



Log # 2022-4183

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On September 29, 2022, the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD). ██████████ alleged that on September 28, 2022, at approximately 10:40 pm, Officers Richard Rodriguez and Kenneth Sunde stopped and searched his vehicle without justification; damaged the interior of his vehicle; threatened him with arrest; placed a hand on his neck, and verbally abused him.² Upon review of the evidence, COPA served additional allegations that Officers Rodriguez and Sunde failed to complete an Investigatory Stop Report (ISR) and that Officer Rodriguez failed to activate his body worn camera (BWC) in a timely manner. COPA also served Sergeant (Sgt.) Erick Seng with allegations of threatening ██████████ with arrest; verbal abuse involving profanity; operational violations for failing to activate his BWC; and failing to direct Officers Rodriguez and Sunde to complete an ISR. Following its investigation, COPA reached sustained findings regarding the allegations of stopping ██████████ without justification, verbal abuse, and operational violations of failing to activate BWC and complete the ISR.

II. SUMMARY OF EVIDENCE³

On September 28, 2022, ██████████ and his passenger, ██████████ drove westbound on Ontario Street as ██████████ made Grubhub deliveries. ██████████ told COPA that after stopping at a red light, he proceeded to drive when the light turned green, and he observed an unmarked police vehicle occupied by Officers Rodriguez and Sunde in his rear-view mirror.⁴ ██████████ thought that they were driving past him and pulled over to let them pass, not realizing that he was being stopped because he had not committed any traffic violations.⁵ The police vehicle cut him off and he then realized that he was being stopped.⁶ ██████████ told COPA that this was “very aggressive” and that the

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 One or more of these allegations fall within COPA’s jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter. Because the available BWC recordings do not show any CPD member placing a hand on ██████████ neck, no allegations were served regarding this alleged misconduct.

³ 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, the complainant’s cell phone video footage, civilian interviews, and CPD member interviews.

⁴ Att. 3, pg. 6, lns. 6 to 11.

⁵ Att. 3, pg. 6, lns. 11 to 22.

⁶ Att. 3, pg. 6, ln. 23, to pg. 7, ln. 7.

officers should have stopped behind them.⁷ [REDACTED] also explained that [REDACTED] was never told why he was stopped and that she thought he was stopped “just because his windows were tinted.”⁸ Officers Sunde and Rodriguez both told COPA that they had no independent recollection as to why [REDACTED] was stopped, but they would not have stopped him without witnessing him commit a traffic violation.⁹ Officer Rodriguez also explained that [REDACTED] failed to immediately curb his vehicle when they activated their lights.¹⁰

Officer Sunde activated his BWC after approaching [REDACTED] on the driver’s side and stated, “You fucking start,” before ordering [REDACTED] out of the vehicle.¹¹ Any initial verbal exchange in the approximately eight seconds between Officer Sunde exiting the patrol vehicle and approaching [REDACTED] was not captured on Officer Sunde’s BWC recording. [REDACTED] refused to exit his vehicle, stating that he had a license and insurance, and [REDACTED] told Officer Sunde to get a supervisor. Officer Sunde replied, “My white shirt gets here, you’re locked up.”¹² Officer Rodriguez then approached [REDACTED] who was yelling and agitated, requesting that he exit the vehicle. [REDACTED] again refused, but he presented his proof of insurance, an Illinois identification card, and a traffic ticket in lieu of his Illinois driver’s license. Officer Rodriguez explained to [REDACTED] that he wanted him to step out of the car “for officer safety” and cited “Arizona v. Mimms, [*sic*] bro, we can ask you out of the car.”¹³ [REDACTED] responded, “I know my law, nigger,” citing a lack of probable cause for Officer Rodriguez to order him out of the car.¹⁴ [REDACTED] repeatedly stated words to the effect of, “Get a white shirt. I am no rookie. I am not getting out of the car.”¹⁵ [REDACTED] later told COPA that he knew his rights and that he would not exit his vehicle because the officers had no “probable cause” to order him out.¹⁶

