

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 22, 2017
Time of Incident:	2:06 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	August 20, 2018
Time of COPA Notification:	5:41 pm

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], Star# [REDACTED], employee# [REDACTED] DOA [REDACTED]/06, SGT, 024, DOB [REDACTED]/82, M, API
Involved Officer #2:	[REDACTED], Star# [REDACTED], employee# [REDACTED] DOA [REDACTED]/96, SGT, 024, DOB [REDACTED]/73, F, WHI
Involved Officer #3:	[REDACTED], Star# [REDACTED], employee# [REDACTED] DOA [REDACTED]/07, PO, 024, DOB [REDACTED]/78, M, S
Involved Officer #4:	[REDACTED], Star# [REDACTED], employee# [REDACTED] DOA [REDACTED]/07, PO, 024, DOB [REDACTED]/78, M, S
Involved Individual #1:	[REDACTED], DOB [REDACTED], M, UNK

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	1. It is alleged that the accused had [REDACTED] falsely arrested in violation of Rule 1, 2, 3, 4.	Not Sustained
	2. It is alleged that the accused instructed his employees to break and enter the property of [REDACTED] located at [REDACTED]	Not Sustained

	<p>[REDACTED] in violation of Rule 1, 2, 3, 4.</p> <p>3. It is alleged that the accused instructed his employees to illegally remove items from [REDACTED] in violation of Rule 1, 2, 3, 4.</p> <p>4. It is alleged that the accused tried to prevent [REDACTED] from filing a police report for trespass to his property located at [REDACTED] in violation of Rule 1, 2, 3, 4.</p>	<p>Not Sustained</p> <p>Not Sustained</p>
<p>Sergeant [REDACTED]</p>	<p>1. It is alleged that the accused failed to investigate the incident, and this led to the false arrest of [REDACTED] in violation of Rule 2, 3.</p>	<p>Not Sustained</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that the accused illegally detained [REDACTED] in violation of Rule 1, 2.</p> <p>2. It is alleged that the accused falsely arrested [REDACTED] in violation of rule 1, 2, 3.</p>	<p>Unfounded</p> <p>Unfounded</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that the accused illegally detained [REDACTED] in violation of Rule 1, 2.</p> <p>2. It is alleged that the accused falsely arrested [REDACTED] in violation of Rule 1, 2, 3.</p>	<p>Unfounded</p> <p>Unfounded</p>

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 1: Violation of any law or ordinance.
2. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
3. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
4. Rule 4: Any conduct or action taken to use the official position for personal gain or influence.

General Orders

1. G01-01 Mission Statement and Core Values

## 2. G04-01 Preliminary Investigations

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Federal Laws

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## 1. Fourth Amendment to the United States Constitution – Seizure of Person

**V. INVESTIGATION****a. Interviews**

In his statement to COPA<sup>1</sup> on August 27, 2018, ██████████ alleged that Sergeant ██████████ had him falsely arrested, in retaliation for filing eviction proceedings against him. Mr. ██████████ explained that he leased commercial space to Sergeant ██████████ that was used as an auto shop. He allowed the sergeant's employees onto the property, after the eviction, to retrieve tools. After one hour he asked them to leave. One employee, Mr. ██████████ tried to force his way back into the building and Mr. ██████████ tried to close the door to prevent his entry. He said that he was arrested after one of the officers spoke to Sergeant ██████████ on a cellular phone. Mr. ██████████ also alleged that a female sergeant was at the scene and failed to investigate the incident. Mr. ██████████ explained that when he was released from custody he returned to the shop and heard persons inside the shop. When he entered the shop, the persons fled. He later viewed surveillance footage of the interior of the shop and saw that Mr. ██████████ was one of the person who had been in the shop. He went to the ██████████ District police station, on November 27, 2018, to file a report for trespass against Mr. ██████████ and said he saw Sergeant ██████████ at the station. He said the sergeant tried to prevent him from filing the report by sending other officers to the desk to instruct Officer ██████████ to not write the report.

In his statement to COPA<sup>2</sup> on October 18, 2018, Accused Sergeant ██████████ stated that he was not involved in the incident that occurred on November 22, 2017. He said that in November 2017 he was in training to be a sergeant. He explained that it was his understanding that on November 22, 2017 the eviction had not occurred, and his lawyer was still handling the matter. He stated that Mr. ██████████ who is a co-owner of the shop, called him during the incident and told him about the dispute and he instructed him to call 911 for assistance. He gave this instruction because he was a co-owner of the shop, and a Chicago Police officer, and he did not want to get involved due to a possible conflict of interest. Sergeant ██████████ stated that he did not recall speaking to any of the officers that were present at the incident. He denied taking any action to have Mr. ██████████ arrested. Regarding the November 27, 2017 incident at the ██████████ District station, he explained that he was off duty and denied being at the station. He also denied knowing, until after the fact, that Mr. ██████████ had gone back into the shop after Mr. ██████████ was arrested.

