

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 9, 2018
Time of Incident:	4:13 p.m.
Location of Incident:	[REDACTED]
Date of COPA Notification:	December 10, 2018
Time of COPA Notification:	7:46 a.m.

This complaint was initiated with the Civilian Office of Police Accountability (“COPA”) on December 10, 2018 by Chicago Police Department (CPD) Senior Data Entry Operator, [REDACTED] against her husband Officer [REDACTED], Star#[REDACTED]. Mrs. [REDACTED] reported to that after 10 years of marriage she and her husband are currently going through a divorce. She alleges that on December 9, 2018, after returning to the couples shared residence to collect items, Officer [REDACTED] threatened to kill her if she removed items from the residence. At that time, Mrs. [REDACTED] fled the residence and contacted CPD. The incident was reported to CPD and documented under Original Case Incident Report numbers RD#[REDACTED].¹ Based on the totality of evidence obtained in this case, COPA finds that the allegation against Officer [REDACTED] be **NOT SUSTAINED**.²

II. INVOLVED PARTIES

Involved Member #1:	Officer [REDACTED], Star#[REDACTED], Employee# [REDACTED] Date of Appointment: [REDACTED], 1986 Police Officer, Unit of Assignment: [REDACTED] DOB: [REDACTED], 1960, M/B
Involved Individual #2:	[REDACTED], Employee ID# [REDACTED] Date of Appointment: [REDACTED], 1994 Sr. Data Entry Operator, Unit of Assignment: [REDACTED] DOB: [REDACTED], 1969, F/B

¹ Att. 5

² It should be noted that Officer [REDACTED] made a complaint with COPA on November 27, 2018 against Mrs. [REDACTED] alleging a battery and verbal assault that occurred on a date prior to this incident. That case was resolved separately under log number [REDACTED].

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer ██████ ██████	1. It is alleged that on 09 December 2018 PO ██████ threatened to kill ██████ by stating words to the effect of, “Bitch before I let you take anything out this house I will kill you.”	NOT SUSTAINED

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. INVESTIGATION³

a. Interviews

On January 10, 2019, complainant, Chicago Police Department Senior Data Entry Operator, ██████ provided a statement to COPA regarding the alleged incident against her husband, Officer ██████, Star# ██████.⁴ She stated they have been married for 10 of the 13 years of their relationship. Although currently involved in divorce proceedings, the two had continued to reside in the marital residence at ██████ Chicago, IL until this reported incident. Mrs. ██████ added that they do not have any children in together. She related that Officer ██████ filed for divorce in August 2018.

Mrs. ██████ stated that she and Officer ██████ have both obtained counsel to represent them during divorce proceedings. Prior to this incident, her counsel submitted a proposal regarding the division of marital property.⁵ Officer ██████, through his counsel, agreed to every request with the exception of allowing her to take possession of the two living room chairs and an ottoman.⁶

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Att. 11

⁵ Att. 12

⁶ It should be noted, Officer ██████ is the sole owner of the residence as he purchased the property prior to his marriage to Mrs. ██████. In addition, the furniture in question was pre-marital furniture.

Mrs. ██████ explained that she and Officer ██████ had no previous domestic related issues until November 2018. She related that one week prior to this incident, she requested CPD assistance to their shared residence after Officer ██████ threatened to report her to her job during a conversation about the furniture.⁷ Although police arrived there was no case report generated. However, during this time, she overheard Officer ██████ inform the Sergeant who responded of the previously filed complaints against her with COPA.⁸

Regarding the reported incident, Mrs. ██████ explained that upon arriving home on December 9, 2018, she encountered Officer ██████ who was present in the living room putting up the Christmas tree. She related that this activity was strange because he had previously opted out of such activities due to past religious practices. She further added, she believed he was doing so out of spite. After her observations, she informed Officer ██████ that she would take ownership of the tree when she moves out of the residence. This conversation eventually led to discussions regarding the division of the contested living room furniture upon her departure. During this conversation, Officer ██████ maintained his original position by objecting to her request to take said furniture. Mrs. ██████ confirmed that Officer ██████ owned the furniture prior to her moving into the residence 13 years ago.⁹ Mrs. ██████ reported that Officer ██████ then walked toward her and stated words to the effect of, "Bitch I'll kill you before I let you take any furniture out of the house." She confirmed there was no threat by him to use a weapon.¹⁰ She also added that she did not see a weapon and that Officer ██████ was dressed in civilian clothing.¹¹ After Officer ██████ made that statement, Mrs. ██████ left the house, walked to a neighbor's residence, and contacted CPD.¹² Upon arrival of CPD members, Mrs. ██████ spoke with a Sergeant who explained to both she and Officer ██████ the procedure for obtaining an order of protection. That night Officer ██████ left the residence and there was no further incident. This incident was documented under RD# ██████.

On December 10, 2019, upon arriving to domestic court to initiate an Order of Protection she was advised that Officer ██████ had successfully filed a protective order against her earlier in the day. Per the order, she was not to return to the residence without a police escort. It should be noted the Order of Protection was terminated on December 31, 2018.¹³

After this occurrence, Mrs. ██████ permanently moved out of the marital residence and occupied the previously secured residence that she obtained in October 2018. At the time of this interview, Mrs. ██████ had not had any further incident or communications with Officer ██████.

On March 1, 2019, COPA conducted the statement of Accused CPD Officer ██████, ¹⁴ husband of ██████. Officer ██████ related that he and Mrs. ██████ are currently involved in divorce proceedings after being married for 10 of the 13 years of their relationship. He related that he initiated the divorce in August of 2018. However, the two

⁷ Att. 20

⁸ Att. 11 at 1:00:12-1:00:34 and 1:01:30

⁹ Att. 11 at 14:00-14:50

¹⁰ Id. at 40:00-41:00 and 43:10-43:35

¹¹ Id. at 28:00-28:45

¹² Id. at 5:40-6:20

¹³ Att. 13

¹⁴ Att. 19

continued to share the marital residence along with Mrs. ██████' 4-year old grand-daughter until this incident.

Officer ██████ stated he was at home on December 9, 2018, putting up the Christmas tree when Mrs. ██████ arrived home with boxes. Upon her arrival, she proceeded to confront him about the case he filed against her with COPA. Officer ██████ stated Mrs. ██████ additionally wanted to discuss the division of marital property. Officer ██████ stated that he did not want to discuss either topic. He related that there was a previous proposal submitted via Mrs. ██████' attorney to his attorney regarding Mrs. ██████' request. He stated that he agreed to everything with exception to two chairs and an ottoman. During this time, Mrs. ██████ become upset and left the residence. Officer ██████ stated that the next thing he knew the police arrived at the residence.

Upon their arrival, the police notified him of Mrs. ██████' allegation of the threat. The incident was documented, and he was asked to leave the residence. No arrest was made. The following day Officer ██████ filed a petition for an order of protection against Mrs. ██████ which was granted. Later that day, Mrs. ██████ arrived at the residence to retrieve her personal belongings with a police escort.

Officer ██████ adamantly denied making any threat to Mrs. ██████. Further, he suggests that he and Mrs. ██████ had no history of domestic violence and no prior police presence at the residence. He further added that until the divorce, the two never yelled or directed profanities at one another. Officer ██████ believes the allegations were filed for retaliatory reasons. It should be noted, at the time of the interview the divorce had not been finalized.

b. Digital Evidence

During this investigation, COPA retrieved available **BWC footage** from Officer ██████ #█████, Officer ██████ #█████, and Sergeant ██████ #█████ related to December 9, 2018.¹⁵ The footage captured the officers' response to a domestic incident after a call was initiated by Mrs. ██████. All relevant videos depict Mrs. ██████ and Officer ██████ providing narratives to the responding officers of the events of that evening. During the footage, Mrs. ██████ is heard stating that Officer ██████ came in her face and said, "Bitch, before I let you take anything out this house I'll kill you."¹⁶ It should be noted, Officer ██████ alleged that Mrs. ██████ was trying to get back at him for filing police reports against her for assault.¹⁷

c. Documentary Evidence

Original Case Incident Report RD Number ██████,¹⁸ documents the incident occurring on December 9, 2018. Records revealed Mrs. ██████ reported to CPD that Officer ██████ threatened to kill her if she removed furniture from their residence. She related that during

¹⁵ Att. 24

¹⁶ Id. on Disc- Video #4 (Sgt. ██████) @2:35

¹⁷ Id. on Disc- Video # 2 (PO ██████) @3:45

¹⁸ Att. 5

the process of collecting some of her belongings, Officer ██████ told her, “Bitch before I let you take any furniture I’ll kill you.” Officer ██████ reported to CPD that Mrs. ██████ was lying and denied that the incident occurred. No arrest was made.

Records obtained from the **Office of Emergency Management and Communications (OEMC)** memorialize a 911 call initiated by Mrs. ██████ on December 9, 2018 at approximately 4:13 p.m.¹⁹ Event Query Report # ██████ reflect Beats ██████ (Ofc. ██████ and Ofc. ██████) and ██████ (Sgt. ██████) responded to a request for supervisor regarding a domestic disturbance call at ██████ Chicago, IL.²⁰ Records also reflect two calls documented under Event Queries ██████ and ██████ requesting police assistance at the ██████ residence on December 10, 2018 after Mrs. ██████ returned to the residence to retrieve her personal belongings.²¹

d. Additional Evidence

As mentioned, Officer and Mrs. ██████ are currently going through a divorce. During her interview, Mrs. ██████ provided COPA with documentation reflecting current proposals and agreements as it relates to marital property²² and a Cook County Court order (██████) reflecting that the emergency order of protection against Mrs. ██████ had been terminated.²³

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

¹⁹ Att. 22

²⁰ Att. 6

²¹ Att. 21

²² Att. 12

²³ Att. 13

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 ██████ is **NOT SUSTAINED**. During this investigation, it was revealed that the couple were in the middle of divorce proceedings while still sharing the marital residence. It was clear during the interviews of both parties that this was an emotional, stressful, and uncomfortable time for both. It was also evident that the divorce impacted their ability to share a residence. Mrs. ██████ reported that her husband, Officer ██████, placed her in fear of receiving a battery during a verbal dispute. Specifically, Mrs. ██████ alleged that during discussions regarding the division of marital property, Officer ██████ stated word to the effect of, “Bitch before I let you take anything out of this house I will kill you.”²⁴ However, Officer ██████ denied the claim. He added that Mrs. ██████ reported this incident out of retaliation for him reporting two prior incidents to COPA where Mrs. ██████ was the accused.²⁵ In this case, there were no additional witnesses to the incident or any video evidence that captured the incident. Furthermore, COPA could not determine whether one individual was more credible than the other. Based on the information received, COPA cannot determine by a preponderance of evidence that Officer ██████ made the threat to Mrs. ██████. Due to the conflicting accounts of the events, COPA finds this allegation is **NOT SUSTAINED**.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer ██████ ██████	1. It is alleged that on 09 December 2018 PO ██████ threatened to kill ██████ by stating words to the effect of, “Bitch before I let you take anything out this house I will kill you.”	NOT SUSTAINED

²⁴ Att. 5

²⁵ Refer to Log Number 1091824

Approved:



July 30, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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