Officer Rodriguez opened the driver’s door and asked [REDACTED] to step out, explaining that it was for officer safety, and [REDACTED] safety as well.¹⁷ [REDACTED] again refused. Officer Rodriguez told [REDACTED] that he was about to get arrested for obstruction as [REDACTED] asked what he had done. [REDACTED] then stated, “I wonder what I did,” before exiting the car, and Officer Sunde handcuffed [REDACTED] at the rear of the vehicle.¹⁸ Officer Rodriguez told [REDACTED] that he was “acting like an idiot

⁷ Att. 16, pg. 16, ln. 23, to pg. 17, ln. 7.

⁸ Att. 16, pg. 18, lns. 12 to 14.

⁹ Att. 33, pg. 10, ln. 1, to pg. 11, ln. 6; Att. 30, pg. 12, ln. 10, to pg. 13, ln. 8.

¹⁰ Att. 33, pg. 38, ln. 5.

¹¹ Att. 4 at 2:00.

¹² Att. 4 at 2:14.

¹³ Att. 4 at 3:18. Officer Rodriguez was likely referring to *Pennsylvania v. Mimms*, 434 U.S. 106 (1977), a case where the United States Supreme Court held that police officers may order the driver of a lawfully stopped vehicle to exit the vehicle based on generalized concerns for safety, without violating the 4th Amendment, even where the officers neither suspect that criminal activity is afoot nor that the vehicle occupants pose a specific threat to the officers. *Mimms*, 434 U.S. at 109-11.

¹⁴ Att. 4 at 3:34.

¹⁵ Att. 4 at 3:42.

¹⁶ Att. 3, pg. 8, lns. 1 to 6.

¹⁷ Att. 4 at 5:30.

¹⁸ Att. 4 at 6:38.

for no reason.”¹⁹ Officer Sunde stated, “Stop acting like a goof. Put him in handcuffs if he wants to act like this.”²⁰ Officer Rodriguez told COPA that ██████ was handcuffed to guarantee that he did not hurt the officers and to potentially deescalate the situation.²¹

Once handcuffed, ██████ directed profanities and derogatory names at the officers as Officer Rodriguez shined his flashlight into ██████ car from outside the open door and through the windows.²² Officer Sunde told ██████ “You’re fucking goofy, man.”²³ ██████ demanded to know why he was outside the car if he had license and insurance, and ██████ told the officers that he was stopped all the time and knew how the officers should do their job. ██████ stated, “I do this shit all the time;” Officer Sunde replied, “You need a better fucking way.”²⁴ ██████ then yelled, “Search it. Search it. You all gonna look dumb as hell.”²⁵ Officer Rodriguez responded, “You’re dumb.”²⁶ Officer Rodriguez also said, “You off your meds?”²⁷ Officer Rodriguez told COPA that he asked ██████ if he was off his medication after discovering a bottle of pills in the door handle, and he intended it as a serious inquiry to determine if ██████ was in distress.²⁸ Officer Rodriguez told COPA that ██████ gave him permission to search the vehicle by yelling, “Search it.”²⁹

██████ told COPA that Officer Rodriguez damaged the interior of ██████ car during the search, ripping the seat and breaking the rear seat pockets.³⁰ ██████ told COPA that the plastic sea covers had been ripped off his seats.³¹ Officer Rodriguez explained to COPA that he briefly searched the vehicle, but he did not believe he caused any damage to the interior.³² Officer Rodriguez’s BWC documented a search of 2:41 minutes.³³

More officers arrived as ██████ continued yelling that he was not supposed to be out of his car. When Sgt. Seng arrived, he said, “Let’s arrest him and impound his car anyways. You don’t talk to police like that.”³⁴ Sgt. Seng stated that ██████ would be arrested for obstruction because he would not get out of the car. ██████ responded that he was not disrespectful and that he had exited the vehicle. Sgt. Seng told ██████ “Ma’am, I think I am going to take the car. He’s gonna go

¹⁹ Att. 4 at 6:41 to 6:43.