In her statement to COPA<sup>3</sup> on October 25, 2018, Accused Sergeant ██████████ stated that she was the sector sergeant and responded to a battery in progress call. She explained that when she arrived the arresting officers were already on the scene talking to the parties to determine what had occurred. She spoke to Mr. ██████████ regarding an eviction issue but since

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<sup>1</sup> Att. 21

<sup>2</sup> Att. 18

<sup>3</sup> Att. 19

neither party could produce court documents of the eviction, she determined that the issue was a civil matter for the court. She spoke to Mr. [REDACTED] and he alleged that Mr. [REDACTED] had pushed him and that it was captured on the shop video. She viewed the footage and saw the Mr. [REDACTED] had pushed him. She determined, along with the arresting officers, that Mr. [REDACTED] should be arrested after viewing the footage and on the signed complaint of Mr. [REDACTED] Sergeant [REDACTED] explained that she became aware that Sergeant [REDACTED] was Mr. [REDACTED] tenant after she arrived at the incident. She did not speak to Sergeant [REDACTED] while at the incident and was not aware of any other officers speaking to him She said that she was not aware of any action taken by Sergeant [REDACTED] that led to the arrest of Mr. [REDACTED] She said that she also notified a watch commander that the incident involved Sergeant [REDACTED]

In his statement to COPA<sup>4</sup> on August 25, 2018, Accused Officer [REDACTED] stated that he and his partner, Officer [REDACTED] responded to a battery in progress call at the body shop. He explained that he spoke to Mr. [REDACTED] who said that Mr. [REDACTED] had pushed him, and he wanted him arrested. He viewed the shop video and it showed Mr. [REDACTED] pushing Mr. [REDACTED] He arrested Mr. [REDACTED] on the signed complaint of Mr. [REDACTED] and after viewing the battery on the video footage. He said that Sergeant [REDACTED] was in communication with Captain [REDACTED] during the incident and that he was not aware of any inappropriate action, by Sergeant [REDACTED] that led to Mr. [REDACTED] arrest.

In his statement to COPA<sup>5</sup> on October 2, 2018, Accused Officer [REDACTED] stated the same information as Accused Sergeant [REDACTED] and Accused Officer [REDACTED] His statement differs in that he did not view the footage of Mr. [REDACTED] pushing Mr. [REDACTED] at the time of the incident. He recalled that Sergeant [REDACTED] spoke to both a commander and a captain, during the incident. He said that she contacted them because Mr. [REDACTED] told them that, prior to this incident, he had spoken to a Commander about the incident.

In their statements to COPA<sup>6</sup> on various dates, the Witness Officers, except Officer [REDACTED] stated the same account of the incident. They were called to a battery in progress and no one spoke to Sergeant [REDACTED] while at the scene. None of the officers were aware of any undue influence by Sergeant [REDACTED] that led to Mr. [REDACTED] arrest. In his statement to COPA, Officer [REDACTED] explained that he spoke to Sergeant [REDACTED] on Mr. [REDACTED] cell phone. He recalled that the conversation consisted of Sergeant [REDACTED] informing him that the issue involved a landlord tenant dispute. Officer [REDACTED] explained that he wrote the trespass report on November 27, 2017, and that neither Sergeant [REDACTED] or any other officer tried to stop him from writing the report.

In his statement to COPA<sup>7</sup> on October 23, 2018, Witness [REDACTED] stated that he is a friend of Mr. [REDACTED] and he was present during the incident. He explained that Mr. [REDACTED] allowed Mr. [REDACTED] and other employees to enter the shop, after being evicted, to get their work tools. After one hour, Mr. [REDACTED] told the employees to leave the premises. Mr. [REDACTED] tried to come back into the building and Mr. [REDACTED] blocked him from entering the building. He explained that

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<sup>4</sup> Att. 20

<sup>5</sup> Att. 13

<sup>6</sup> Att. 11,12,14,15

<sup>7</sup> Att. 16

Mr. [REDACTED] put his foot in the doorway and Mr. [REDACTED] pushed him to remove his foot. Mr. [REDACTED] explained that he believed that Sergeant [REDACTED] had a telephone conversation with Sergeant [REDACTED] because she had Mr. [REDACTED] arrested. He said he believed that other officers were also on the phone with Sergeant [REDACTED]. When asked what he based this belief on he admitted that he did not see or hear Sergeant [REDACTED] or any other officer talking on the telephone to Sergeant [REDACTED]

**b. Digital Evidence**

Body Worn Camera footage<sup>8</sup> of all the responding officers was viewed. The footage from Accused Officer [REDACTED] camera captured the shop video footage of the battery. The footage from Accused Officer [REDACTED] camera captured Mr. [REDACTED] stating that Mr. [REDACTED] pushed him and that he wanted him arrested.

