

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 21, 2018
Time of Incident:	9:30 a.m. – 11:30 a.m.
Location of Incident:	50 W. Washington Street Chicago, IL
Date of COPA Notification:	December 26, 2018
Time of COPA Notification:	10:25 a.m.

This complaint was initiated by [REDACTED] who shares a common child with her former friend, Officer [REDACTED], Star#[REDACTED]. It should be noted, prior to the birth of their 9-year-old daughter the two were friends and never maintained an exclusive relationship. Their parental responsibilities and parenting plan are documented in the Circuit Court of Cook County in the Allocation Judgment Case No. [REDACTED] entered on October 17, 2018.

[REDACTED] reported to the Civilian Office of Police Accountability (“COPA”) that while attending a court appearance at the Daley Center on December 21, 2018, Officer [REDACTED] threatened to initiate an order of protection against her and have her arrested without cause. [REDACTED] rationalization for perceiving the statement as a threat was because she was arrested in 2011 after violating an order of protection that Officer [REDACTED] successfully filed against her in 2010. However, on that date, she was released without charges.

Further investigation revealed a history of parenting matters between Officer [REDACTED] and [REDACTED] which resulted in several court appearances. Additionally, Officer [REDACTED] admitted to making the statement in response to continuous violations by [REDACTED] of their agreed parenting order, but insisted it was not a threat but merely an assertion that he would exercise his rights if [REDACTED] behavior continued. Moreover, [REDACTED] admitted to violating the standing Order on several occasions. Based on the totality of evidence, COPA concluded that the allegation against Officer [REDACTED] be **EXONERATED**.

II. INVOLVED PARTIES

Involved Member #1:	[REDACTED], Star # [REDACTED], Employee ID# [REDACTED] Date of Appointment: [REDACTED] 2003 Police Officer, Unit of Assignment: [REDACTED] DOB: [REDACTED], 1967, M/B
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1969, F/B

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
██████████	1. It is alleged on December 21, 2018, the accused threatened to file a Protective Order against ██████████ and have her arrested without cause in violation of Rules 2 and 9.	EXONERATED

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2- Any action or conduct which impeded the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 9- Engaging in any unjustified verbal or physical altercation while on or off duty.

V. INVESTIGATION

a. Interviews

In a statement conducted by COPA on January 2, 2019, complainant, ██████████,¹ discussed the details of the alleged incident that occurred on December 21, 2018 while she was attending a court appearance at the Daley Center. ██████████ related that she and Officer ██████████, Star# ██████████ were friends since 1999 but were never involved in an exclusive relationship. However, the two share a common child who is currently 9-years-old. As such, Cook County Order ██████████ is currently in place and documents their parental responsibilities.

██████████ related that after learning of her pregnancy in 2009, Officer ██████████ became angry with her because he did not want the child. She explained that at this time their friendly relationship turned turbulent. Despite his lack of support during the pregnancy, ██████████ delivered their daughter. She further related that from birth until approximately 3 years of age, Officer ██████████ had limited interactions with their daughter. However, his parents remained involved in their daughter’s life. From ██████████ understanding, Officer ██████████ was in a non-pay duty status with CPD between 2012 and 2017. During that time, the child support order was modified due to Officer ██████████ inability to provide financial support, and he was not required to pay any child support during that time. ██████████ stated that except for one instance, she and Officer ██████████ had no contact between 2012 and 2017. It was not until sometime in late 2017 or early 2018 that she learned of Officer ██████████ reinstatement to CPD.

¹ Att. 17

Subsequently, the initial parenting plan resumed in October of 2018, and Officer ██████ began to maintain a steady visitation schedule as noted in the order.²

On the date of incident, she and Officer ██████ were attending a court appearance regarding the standing order. She confirmed that Officer ██████ had recently filed a motion alleging violations pertaining to communication and visitation. While waiting in the hallway of the Daley Center outside of the courtroom, ██████ stated she attempted to engage in conversation with Officer ██████, who was present with his counsel. During that conversation, Officer ██████ stated words to the effect of “If she continues, I’ll get a restraining order and have her arrested.”³ ██████ confirmed that his counsel was present at this time.⁴ ██████ asserted that she perceived the statement as a threat because Officer ██████ had, in fact, had her arrested in the past. She elaborated that sometime in 2011, Officer ██████ initiated an order of protection against her without her knowledge which ultimately led to her arrest for violating said order. However, she was released without charges.⁵ Therefore, she believed that since he had her arrested before, he would do it again.⁶

████████ related that the current court order directs both parties to communicate only through the Talking Parents Application and specifically states there should be no more than two messages per day. When asked if she had been abiding by the court order, she admitted that she had not followed the order when she deemed it reasonable for her to modify its requirements. When asked to provide examples of such times, she explained that only in the case of an emergency should she make a direct telephone call to Officer ██████. However, ██████ confirmed throughout the interview that sometimes she does not feel that she can abide by the order because she has much more to say than two messages per day.⁷ In addition, ██████ stated that although Officer ██████ is granted visitation with his daughter every Thursday night, she feels that the current schedule conflicts with their daughters pressing homework obligations. Therefore, she has modified some Thursday visitations for that reason.

In conclusion, ██████ concern was the perceived threat to have her arrested, and she was requesting COPA’s assistance with ensuring Officer ██████ stops threatening to arrest her.

On January 18, 2019, COPA conducted the statement of **Accused Officer ██████**.⁸ He related that he and ██████ have been acquainted for approximately twenty years and remained friends up until the birth of their child in 2009. Officer ██████ briefly described a history of issues with ██████. He emphasized that he reported multiple incidents involving ██████ to CPD. Officer ██████ stated that because of his previous experiences with ██████, he tries to avoid any communication or face to face contact with ██████ and avoids being alone with her.

² Att. 8

³ Att. 17 at 23:15

⁴ Id. at 22:30

⁵ Att. 9

⁶ Att. 17 at 23:24

⁷ Id. at 19:10-21:22

⁸ Att. 18

Prior to the date of the incident, Officer ██████ initiated an Emergency Petition for Rule to Show Cause against ██████ for violating the standing Cook County Order in Case No. ██████ (entered October 17, 2018). As he explained, the order provides a road map regarding each of their parental responsibilities and their parenting plan as it relates to their 9-year-old daughter.⁹ Specifically, his points of issue with ██████ were violations of the visitation and communication guidelines. Despite the order, he asserted that ██████ has violated the order since its existence.¹⁰

On December 21, 2019, Officer ██████, who was accompanied by his counsel, ██████, was standing in a hallway of the Daley Center awaiting their court appearance. ██████ was present and appeared alone. Officer ██████ related that while consulting with his counsel approximately 10-20 feet away from ██████, he noticed that she began to move closer to him and his attorney. Once she was approximately 3-4 feet away from he and ██████, ██████ began to make repeated attempts to intervene and include herself in their conversation.¹¹ Although they asked her several times to step away, ██████ refused. Later in the interview, Officer ██████ recalled having to seek assistance from the Cook County Sheriff's department because she was hovering near himself and his counsel.¹² However, she moved away before the sheriff arrived.

Upon entering the courtroom, the case was heard in front of a substitute Judge. During the proceedings, ██████ was ordered to comply with the standing order. In addition, the Judge granted Officer ██████ parenting time for the ██████ holiday. Since, ██████ was not represented by counsel, ██████ spoke with ██████ directly regarding the outcome of the court proceedings after their appearance before the Judge. However, ██████ attempted to direct all communications towards Officer ██████, rather than ██████, in a combative and argumentative manner.¹³ Although ██████ attempted to re-direct the conversation back to herself, ██████ continued to address Officer ██████. Officer ██████ stated that it was at this time and in the company of his counsel, that he stated "Hey, if you keep violating this order, I'm going to have you arrested for this."¹⁴ Officer ██████ stated that ██████ immediate response was to proclaim that he threatened her and was abusing his police powers. After this encounter, ██████ intervened and asserted that Officer ██████ comment was not a threat. He related that he had no further communication with ██████ and left her alone to continue discussions with ██████. He suggested that until this time, he was allowing ██████ time to adjust to the order, but her constant violations forced his hand.

He added that during his most recent court date on January 17, 2019, ██████ was ordered to respond to a Rule to Show Cause to include her defense to the allegations against her. Officer ██████ stated their next court appearance is continued to February 28, 2019.

⁹ Att. 19

¹⁰ Att. 18 at 24:40

¹¹ Id. at 16:40

¹² Id. at 36:48

¹³ Id. at 23:05

¹⁴ Id. at 26:30

Additionally, on January 18, 2019 COPA conducted the witness statement of **Attorney**, [REDACTED].¹⁵ [REDACTED] currently represents Officer [REDACTED] regarding his domestic relations case with [REDACTED]. She essentially corroborated Officer [REDACTED] account of the incident.

She related that on December 21, 2018, while attending a court appearance concerning an Emergency Petition for Rule to Show Cause that she filed against [REDACTED], she observed the interactions between [REDACTED] and Officer [REDACTED]. [REDACTED] stated that as she and Officer [REDACTED] stood in the hallway of the Daley Center waiting to enter the courtroom, [REDACTED] continued to make attempts to discuss modifications to the order with Officer [REDACTED]. However, Officer [REDACTED] did not want to speak to her and instead referred her back to the standing order. [REDACTED] stated that based on [REDACTED] and Officer [REDACTED] past, Officer [REDACTED] keeps his distance from [REDACTED]. She added that there have been several instances that have occurred while waiting in the hallway for court appearances, where [REDACTED] has followed Officer [REDACTED] and [REDACTED] while they were speaking to each other.¹⁶