²⁰ Att. 4 at 6:47.

²¹ Att. 33, pg. 15, ln. 13, to pg. 16, ln. 1.

²² Att. 5 at 2:00.

²³ Att. 4 at 7:31.

²⁴ Att. 4 at 7:51.

²⁵ Att. 5 at 3:15.

²⁶ Att. 5 at 3:28.

²⁷ Att. 5 at 4:01.

²⁸ Att. 33, pg. 25, ln. 8, to pg. 26, ln 17.

²⁹ Att. 33, pg. 16, ln. 11, to pg. 17, ln. 1.

³⁰ Att. 16, pg. 20, ln. 11, to pg. 21, ln. 21.

³¹ Att. 33, pg. 17, ln. 4, to pg. 18, ln. 10.

³² Att. 33, pg. 16, lns. 1 to 10.

³³ Att. 5 at 3:11 to 6:37.

³⁴ Att. 25 at 3:53.

to jail.”³⁵ █████ asked that he not take the car and told █████ to be quiet. █████ protested that he was out working, and Sgt. Seng said, “You need to learn to shut the fuck up and respect the fucking law enforcement.”³⁶ Sgt. Seng also said, “You don’t talk to police like that. I know it’s 2022 and no one likes the police, but you can’t talk to police that way.”³⁷

Sgt. Seng admitted to COPA that he said he would arrest █████ and impound his vehicle, but he described these statements as a tactic to calm █████ down rather than a threat: “I put it on the table as being a possibility of an outcome but definitely not threatening.”³⁸ Officers Rodriguez and Sunde also both stated that they used the prospect of arrest as a tactic and not a threat, in that the prospect of arrest often deescalates the situation because the citizen reflects and becomes cooperative.³⁹ Sgt. Seng also found it successful because █████ did calm down after the possibility of arrest was mentioned.⁴⁰ Sgt. Seng admitted that he told █████ that he needed to “shut the fuck the up and respect fucking law enforcement,” adding that swearing could be an effective tool on the street.⁴¹

█████ name check came back clear. Officer Sunde approached █████ and explained that █████ had started “up here,” causing him to approach with greater aggression to match █████ demeanor.⁴² Officer Sunde explained to █████ that he does not write tickets and that the officers were not trying to treat █████ like an “asshole,” but █████ had left them no choice.⁴³ Officer Sunde described this conversation to COPA as a de-escalation tactic.⁴⁴ █████ was unhandcuffed without being told why he was stopped and without being issued a ticket. When asked why █████ was not issued a citation, Officer Rodriguez told COPA that he and Officer Sunde gave █████ a break because █████ was already on a ticket and they did not want to burden him with additional fines.⁴⁵ Officer Sunde explained that he did not want to be bothered with a petty ticket or arrest when he could be doing more substantial police work.⁴⁶ The entire incident lasted approximately thirteen minutes, and █████ was allowed to drive away after he was released.⁴⁷

Officer Sunde admitted to using profanity and to making the statements listed in the allegations, adding that he should not have sworn at █████⁴⁸ Officer Sunde cited █████ irate

³⁵ Att. 25 at 4:38.

³⁶ Att. 25 at 4:45.

³⁷ Att. 25 at 4:48.

³⁸ Att. 42, pg. 50, lns. 16 to 23.

³⁹ Att. 30, pg. 34, ln. 12, to pg. 35, ln. 9.

⁴⁰ Att. 36, pg. 31, lns. 13 to 16.

⁴¹ Att. 36, pg. 56, ln. 19, to pg. 57, ln. 16.

⁴² Att. 4 at 11:15 to 11:35.

⁴³ Att. 4 at 11:15 to 11:35.

⁴⁴ Att. 30, pg. 34, ln. 20.

⁴⁵ Att. 33, pg. 20, lns. 8 to 17.

