

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 22, 2017
Time of Incident:	7:11 pm
Location of Incident:	██████████ Chicago, IL 60608
Date of COPA Notification:	November 22, 2017 ¹
Time of COPA Notification:	4:02 pm

The complainant, Mr. ██████████ was walking his dogs when he stopped to speak with Mr. ██████████. During the conversation ██████████ possibly handed something to ██████████. After speaking to ██████████ walked towards his apartment. As he was returning to his apartment, Officers ██████████ and ██████████ (collectively “the Officers”) approached ██████████ and asked to speak to him. ██████████ entered the door of his building and began to reach for an object in his pocket. Officer ██████████ believed the object was a weapon and entered the doorway. Once Officer ██████████ was in the doorway, ██████████ attempted to close the door and struck Officer ██████████ foot causing the door to partially break. The Officers retreated from the building while ██████████ entered his apartment. The Officers remained on scene and reported the damage to Sergeant ██████████. The Officers completed an Investigatory Stop Report and an Original Case Incident Report to document the incident.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer ██████████ ██████████ Star # ██████████ Employee ID # ██████████ Appointment Date ██████████ 2015, Unit ██████████ Birth Date ██████████ 1984, Male, White.
Subject #1:	██████████ Birth Date ██████████ 1990, Male, Hispanic.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████ ██████████	1. Unlawfully entered ██████████ Chicago, IL 60608, in violation of Rule 6.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

¹ ██████████ registered his complaint through the Chicago Police Department on November 22, 2017. Due to the Thanksgiving holiday, COPA did not learn of the complaint until November 24, 2017.

1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

Special Orders

1. S04-19: Search Warrants, effective September 3, 2015-present

V. INVESTIGATION²

a. Interviews

In a **statement to COPA**,³ on December 26, 2017, **Mr. ██████████** stated he was returning to his building after walking his dogs when Officers ██████████ approached him and demanded to speak with him. As ██████████ entered the vestibule of his building, he informed Officer ██████████ that he did not want to speak to him. Officer ██████████ ordered ██████████ to exit the building and explain what he was holding. ██████████ refused to exit the building while informing Officer ██████████ that he was inside a private building and did not have to explain anything to him. ██████████ then attempted to close the door, striking Officer ██████████ foot. Officer ██████████ responded by reaching for ██████████ and ripping the door from the hinges. ██████████ walked upstairs and entered his apartment. A few moments later, ██████████ returned to the bottom of the stairs and observed Officer ██████████ explained that at no time did Officer ██████████ make any demands of him. While speaking to Officer ██████████ requested a supervisor. Sgt. ██████████ responded and spoke to ██████████ explained that his girlfriend, ██████████ witnessed the interaction with Officer ██████████⁴

In a **statement to COPA**,⁵ on April 13, 2018, **Accused Officer ██████████** stated that during an unrelated arrest he and his partner, Officer ██████████ learned that ██████████ was providing firearms to people near his residence (██████████). Based on this information, the Officers were monitoring the area for ██████████ when they observed ██████████ approach ██████████ and engage in a conversation. During the conversation, the Officers observed ██████████ pass an object to ██████████. Believing that ██████████ had passed a weapon to ██████████ the Officers decided to stop ██████████

As the Officers moved their vehicle closer to ██████████ he looked directly at them, turned around, and swiftly walked in the opposite direction. The Officers exited their vehicle, announced their office, and requested to speak to ██████████. ██████████ initially requested to know why the Officers wanted to speak to him. Officer ██████████ requested to know what ██████████ had passed to ██████████. ██████████ denied interacting with ██████████. As ██████████ approached the entrance door to ██████████ he became verbally abusive. Once at the door, ██████████ opened the door, entered the building, turned towards the Officers, stated: “dude get the fuck away from me, don’t make me”

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Att. 7.

⁴ ██████████ informed COPA that she did not want to be involved in our investigation and requested that she not be contacted.

⁵ Att. 32.

while reaching for his left front pocket.⁶ Officer ██████████ observed an imprint of a weapon in ██████████ left front pocket and believed ██████████ was reaching for a weapon. Officer ██████████ entered the building to stop ██████████ from reaching the possible weapon. Simultaneously, ██████████ grabbed and slammed the door closed on Officer ██████████ foot, causing the door to break.⁷ Officer ██████████ was not injured. Officer ██████████ retreated out of the building as ██████████ fled up the stairs and into an apartment. Officer ██████████ contacted Sgt. ██████████ via telephone to report the damage. Approximately four minutes after closing the door, ██████████ emerged from his apartment, stated, “see I didn’t even have a gun on me”⁸ and calmly sat down on the stairs. Officer ██████████ stated that after exiting the apartment ██████████ was calm and no longer verbally abusive. Officer ██████████ did not complete a protective pat down of ██████████ because of the change in demeanor, the high likelihood he was no longer armed, and the desire to not escalate the encounter any further.

In a **statement to COPA**,⁹ on March 27, 2018, **Witness Officer ██████████** stated essentially the same information as Officer ██████████. Officer ██████████ was clear that due to the small doorway she was not able to observe ██████████ actions once he entered the building.

b. Documentary Evidence

██████████ **Investigatory Stop Report**,¹⁰ (ISR) details essentially the same information as the Officers’ statements.

An **Original Case Incident Report**,¹¹ under RD # ██████████ details the damage to the door of ██████████

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.

⁶ Relevant portion is at 8:48 of Att. 32.

⁷ Officer ██████████ recalled only one hinge being broken on the door. When COPA investigators went to the scene to observe the damage, the door had already been repaired.

⁸ Relevant portion is at 9:36 of Att. 32.

⁹ Att. 24.

¹⁰ Att. 16

¹¹ Att. 3.

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 recommends a finding of **Exonerated** for the allegation that Officer ██████ unlawfully entered ██████ Chicago, IL 60608. Police officers are permitted to stop and detain subjects for a reasonable amount of time if the officer reasonably infers, from all the circumstances known to the officer, that the subject is about to commit, is committing, or has committed a criminal offense.¹²

Here, based on all the information known to the officers and their observations, it was reasonable for the officers to infer that ██████ was possibly engaged in criminal activity (possible unlawful weapon possession); therefore, the officers' decision to detain ██████ was proper and lawful. Additionally, as ██████ stated: "dude get the fuck away from me, don't make me" while reaching towards a pocket. Officer ██████ credibly stated he observed an imprint of a weapon in ██████ left front pocket and believed ██████ was reaching for a weapon.¹³ Officer ██████ inference that ██████ was possibly armed and dangerous and posed a threat him by reaching for what appeared to be a weapon was entirely reasonable. The mere fact that ██████ entered a building did not prohibit Officer ██████ from taking reasonable steps to ensure his safety.

A warrantless entry onto a person's property may be acceptable under exigent circumstances. The exigent circumstances doctrine provides that a warrantless entry may be legal when there is compelling need for official action and no time to secure a warrant.¹⁴ ██████ action, reaching for what appeared to be a weapon, created an exigent circumstance justifying entry into the common-area of the building. Clearly, there was no time to obtain a warrant and Officer ██████ had to take immediate action to stop ██████ from possibly pulling out a weapon. Importantly, Officer ██████ did not enter a residential unit, he merely entered the common area of the apartment building, and stopped his pursuit once ██████ evaded him and the

¹² 725 ILCS 5/107-14.

¹³ Officer ██████ account is circumstantially corroborated by ██████ initial actions (fleeing from the scene and attempting to shut the door on Officer ██████ and his later actions (*i.e.* returning to the area after a few minutes and expressly stating he had no contraband of any kind)

¹⁴ *Mich. v. Tyler*, 436 U.S. 499, 509 (1978).

immediate threat dissipated. Therefore, Officer [REDACTED] entrance of [REDACTED] to stop [REDACTED] from pulling out what appeared to be a weapon, was proper and lawful.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED]	1. Unlawfully entered [REDACTED] Chicago, IL 60608, in violation of Rule 6.	Exonerated

Approved:

[REDACTED]

July 16, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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