



1. Stating words to the effect of “white trash” to ██████████;	Not Sustained
2. Stating words to the effect of “Shut your dogs up or I’ll shut them up for you,” to ██████████.	Not Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 2: Any action or conduct which impedes the Department’s effort to achieve its policy and goals or brings discredit upon the Department.

2. Rule 9: Engaging in an unjustified verbal or physical altercation with any person, while on or off duty.

**V. INVESTIGATION<sup>1</sup>**

**a. Interviews**

In a **statement to COPA on July 31, 2018**, ██████████,<sup>3</sup> she stated that on July 27, 2018, at approximately 6:00 a.m. her next-door neighbor Doug Esterly, shouted threats toward her and her dogs several minutes after she released her dogs into her back yard. According to Ms. ██████████, Mr. Esterly shouted out of the window of his residence words to the effect of “White trash”, “shut your dogs up or I’ll shut them up for you”<sup>4</sup>. She related that there had been tensions between her and Mr. Esterly for several years. She explained that she believed Mr. Esterly filed complaints with the City of Chicago alleging the height of the fence adjacent to her home was not within City code. Ms. ██████████ also claimed he has used noise from a stereo speaker placed in a window on the east side of his residence and played loud music.

In a **statement to COPA on October 16, 2019, Officer Doug Esterly #13931**,<sup>5</sup> related the following. He and Ms. ██████████ have lived next door to each other for several years. Officer Esterly recounted neighbor problems between the two, going back to 2017, at which time the friendly nature of their relationship negatively changed. The only interaction Officer Esterly recalled that involved that dogs occurred one early morning in the summer of 2018. He was in his bedroom when he heard dogs barking from his neighbor’s (██████████) residence next door. Officer Esterly admitted that he shouted out of his window to ██████████ words to the effect of “Can you . . . shut your dogs up?” or word to the effect of “Shut your dogs up, or I’ll call” meaning he

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

<sup>3</sup> Att. 4

<sup>4</sup> Relevant portions at 02:25, from 02:55 to 03:47; 05:04 to 05:30 of Att. 4

<sup>5</sup> Att. 24

will call the police, because she did not like when he called the police previously for another incident.<sup>6</sup> Officer Esterly denied calling Ms. [REDACTED] “white trash.”

### b. Documentary Evidence

Sergeant Gregory E. Hoffman completed an **Initiation Report**,<sup>8</sup> on July 27, 2018, detailing the incident. The report states that [REDACTED] related that at 6:00 a.m. on the same day, she let her dog out into her fenced backyard. At that time, Officer Esterly, who resides next-door to Ms. [REDACTED], stuck his head out the window of his home and shouted, “White trash...shut your dogs up or I’ll shut them up for you!” Ms. [REDACTED] took this as a threat from Officer Esterly that he would do harm to her dog.

## 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.

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<sup>6</sup> Relevant portions at 23:07; from 26:48 to 27:07; 27:59 of Att. 24

<sup>8</sup> Att. 5

**VII. ANALYSIS**

COPA finds that Allegation #1 against Officer Esterly is **not sustained**. Before determining if misconduct occurred, COPA must first determine if the act alleged to give rise to the misconduct occurred. COPA finds that Ms. [REDACTED] and Officer Esterly resided next door to each other in adjacent homes, and that Officer Esterly was off-duty at that time of this encounter. COPA further determines that at the time of the incident, Officer Esterly and Ms. [REDACTED] had a problematic relationship as neighbors. While Ms. [REDACTED] alleged that Officer Esterly called her “white trash,” he denied stating those words. The ongoing dispute the two had is taken into consideration in COPA’s inability to determine by a preponderance of the evidence if this comment was made. Therefore, COPA finds that this allegation is not sustained.

COPA finds that Allegation #2 against Officer Doug Esterly is **not sustained**. COPA incorporates its findings of fact stated above regarding the relative living locations and the relationship between Ms. [REDACTED] and Officer Esterly. COPA further finds, and it is undisputed, that Officer Esterly made comments out of his window expressing his desire for Ms. [REDACTED]’s dogs to “shut up.” Based on the limited evidence available and credibility of both Ms. [REDACTED] and Officer Esterly insofar as this incident is concerned, COPA is unable to determine the exact words spoken. However, regardless whether the statement was as alleged by Ms. [REDACTED], or was recalled by Officer Esterly, it does not rise to the level of being misconduct in violation of Department rules. Therefore, COPA finds that this allegation is not sustained.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding
Officer Doug Esterly	It is alleged by [REDACTED] that on or about July 27, 2018, at approximately 6:00 a.m., at or near 6224 W. Eastwood Avenue, Doug Esterly committed misconduct through the following acts or omissions by:	
	1. Stating words to the effect of “white trash” to [REDACTED];	Not Sustained
	2. Stating words to the effect of “Shut your dogs up or I’ll shut them up for you” to [REDACTED].	Not Sustained

Approved:



12-30-2020

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Angela Hearts-Glass  
*Deputy Chief Investigator*

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Date

Appendix A

Assigned Investigative Staff

<b>Squad#:</b>	5
<b>Investigator:</b>	Antoine P. Kinard
<b>Supervising Investigator:</b>	Loren Seidner
<b>Deputy Chief Investigator:</b>	Angela Hearts-Glass