⁴⁶ Att. 30, pg. 33, ln. 23, to pg. 34, ln. 5.

⁴⁷ █████ submitted a recording of the incident from his cell phone to COPA. This recording is mostly audio due to limited visual field. It captures what is captured on the BWC of Officers Sunde and Rodriguez. *See* Att. 21.

⁴⁸ Att. 30, pg. 36, lns. 21 to 24.

demeanor from his immediate approach to the driver's side door, and ██████ general belligerence.⁴⁹ Officer Sunde explained that he had to "match where" ██████ was at.⁵⁰ Officer Rodriguez admitted to COPA that he made the statements attributed to him, but he denied directing profanity at ██████ explaining, "I didn't mean it to direct it to him. It was more kind of outward statements to myself and kind of attempting to get control of the situation."⁵¹ Officer Rodriguez also admitted to saying that he would arrest ██████ but denied that he did so in retaliation for anything ██████ had said, instead attributing the possibility of arrest to ██████ own actions.⁵²

Officer Rodriguez admitted to COPA that he failed to activate his BWC in a timely manner because he initially did not hit the button hard enough, but he explained that he did successfully turn it on when he realized that the green light on his camera was not on.⁵³ Sgt. Seng admitted to failing to activate his BWC out of error.⁵⁴ Officers Sunde and Rodriguez did not recall if they completed an ISR, but both admitted it was possible they had not completed the report.⁵⁵ Sgt. Seng admitted that he did not follow up to see if the officers completed an ISR.⁵⁶ Both officers, along with Sgt. Seng, cited the incredible volume and work activity to explain this error.⁵⁷ COPA searched for completed ISRs on September 28, 2022, by the accused, but none were found.⁵⁸

III. ALLEGATIONS

Officer Richard Rodriguez, Jr, #12157:

1. Stopping the vehicle of ██████ without justification.
 - Not sustained
2. Searching for [*sic*] the vehicle of ██████ without his permission or justification.
 - Unfounded
3. Damaging the seat covers of the vehicle belonging to ██████ while searching it.
 - Unfounded

⁴⁹ Att. 30, pg. 13, 14, and 37.

⁵⁰ Att. 30, pg. 18, lns. 13 to 23.

⁵¹ Att. 33, pg. 39, lns. 12 to 15.

⁵² Att. 33, pg. 39, lns. 16 to 21.

⁵³ Att. 33, pg. 19, lns. 3 to 18.

⁵⁴ Att. 36, pg. 10, lns. 5 to 6.

⁵⁵ Att. 30, pg. 20, lns. 4 to 12; Att. 33, pg. 48, lns. 17 to 22.

⁵⁶ Att. 36, pg. 24, lns. 1 to 26.

⁵⁷ Att. 30, pg. 40, ln. 1, to pg. 41, ln. 1; Att. 33, pg. 21, ln. 24, to pg. 23, ln. 12; Att. 36, pg. 21, ln. 24, to pg. 23, ln. 11.

⁵⁸ Atts. 8 to 10.

4. Threatening [REDACTED] with arrest in retaliation for [REDACTED] purportedly disrespectful attitude towards the police.
 - Sustained, violation of Rules 2, 3, 6, and 8
5. Directing derogatory language at [REDACTED] in that he stated words to the effect of, "No, you're dumb;" and/or, "You off your meds?"
 - Sustained, violation of Rules 2, 3, 6, 8, and 9
6. Failing to complete an Investigatory Stop Report to document the stop of [REDACTED] as required by Special Order S04-13-09.
 - Sustained, violation of Rules 2, 3, 5, 6, and 10
7. Failing to timely activate his body worn camera in violation of Special Order S03-14.
 - Sustained, violation of Rules 2, 3, 5, 6, and 10

Officer Kenneth Sunde, #18633:

1. Stopping the vehicle of [REDACTED] without justification.
 - Not Sustained
2. Directing profanity and /or derogatory language at [REDACTED] in that he stated words to the effect of, "Fucking start;" and/or, "You're fucking goofy, man;" and/or, "What the fuck is wrong with him?" and/or, "You need a better fucking way," and/or, "asshole."
 - Sustained, violation of Rules 2, 3, 6, 8, and 9
3. Threatening [REDACTED] with arrest in retaliation for [REDACTED] purportedly disrespectful attitude towards the police.
 - Sustained, violation of Rules 2, 3, 6, and 8
4. Failing to complete an Investigatory Stop Report to document the stop of [REDACTED] as required by Special Order S04-13-09.
 - Sustained, violation of Rules 2, 3, 5, 6, and 10

Sgt. Erick Seng, #2677:

1. Threatening [REDACTED] with arrest and/or the seizure of his vehicle, in retaliation for [REDACTED] purportedly disrespectful attitude towards the police.
 - Sustained, violation of Rules 2, 3, 6, and 8
2. Failing to direct police officers under his supervision to complete an Investigatory Stop Report to document the stop of [REDACTED] as required by Special Order S04-13-09, and/or failing to ensure that such a report was completed.
 - Sustained, violation of Rules 2, 3, 5, 6, and 10

3. Failing to activate his body worn camera in violation of Special Order S03-14.
 - Sustained, violation of Rules 2, 3, 5, 6, and 10
4. Stating words to the effect of, “You need to learn to shut the fuck up and respect the fucking law enforcement.”
 - Sustained, violation of Rules 2, 3, 6, 8, and 9

IV. CREDIBILITY ASSESSMENT

With the exception of a few seconds at the very beginning of the encounter, the interaction between ██████ and the accused CPD members was captured on audio and video recordings that have been examined by COPA, and COPA largely relies on those recordings to determine what happened. The accused CPD members did not recall some details of the encounter, but their accounts are generally consistent with the available recordings. While COPA does not fully credit the accused members’ explanations for their conduct (as explained below), COPA does credit their factual accounts. COPA does not wholly credit ██████ account, as his allegations that a CPD member damaged the interior of his vehicle, slapped his phone out of his hand, and held him by the neck are generally disproven by the available BWC recordings.⁵⁹

V. ANALYSIS⁶⁰

a. The traffic stop and its justification

COPA finds that **Allegation #1 against Officers Rodriquez and Sunde**, that they stopped ██████ vehicle without justification, is **Not Sustained**. Although they stated that stopped him for a traffic violation, they had no recollection as to what violation. They did not complete an ISR to document the stop, which would have documented the initial reason for the traffic stop and subsequent investigatory stop. Although ██████ repeatedly asked why he was stopped, he was never told what traffic violation he had committed. Rather, he was told that he was obstructing the officers by not complying with their order to exit the vehicle and calm down. ██████ stated that ██████ was never told why he was stopped by the officers, and ██████ was not issued a citation. While the officers told COPA they do not remember the reason for the stop, they maintain they would not have initiated the stop without first observing a traffic violation. ██████ maintains that he did not commit any traffic violations, but COPA cannot credit his account for several reasons: (1) ██████ may not be aware of a minor traffic violation that he committed; (2) ██████ told COPA that ██████ windows were tinted, and she assumed that this might have been the basis for the stop; and (3) ██████ made other allegations that are likely untrue, in that he alleged an officer held him by the neck during this incident and that officers damaged his vehicle while searching it. Given both the absence of evidence to support the officers’ contention that ██████ committed a traffic

⁵⁹ Because the available BWC recordings do not show any CPD member placing hands on or near ██████ neck and do not show any CPD member slapping ██████ phone out of his hand, no allegations related to this alleged misconduct were served.

