPD on January 17, 2017. In that time, she has received 79 awards including for Crime Reduction, Physical Fitness, a Superintendent's Award of Valor, and 72 Honorable Mentions. She received two SPARS, both from 2023, for which she received Reprimands: one for a court appearance violation, and one for failure to perform assigned tasks.

ii. Recommended Discipline

In mitigation, COPA will consider Officer Rodriguez's numerous awards.

In aggravation, COPA will consider her recent SPARs. COPA will also consider that throughout her interview with COPA, Officer Rodriguez also seemed to justify her actions with the frustration she felt from ██████ behavior.⁹³ Officer Rodriguez admitted calling ██████ "Stinky" because ██████ smelled of alcohol, making fun of ██████ laugh, and being annoyed because Officer Rodriguez did not want to arrest ██████⁹⁴ However, Officer Rodriguez initially denied that she maltreated ██████⁹⁵

Although ██████ was uncooperative at times and verbally argumentative, CPD members are held to a higher standard than the general public and must adhere to department directives. Here, it was concerning that Officer Rodriguez could not relate any CPD core values and mission of how citizens are supposed to be verbally treated until she had a break to review the directives.⁹⁶ However, towards the end of her interview, Officer Rodriguez expressed that she has

⁹⁰ Att. 65, pgs. 20-21, 26, 28, 32-33, 48-49

⁹¹ Att. 65. Pgs. 100-01.

⁹² Att. 68

⁹³ Att. 59 at 22:25, 23:28, 28:42, 1:03:07.

⁹⁴ Att. 59 at 30:10, 31:40, 23:50, 50:15.

⁹⁵ Att. 59 at 50:07.

⁹⁶ Att. 59 at 51:48

grown and matured as an officer.⁹⁷ She then admitted that he did not act professionally, and her behavior was not justified or in compliance with CPD policies.⁹⁸ COPA recommends a 5-day suspension.

c. Sergeant Timothy Madison

i. Complimentary and Disciplinary History⁹⁹

Sergeant Madison was appointed to CPD on May 10, 1999. In that time, he has received 65 awards including 3 for Crime Reduction, a Problem Solving Award, 5 Complimentary Letters, and 40 Honorable Mentions.

ii. Recommended Discipline

In mitigation, COPA will consider Sgt. Madison's numerous awards. In aggravation, COPA will consider that Sgt. Madison's failure to activate his BWC resulted in a loss of crucial video footage chronicling the events. COPA recommends a Reprimand.

d. Sergeant Matthew McNicholas

i. Complimentary and Disciplinary History¹⁰⁰

Sgt. McNicholas was appointed to CPD on November 29, 2004. In that time, he has received 65 awards including 2 for Crime Reduction, a Life Saving Award, 4 Complimentary letters, and 35 Honorable Mentions.

ii. Recommended Discipline

In mitigation, COPA will consider Sgt. McNicholas' numerous awards. In aggravation, COPA will consider that Sgt. McNicholas' failure to have his BWC activated during the entirety of the events resulted in a loss of crucial video footage chronicling the events. Further, Sgt. McNicholas' excuse for failing to intervene in the maltreatment of ██████████ — that it should not be done in public — it not well-taken. First, because there was an abundance of other officers and sergeants present to handle the scene, nothing prevented Sgt. McNicholas from bringing Officers Davis and Rodriguez off to the side to talk to them privately and try to calm them down in the moment, out of the earshot of anyone else. Second, Sgt. McNicholas was unable to affirmatively state that he brought anything to the officers' attention even after the event was completed. COPA finds that it is crucial that supervisors provide guidance to newer officers in real-time when feasible, as it was here, or as soon as possible after the untoward behavior. Without such guidance, newer officers will think that their supervisors condone such behaviors and will have no incentive

⁹⁷ Att. 59 at 1:01:20, 1:12:15

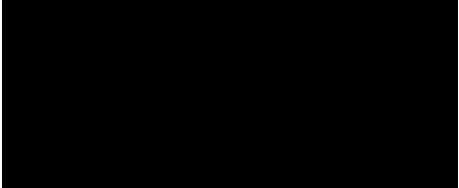
⁹⁸ Att. 59 at 1:03:26

⁹⁹ Att. 68

¹⁰⁰ Att. 68

to discontinue it until they are ultimately caught when a complaint is made with more severe consequences. COPA recommends a 5-day suspension.

Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date 12/18/2023

Appendix ACase Details

Date/Time/Location of Incident:	August 20, 2019 / Approx. 6:54 PM / ██████████
Date/Time of COPA Notification:	August 21, 2019 / Approximately 7:57 AM
Involved Officer #1:	Officer Jason Davis, Star 15630, Employee ID: ██████████, DOA: 12/12/2016, Unit: 007, Male, Black
Involved Officer #2:	Officer Elyse Rodriguez, Star 14262, Employee ID: ██████████, DOA: 01/17/2017, Unit: 007, Female, Hispanic
Involved Officer #3:	Sergeant Timothy Madison, Star 936, Employee ID: ██████████, DOA: 05/10/1999, Unit: 620, Male, Black
Involved Officer #4:	Sergeant Matthew McNicholas, Star 1142, Employee ID: ██████████, DOA: 11/29/2004, Unit: 007, Male, White
Involved Individual #1:	██████████ Female, Hispanic

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** [Insert text of any additional rule(s) violated]

Applicable Policies and Laws

- G01-01 – Vision, Mission, and Core Values - (effective 3/11/11 to 5/21/2019).
- G02-01 – Protection of Human Rights – (effective 10/5/17 – 6/30/22).
- G03-02 – Use of Force – (effective 10/1/02 to 10/16/17).
- G03-02-01 – Force Options – (effective 1/1/16 – 10/16/17)
- G03-02-05 02 – Incidents Requiring the completion of a TRR (effective 10/16/17 to present).

- G04-01 – Preliminary Investigations (effective 10/15/17 to 12/30/20).
- G06-01-01 – Field Arrest Procedures (effective 12/8/17 – present).
- S03-14 – Body Worn Cameras (effective 10/17/17 to 4/30/18).
- S08-01-09 – Special Situations Involving Allegations of Misconduct (effective 12/1/17 to 4/8/19)

Appendix B

Definition of COPA’s Findings and Standards of Proof

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

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.¹⁰¹ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. Clear and convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”¹⁰²

¹⁰¹ 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 is found to be more probably true than not).

¹⁰² *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation