

	<p>█████ used excessive force when arresting █████ in violation of Rule 8.</p>	
<p>Officer █████ █████</p>	<p>1. It is alleged that on August 20, 2018, at or near █████, PO █████ arrested █████ without justification in violation of Rules 1 and 2</p>	<p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

General Orders

1. General Order G06-01-01: Field Arrest Procedures
2. General Order G03-02: Use of Force Guidelines

Federal Laws

1. United States Constitution, Amendment IV

V. INVESTIGATION¹

a. Interviews

In a statement to COPA on August 22, 2018, **complainant** █████ stated that nurse █████ was providing in-home care to █████’s grandmother on August 20, 2018, when an argument broke out between █████ and █████. █████ asked for the name of █████’s manager, to which █████ responded she was leaving and going to call security. █████ opened the door for █████ and █████ left the home. After realizing she had no way to identify █████, █████ went outside to take a picture of █████’s license plate. █████ said that █████ was across the street at this time and █████ was nowhere near her. █████ then went back inside and had a phone conversation with the nursing company. █████ said she did not call the police because she thought it was just a conflict in personalities and that the nursing company would send someone different next time.

█████ said a few minutes after the call, five police officers knocked on the door. █████’s mother, █████, answered the door. █████ said the police began to question her as to whether she had called █████ a racial slur² and told her that the neighbors called

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² █████ admitted to COPA that she called █████ “ghetto.”

the police because they heard people outside screaming. FTO ██████ told her she was under arrest for threatening to beat up ██████, which ██████ denied doing. The officers ultimately told her that her and ██████'s stories were different, but ██████ signed an affidavit saying ██████ threatened her and that's why she was under arrest.³

In a second statement to COPA on August 24, 2018, ██████ said an officer she believes to be FTO ██████ grabbed her hard during her arrest, causing bruises on her forearms. ██████ did not believe the officer intentionally caused the bruises, but she wanted to report that she had them. ██████ also said the handcuffs were too tight and did not believe that the officers actually loosened them when they "pretended" to do so.⁴

In a statement to COPA on August 22, 2018, witness ██████ said that on August 20, 2018, nurse ██████ came to her house to provide care to her mother. ██████ heard an argument between ██████ and her daughter, ██████, after which ██████ saw ██████ leave their home. ██████ asked for ██████'s managers name and followed ██████ outside to take a picture of her car. ██████ said ██████ was on the phone outside and it was raining so ██████ came back inside.

██████ said that suddenly five police officers were at her house asking what happened between ██████ and ██████. The officers told ██████ that ██████ said ██████ called ██████ a "fucking spic," which ██████ denied. ██████ said FTO ██████ then went out to talk to ██████ and came back and directed ██████ to put on her shoes and that she was under arrest. ██████ and ██████ got really upset. ██████ said the police then put handcuffs on ██████ and took her to jail. ██████ started yelling at ██████ and the officers made her stay inside the house. ██████ couldn't see the officers take ██████ to the car.

██████ then went to the police station where ██████ was being processed. ██████ said an officer told her that ██████ had threatened to kick ██████'s ass. ██████ said she never heard her daughter say anything like that and believed there was no evidence against ██████.

In a statement to COPA October 31, 2018, witness ██████ related that on August 20, 2018, she was assigned to provide home healthcare to ██████'s grandmother. ██████ said shortly after arriving, she got into an argument with ██████. ██████ said ██████ went into the kitchen where ██████ overheard her say, "can you believe this spic, this company only sends Asians, chinks, and spics."⁵ ██████ then told ██████'s grandmother she was going to call their security company to come assist her because she didn't feel safe. ██████ said ██████ continued to verbally abuse ██████, so ██████ left the house. As she did, she heard ██████ say, "Get the fuck out of here, I'm going to kick your fucking ass."⁶ ██████ said ██████ then followed ██████ out to her car and asked who her manager was. ██████'s mother came outside and told ██████ to come inside and not to worry about it.

³ Attachment 10.

⁴ Attachment 15.

⁵ Attachment 29 at 6:09.

⁶ Attachment 29 at 7:17.

█████ said that four police officers arrived and asked █████ what happened. █████ said the officers asked her what she wanted to do, and she said she wanted to make a complaint. At this time, the officers knocked on █████'s door. █████ said she couldn't hear much of what was said because she was standing far away from the front door. █████ said █████'s mom became irate with the officers. The officers explained to █████ that she was under arrest for threatening to assault █████. █████ could not see which officer handcuffed █████ but said that █████ was cooperative during that process.⁷

In a statement to COPA on November 21, 2018, witness █████ said that on August 20, 2018, he called the police after a disturbance he overheard coming from a neighbor's house. █████ related that he heard female screams repeatedly coming from about five houses down but did not see anything. █████ called 911 twice. █████ said he has heard this same woman screaming in the past. █████ said he thought the woman was screaming at an Uber driver because he heard the woman screaming "let me speak to your manager, this is unbelievable, how can you conduct yourself like this."⁸ █████ related he never heard any racial slurs but there may have been a few vulgar words. █████ said he saw the police arrive but did not see them speak to anyone or arrest anyone.⁹

b. Digital Evidence

The **body-worn camera footage** related to this incident includes recordings from PO █████, FTO █████, PO █████, and PO █████. The recordings show █████ telling the officers that █████ verbally abused her and threatened to "kick her ass." █████ repeatedly stated that she wanted to sign a criminal complaint to that effect. The officers spoke to █████ and █████ before arresting █████. The two women repeatedly screamed at the officers and accused the officers of taking █████'s side because █████ is Hispanic. █████ cooperated with the officers when they handcuffed her, and it did not appear that any unnecessary force was used against her at any point during the entire incident. Before the officers left the scene, the OEMC dispatcher notified them of an additional call of an argument between two women on the street, which FTO █████ confirmed was for the same incident. After the officers took █████'s information, PO █████ had her sign a misdemeanor complaint form. While they were at the police station, █████ again accused FTO █████ of being mad at her because she called █████ a racial slur. FTO █████ pointed out that █████'s behavior in the officers' presence matched what █████ described and that they may not have arrested her if █████ had been acting in a calm manner.¹⁰

The **photographs** of █████ taken at COPA show two bruises on █████'s right forearm.¹¹

c. Documentary Evidence

⁷ Attachment 29.

⁸ Attachment 32 at 4:29.

⁹ Attachment 32.

¹⁰ Attachment 38.

¹¹ Attachment 23.

The **Arrest and Case Reports** reveal that ██████████ was placed into custody on signed complaints after ██████████ reported that she threatened to beat her up.¹²

The **OEMC event queries** for this incident show three different calls to 911: two made by a Verizon Wireless caller, now known to be ██████████, and one made by ██████████. ██████████'s calls reported two women outside on the sidewalk arguing. ██████████'s call reported ██████████ chasing ██████████, family members trying to stop her, and that something may be "wrong" with ██████████.¹³

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 that the allegations that FTO ██████████ and PO ██████████ arrested ██████████ without justification are **Exonerated**. COPA need not prove ██████████ committed the crime with which she was charged; rather, COPA merely needs to determine whether the officers had probable cause to make the arrest. ██████████ called the police and reported she was in

¹² Attachments 4 and 6.

¹³ Attachments 22, 26, and 34.

Appendix A

Assigned Investigative Staff

Squad#:	█
Major Case Specialist:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	██████████