⁶⁰ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

violation and the absence of evidence to support ██████ contention that he did not commit any traffic violations, COPA can neither determine by a preponderance of evidence that the officers stopped ██████ without justification, nor determine by clear and convincing evidence that the officers were justified in stopping ██████

b. The vehicle search conducted by Officer Rodriquez

COPA finds that **Allegation #2 against Officer Rodriquez**, that he searched ██████ vehicle without justification or permission, is **Unfounded**. Officer Rodriquez did search ██████ vehicle, but only after ██████ repeatedly yelled that he should search it. While ██████ may not have intended his utterance as actual permission, he did in fact provide verbal consent for a search. This was documented on BWC recordings, and COPA finds by clear and convincing evidence that Officer Rodriquez reasonably relied on ██████ apparent consent.

c. The alleged damage done to the vehicle by Officer Rodriquez

COPA finds that **Allegation #3 against Officer Rodriquez**, that he damaged the seat covers inside ██████ vehicle while searching it, **Unfounded**. Officer Rodriquez's BWC documented a search of the car that did not cause any damage. Although both ██████ and ██████ made this allegation, there is no evidence that this occurred. For these reasons, COPA finds by clear and convincing evidence that Officer Rodriquez did not damage the seat covers.

d. The Threat of arrest and/or impoundment

COPA finds that **Allegation #4 against Officer Rodriquez, Allegation #3 against Officer Sunde, and Allegation #1 against Sgt. Seng**, that they threatened ██████ with arrest for his purportedly disrespectful attitude towards the police, are **Sustained**. While all three accused CPD members cited it as a tactic to deescalate ██████ increasing agitation and verbal abuse, and COPA can understand their logic in theory, this is not how the officers employed this purported tactic during this incident. ██████ repeatedly asked why his vehicle was stopped, and the accused members never provided an explanation. Instead of deescalating the encounter by telling ██████ why he was stopped, the accused members escalated the encounter. ██████ was agitated, vulgar, and difficult, but CPD members are held to a higher standard. CPD General Order G08-05 prohibits officers from engaging in "any conduct, action, or inaction of a damaging, intimidating, or threatening nature . . . taken against any individual designed to serve as retribution that is intended to punish, cause harm or emotional stress, or improperly influence the individual's actions," including "deliberate action . . . that involves an improper motive, including . . . direct or indirect verbal . . . communications, including threats, intimidation, or communications meant to offend, ridicule, or embarrass."⁶¹ Based on the totality of each accused members' statements to ██████ during the encounter, COPA finds by a preponderance of evidence that those statements were intended to punish and/or to cause harm or emotional stress to ██████ and cannot be characterized as proper de-escalation techniques.

⁶¹ Att. 44, G08-05(III)(F)-(G), Prohibition of Retaliation (effective December 30, 2020, to August 22, 2023).

e. The verbal abuse

COPA finds that **Allegation # 5 against Officer Rodriquez, Allegation #2 against Officer Sunde, and Allegation #1 against Sgt. Seng**, that they verbally abused ██████ as described above, are **Sustained**. CPD General Order G02-01 requires that CPD members “treat all persons with the courtesy and dignity which is inherently due every person as a human being” and “act, speak, and conduct themselves in a courteous, respectful, and professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude.”⁶² CPD members must also “**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 . . . derogatory language.”⁶³ ██████ was vulgar and verbally abusive, directing derogatory names and racial slurs toward Officers Rodriquez and Sunde. However, their unprofessional response to match ██████ speech did not serve CPD’s mission and failed to de-escalate ██████ Sgt. Seng also acknowledged his use of profanity, and all of the alleged statements are documented on BWC recordings. For these reasons, COPA finds by a preponderance of evidence that the verbal abuse allegations against Officer Rodriquez, Officer Sunde, and Sgt. Seng are sustained.

f. The BWC violations

COPA finds that **Allegation #7 against Officer Rodriquez**, that he failed to timely activate his BWC, and **Allegation #3 against Sgt. Seng**, that he failed to activate his BWC, are **Sustained**. Special Order S03-14 requires CPD members to activate their BWCs “at the beginning of an incident and . . . record the entire incident for all law-enforcement-related activities,” including traffic stops.⁶⁴ Both Officer Rodriquez and Sgt. Seng admitted they did not activate their BWCs when required, and COPA finds by a preponderance of evidence that these allegations are sustained.