On the date of this incident, the three entered the courtroom after some time. Due to their assigned Judges' absence, the case was heard in front of a substitute Judge. The Judge only ruled on Officer [REDACTED] motion regarding visitation with the child during the Christmas holiday. In addition, [REDACTED] was reminded by the Judge to abide by the standing order. After the hearing, the three entered the hallway where [REDACTED] proceeded to prepare the written order for the Judge's signature. As they all stood in a circle to discuss documenting the Judges' decision and terms of the order, [REDACTED] remained argumentative as she adamantly attempted to justify her reasons for not adhering to the order.¹⁷ It was during this interaction that Officer [REDACTED] stated words to the effect of, "If you [REDACTED] continue to violate the order, I will have you [REDACTED] arrested." He further explained to her that he had a right to have her arrested. [REDACTED] went on to explain that one of the remedies for violations of the order could be an arrest should [REDACTED] be found in contempt for violating the order.¹⁸ After this interaction, [REDACTED] stated she and Officer [REDACTED] attempted to cease conversation with [REDACTED] and walk away. However, after asking her to give her them distance, [REDACTED] continued to stand near them and refused to move.¹⁹ Eventually, they were forced to seek assistance from a member of the Cook County Sheriffs' Department. However, by the time the sheriff arrived, [REDACTED] already had walked away.

[REDACTED] added that since the original parenting agreement was entered on October 17, 2018, [REDACTED] has consistently violated the parenting time and communication restrictions. For example, the order strictly regulates that the two should communicate through the parenting application by sending only 2 messages per day, and only in the case of an emergency, should contact be made via telephone. As such, [REDACTED] provided COPA with several downloaded messages from the parenting application which reflects dates where [REDACTED] initiated more than two emails a day. Subsequently, [REDACTED] related that she has filed multiple petitions on

¹⁵ Att. 23

¹⁶ Id. at 12:00

¹⁷ Id. at 20:30

¹⁸ Id. at 5:20

¹⁹ Id. at 22:15

behalf of Officer ██████ for such violations and added that since the incident on December 21, 2018, ██████ continues to violate the Order.

Likewise, ██████ mentioned that on January 17, 2019, ██████ was ordered to provide a Rule to Show Cause including her defense regarding the allegations against her for violating the order. Their next court appearance is continued to February 28, 2019.

b. Documentary Evidence

The **CPD Arrest**²⁰ and **Original Case Incident Report**²¹ **RD Number** ██████, documents the arrest of ██████ on February 17, 2011. Records revealed ██████ was arrested for violation of a protective order and released without charging.

Records gathered from both involved parties revealed an **Allocation Judgement: Allocation of Parental Responsibilities and Parenting Plan, Case No.** ██████ issued by The Circuit Court of Cook County- Domestic Relations Division.²² The document entered on October 17, 2018 provides a detailed breakdown of expectations and regulations both parents are to abide by as it relates to their minor child. It should be noted that this was an agreed order, signed by Officer ██████ and ██████.

The judgment clearly specifies under Section D, Obligation to Notify that “Talking Parents shall be the preferred method of communication (or text messaging when time is of essence). [...] In any event, messages communicated by the MOTHER via Talking Parents/text shall be limited to 2 messages per day and said messages shall only be relevant to issues involving DAUGHTER.”²³ Additionally, under Article III- Section B, FATHER’S Regular Parenting Time, Officer ██████ is granted visitation to include every Thursday from 6:00 p.m. through Friday 8:00 a.m.²⁴

c. Additional Evidence

Officer ██████ attorney, ██████, provided COPA with evidence to be submitted to court in support of the allegations of ██████ violating the standing order. Several print outs of electronic conversations through the **Talking Parents Application** clearly reflect that ██████ initiated contact with Officer ██████ in more than the two messages maximum as directed in the order.²⁵

²⁰ Att. 9

²¹ Att. 10

²² Att. #8 and #19

²³ Id. at Page 11

²⁴ Id. at Page 12

²⁵ Att. 26

VI. LEGAL STANDARD

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

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

A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct 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

COPA finds **Allegation #1** against Officer ██████ alleging that he threatened to issue a protective order against ██████ and have her arrested without cause is **EXONERATED**. During her interview, ██████ confirmed that on several occasions she violated the standing order as it pertains to communication and visitation. Although, she asserted that the modifications were necessary and done in the best interest of the child, none of the violations can be explained as emergencies, which would be exceptions to the court order. Consequently, ██████ failure to utilize the court system places her in a vulnerable position where an arrest could be lawful. In this case, Officer ██████ admitted that he stated he would have her arrested if she violated the court order, as he would be within his rights to attempt to do. Additionally, Officer ██████ and his attorney provided documentation, in the form of the Talking Parents messages and the court orders, in support of the allegation against him. In addition, the statement of ██████ corroborates his account of the incident. Therefore, COPA finds that there is clear and convincing evidence that the alleged conduct occurred but was lawful and proper and finds Allegation #1 is **EXONERATED**.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	1. It is alleged the accused arrested [REDACTED] without justification on January 28, 2018 in violation of Rules 1 and 2.	EXONERATED

Approved:

[REDACTED]

April 29, 2019

 [REDACTED]
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	██████████