**c. Documentary Evidence**

The Chicago Police Department Arrest Report,<sup>9</sup> RD# [REDACTED] for [REDACTED] lists the charge of Battery-Physical Contact and describes the offender using an open hand to push the complainant in the chest.

The Chicago Police Department Original Case Incident Report,<sup>10</sup> describes the event as a Battery in Progress, details the fact that the complainant was removing items from the premises when a verbal altercation began between the complainant and offender, and explains how the offender battered the complainant.

The Chicago Police Department Case Supplementary Report,<sup>11</sup> lists the victim, offender, and the location and date of the incident.

**VI. LEGAL STANDARD**

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

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

<sup>8</sup> Att. 25

<sup>9</sup> Att. 22

<sup>10</sup> Att. 23

<sup>11</sup> Att. 24

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

## VII. ANALYSIS

The allegations against [REDACTED] that he used his influence to have Mr. [REDACTED] falsely arrested, instructed employees to break into his property, and prevented Mr. [REDACTED] from filing a police report cannot be sustained. Mr. [REDACTED] was arrested on a signed complaint and after the arresting officer viewed the battery on a surveillance camera. There is no evidence that Sergeant [REDACTED] asked any of the responding officers to arrest Mr. [REDACTED]. The witness officers stated that they had no knowledge of Sergeant [REDACTED] using his position as a Chicago Police Officer to influence the arrest of Mr. [REDACTED]. Mr. [REDACTED] viewed video footage from the shop and saw Mr. [REDACTED] and other employees in the shop after he believed that the tenant had been evicted but there is no evidence to prove that Sergeant [REDACTED] had knowledge of this entry. There is also no evidence to prove that Sergeant [REDACTED] attempted to prevent Mr. [REDACTED] from filing a police report. To the contrary Officer [REDACTED] corroborates Sergeant [REDACTED] denial of this allegation.

The allegation against Sergeant [REDACTED] cannot be sustained. There is no evidence to prove that she did not properly investigate the incident. She spoke to Mr. [REDACTED] about the incident, determined that neither Mr. [REDACTED] or Mr. [REDACTED] had any paperwork regarding an eviction, and instructed the arresting officers to view the footage of the alleged battery. She told them that Mr. [REDACTED] wanted to sign the complaint against Mr. [REDACTED] and instructed them to view the video to ensure a battery had occurred. Sergeant [REDACTED] also reported the incident to the watch commander when she learned that Sergeant [REDACTED] was Mr. [REDACTED] tenant.

The allegations against Officers [REDACTED] and [REDACTED] are unfounded. Mr. [REDACTED] pushed Mr. [REDACTED]. Mr. [REDACTED] signed the complaint to have Mr. [REDACTED] arrested and the officers viewed the battery on the surveillance camera prior to arresting Mr. [REDACTED].

## VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	<ol style="list-style-type: none"> <li>1. It is alleged that the accused had [REDACTED] [REDACTED] falsely arrested in violation of Rule 1, 2, 3,4.</li> <li>2. It is alleged that the accused instructed his employees to break and enter the property of [REDACTED] located at [REDACTED] [REDACTED] in violation of Rule 1, 2, 3,4.</li> <li>3. It is alleged that the accused instructed his employees to illegally remove items from [REDACTED] in violation of Rule 1, 2, 3, 4.</li> <li>4. It is alleged that the accused tried to prevent [REDACTED] from filing a police report for trespass to his property located at [REDACTED] in violation of Rule 1, 2, 3, 4.</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>
Sergeant [REDACTED]	<ol style="list-style-type: none"> <li>1. It is alleged that the accused failed to investigate the incident, and this led to the false arrest of [REDACTED] in violation of Rule 2, 3.</li> </ol>	<p>Not Sustained</p>
Officer [REDACTED]	<ol style="list-style-type: none"> <li>1. It is alleged that the accused illegally detained [REDACTED] in violation of Rule 1, 2.</li> <li>2. It is alleged the accused falsely arrested [REDACTED] in violation of Rule 1, 2, 3.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p>
Officer [REDACTED]	<ol style="list-style-type: none"> <li>1. It is alleged that the accused illegally detained [REDACTED] in violation of Rule 1, 2.</li> <li>2. It is alleged that the accused falsely arrested [REDACTED] in violation of Rule 1, 2, 3.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p>

Approved:

[REDACTED Signature]

Deputy Chief Administrator

Date

5-20-19





Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	[REDACTED]
<b>Investigator:</b>	[REDACTED]
<b>Supervising Investigator:</b>	[REDACTED]
<b>Deputy Chief Administrator:</b>	[REDACTED]