g. The Failure to Document the Traffic Stop

COPA finds that **Allegation #6 against Officer Rodriquez and Allegation #4 against Officer Sunde**, that they failed to complete an ISR; and **Allegation #2 against Sgt. Seng**, that he failed to direct them to complete an ISR, are **Sustained**. All three accused CPD members admitted to awareness of the CPD directive that required the completion of the ISR,⁶⁵ which they all admitted was not completed. They cited a high-volume workload and human forgetfulness. For these reasons, COPA finds by a preponderance of evidence that the accused officers did not complete the required report and that Sgt. Seng did not properly direct them and/or ensure that the report was completed.

⁶² Att. 45, G02-01(III)(B), Protection of Human Rights (effective June 30, 2022, to present).

⁶³ Att. 45, G02-01(III)(B)(4) (emphasis in the original).

⁶⁴ Att. 26, S03-14(III)(A)(2), Body Worn Cameras (effective April 30, 2018, to December 29, 2023).

⁶⁵ Att. 27, S04-13-09, Investigatory Stop System (effective July 10, 2017, to present).

VI. DISCIPLINARY RECOMMENDATION

a. Officer Richard Rodriguez, Jr.⁶⁶

i. Complimentary and Disciplinary History

Officer Rodriguez has received two Special Commendations, the Traffic Stop of the Month Award, eighty-three Honorable Mentions, and at least six other awards and commendations. Officer Rodriguez has two sustained complaint registers within the past five years: a finding of “violation noted” for neglect of duty related to a June 2019 incident, and a reprimand for “conduct unbecoming” related to a May 2021 incident.

ii. Recommended Discipline

COPA has found that Officer Rodriguez violated Rules 2, 3, 6, and 8 by threatening ██████ in retaliation for ██████ purportedly disrespectful attitude towards the police, Rules 2, 3, 6, 8, and 9 by directing derogatory language towards ██████ and Rules 2, 3, 5, 6, and 10 by both failing to timely activate his BWC and failing to complete an ISR to document the stop of ██████ BWC recordings are an important tool used to document police interactions with members of the public, and failure to record part of an incident tends to undermine public confidence in CPD. Likewise, properly completed ISRs document stops and searches of members of the public by the police and help assure that CPD members are exercising their law-enforcement authority in a constitutional manner. By using threatening and derogatory language, and by failing to properly document his actions, Officer Rodriguez’s conduct fell below the standards of conduct expected of a CPD member. Considering the nature of Officer Rodriguez’s misconduct, along with his complimentary and disciplinary history, COPA recommends a **5-day suspension**.

b. Officer Kenneth Sunde⁶⁷

i. Complimentary and Disciplinary History

Officer Sunde has received three Department Commendations, the Police Officer of the Month Award, the Top Gun Arrest Award, one-hundred-and-twenty Honorable Mentions, and at least three other awards and commendations. Officer Sunde has one sustained complaint register within the past five years: he was suspended for one day for a March 2020 incident involving misuse of CPD equipment or supplies. Officer Sunde was also responsible for a preventable accident in November 2023, but he received a notation of “no disciplinary action” through the summary punishment process.

⁶⁶ Att. 38.

⁶⁷ Att. 40.

ii. Recommended Discipline

COPA has found that Officer Sunde violated Rules 2, 3, 6, 8, and 9 by directing profane and derogatory language at ██████ Rules 2, 3, 6, and 8 by threatening ██████ with arrest in retaliation for ██████ purportedly disrespectful attitude towards the police, and Rules 2, 3, 5, 6, and 10 by failing to complete an ISR to document the stop of ██████ ISRs are an important tool used to document stops and searches of members of the public by the police and help assure that CPD members are exercising their law-enforcement authority in a constitutional manner. By using threatening and derogatory language, including multiple profanities directed towards ██████ and by failing to properly document his actions, Officer Sunde's conduct fell below the standards of conduct expected of a CPD member. Considering the nature of Officer Sunde's misconduct, along with his complimentary and disciplinary history, COPA recommends a **7-day suspension**.

c. Sgt. Erick Seng⁶⁸

i. Complimentary and Disciplinary History

Sgt. Seng has received the Superintendent's Award of Valor, the Superintendent's Award of Tactical Excellence, two Life Saving Awards, fourteen Department Commendations, the Problem Solving Award, nine complimentary letters, two-hundred-and-forty-seven Honorable Mentions, and at least twenty-one other awards and commendations. Sgt. Seng has no sustained complaint registers within the past five years, but he was disciplined twice through the summary punishment process, receiving reprimands for "failure to perform any duty" in March and April of 2023.

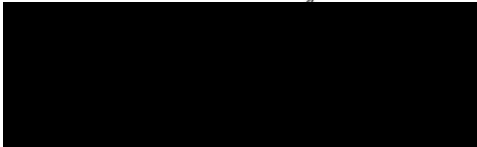
ii. Recommended Discipline

COPA has found that Sgt. Seng violated Rules 2, 3, 6, and 8 by threatening ██████ with arrest and/or the seizure of his vehicle in retaliation for ██████ purportedly disrespectful attitude towards the police, Rules 2, 3, 6, 8, and 9 by stating words to the effect of, "You need to learn to shut the fuck up and respect the fucking law enforcement," and Rules 2, 3, 5, 6, and 10 by both failing to direct officers under his supervision to complete an ISR to document the stop of ██████ and by failing to record ██████ stop with his BWC. As noted above, BWC recordings are an important tool used to document police interactions with members of the public, and failure to record law enforcement related activity tends to undermine public confidence in CPD. Likewise, properly completed ISRs document stops and searches of members of the public by the police and help assure that CPD members are exercising their law-enforcement authority in a constitutional manner. As a supervisor, Sgt. Seng was expected to set an example for the officers under his supervision, but his conduct during ██████ stop fell below the standard expected of a CPD supervisor. Also, by directing profanity towards ██████ and by threatening ██████ in the presence of officers under his supervision, Sgt. Seng reinforced those officers' improper conduct rather than

⁶⁸ Att. 39.

correcting it. Considering the nature of Sgt. Seng’s misconduct, along with his complimentary and disciplinary history, COPA recommends a **10-day suspension**.

Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

March 29, 2024 _____
Date

Appendix ACase Details

| | |
|---------------------------------|---|
| Date/Time/Location of Incident: | September 28, 2022 / 10:40 pm / 33 W Ontario Ave. |
| Date/Time of COPA Notification: | September 29, 2022 / 9:43 am |
| Involved Member #1: | Richard Rodriquez, Jr., Star #12157, Employee ID #████████; DOA: June 16, 2017, Unit: 018, Male, White Hispanic |
| Involved Member #2: | Kenneth Sunde, Star #18633, Emp. #████████, DOA: February 20, 2018, Unit: 18, Male, White |
| Involved Member #3: | Erick Seng, Star #2677, Emp. #████████, DOA: February 28, 2000, Unit: 018, Male, White |
| Involved Individual #1: | ██████████ Male, Black |
| Involved Individual #2: | ██████████ Female, Black |

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.

Applicable Policies and Laws

- General Order G02-01, Protection of Human Rights (effective June 30, 2022, to present)
- General Order G08-05, Prohibition of Retaliation (effective December 30, 2020, to August 22, 2023)
- Special Order S03-14, Body Worn Cameras (effective April 30, 2018, to December 29, 2023)
- Special Order S04-13-09 Investigatory Stop System (effective July 10, 2017, to present)

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.⁶⁹ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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.”⁷⁰

⁶⁹ See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

⁷⁰ *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