

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 25, 2019
Time of Incident:	11:45 am
Location of Incident:	██████████ Chicago, IL 60632
Date of COPA Notification:	June 27, 2019
Time of COPA Notification:	2:36 pm

On June 9, 2019, a burglary was committed. During the ensuing criminal investigation, Detective Dennis Lanning and Sergeant Manuel Hernandez identified Mr. ██████████ as the offender and informed Sergeant Michael Poppish, that there was probable cause to arrest ██████████ for burglary. Sgt. Poppish and Officers Nicholaus Lesch and Domingo Enriquez (the Team), went to apartment ██████████,¹ and spoke with the occupant (Mr. ██████████ who confirmed ██████████ resided at the location but was not home. The Team conducted covert surveillance, during which ██████████ was seen approaching and entering apartment ██████████. As the Team approached the apartment ██████████ observed them, refused requests to exit, began to pace and scream. The Team made entry into the apartment, via the front door. Once inside of the apartment, the Team arrested ██████████

During his statement to COPA, ██████████ alleged that the Team unjustifiably forced entry into his apartment. During our investigation, COPA determined that ██████████ allegations were **exonerated**.

II. INVOLVED PARTIES

Involved Sergeant #1	Sgt. Michael Poppish / Star #1109 / Employee ID# ██████████ / DOA: September 5, 1995 / Unit: 009/193 / DOB: ██████████, 1973 / Male / White.
Involved Officer #1:	Officer Nicholaus Lesch / Star #13061 / Employee ID# ██████████ / DOA: November 29, 2004 / Unit: 193 / DOB: ██████████, 1977 / Male / White.
Involved Officer #2:	Officer Domingo Enriquez / Star #12794 / Employee ID# ██████████ / DOA: May 29, 2001 / Unit: 193 / DOB: ██████████, 1976 / Male / Hispanic.
Involved Individual #1:	██████████ / DOB: ██████████ 1976 / Male / Black.

¹ ██████████ are apartment buildings surrounded by a common fence and sharing a common office, roof, and parking lot and present a single addressed location. Att. 22.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant Michael Poppish	1. Entering Mr. ██████████ residence, without justification, in violation of Rule 6.	Exonerated.
Officer Nicholas Lesch	1. Entering Mr. ██████████ residence, without justification, in violation of Rule 6.	Exonerated.
Officer Domingo Enriquez	1. Entering Mr. ██████████ residence, without justification, in violation of Rule 6.	Exonerated.

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 6: Prohibits disobedience of any order or directive whether written or oral.
Special Orders
1. S04-13-09 – Investigatory Stop System – effective July 10, 2017 to current.

V. INVESTIGATION²

a. Interviews

In a **statement to COPA³** on July 1, 2019, Mr. ██████████ stated that he was inside of his apartment (apartment ██████████) when ██████████ unexpectedly arrived.⁴ As ██████████ entered the apartment, ██████████ observed officers following ██████████. After ██████████ entered the apartment, ██████████ went to his bedroom to take a nap. As he was sleeping, he awoken by a knock on the apartment door, a male announcing, “Chicago Police” and asking for ██████████. Neither ██████████ nor ██████████ answered the door. After approximately 5-minutes, ██████████ heard a male officer (Sgt. Poppish) outside of his open bedroom window asking for ██████████ to come out of the apartment, and a different officer kicking the apartment door. Eventually, the door was kicked in, and the Team entered the apartment. As the Team entered the apartment ██████████ fled to ██████████ bedroom where ██████████ was arrested.

█████████ estimated the time between the Team knocking on and kicking-in the door was approximately 5-minutes. ██████████ recounted that the Team followed ██████████ to his apartment and that they observed him enter the apartment. ██████████ estimated that ██████████ was in the apartment for between 10 and 15 minutes prior to the Team knocking on the door. ██████████ believed the door was possibly unlocked prior to the Team forcing entry. ██████████ explained that at no time did any

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 Atts. 8 and 9.

⁴ ██████████ initially informed COPA that ██████████ was his brother, but later stated ██████████ was close friend.

member of the Team search his apartment. ██████ explained that he believes the Team had followed ██████ to the apartment.

In a **statement to COPA**⁵ on November 12, 2019, **Mr. ██████** stated that as he was walking to ██████ apartment, he observed a lone gray van parked in the parking lot of ██████ ██████ continued to ██████ apartment and entered. After less than one minute, ██████ heard a male (Sgt. Poppish) call out his name and announce he was under arrest. At that time two other officers (Officers Lesch and Enriquez) forced entry via the front door of the apartment. Once inside ██████ was detained and searched. ██████ was escorted from the apartment and observed one of the officers enter the gray van that was parked in the parking lot. ██████ was transported to the district station where booking paperwork was completed and he was processed. After ██████ was processed a detective came to speak with him.

██████ explained that his is not related to ██████ but that they are close friends. Further, ██████ explained that he does not reside with ██████ despite reporting to the Illinois Parole Commission that he does. Additionally, ██████ explained that while he does not store personal belongings at the apartment, he does occasionally spend the night. ██████ had no complaints about his interactions with Department members other than the entry to arrest him.

In a **statement to COPA**⁶ on October 9, 2019, **Witness Detective Dennis Lanning** stated as he was investigating a burglary that occurred on June 9, he and Sgt. Hernandez, positively identified ██████ as the offender. Once ██████ was identified, Det. Lanning contacted Sgt. Poppish, presented all the evidence from the burglary that established probable cause for ██████ and provided ██████ as the known address for ██████⁷ Once ██████ was arrested, Det. Lanning completed a Mirandized interview with him. At no time did ██████ complain about his interactions with the Team. Det. Lanning was not aware of exactly where ██████ was arrested and had no knowledge if the Team forced entry into the apartment.⁸

In a **statement to COPA**⁹ on January 16, 2020, **Accused Sgt. Michael Poppish** stated that during an in-person meeting with Det. Lanning he was shown evidence that established probable cause to arrest ██████ for burglary and learned that ██████ was known to reside in ██████ After receiving this information, Sgt. Poppish briefed Officers Enriquez and Lesch, and the three of them (the Team) went to ██████ Upon arrival at the location, the Team knocked on the door of apartment ██████, announced their office, spoke with a male resident (██████) and informed him they were looking for ██████ explained to the Team that ██████ was his brother who resided at the location but was not home.

After speaking to ██████ Sgt. Poppish instructed Officer Enriquez to being covert surveillance of the location from his grey mini-van in the parking lot. Officer Enriquez complied

⁵ Att. 31.

⁶ Att. 15.

⁷ Det. Lanning explained he located this address for ██████ using the Accurant Database and reports from other offenders connected to ██████ Det. Lanning explained that ██████ are joint building and that ██████ reportedly resided in unit ██████ with his "brother." Det. Lanning did not recognize the name ██████

⁸ Det. Lanning explained that an Investigative Alert was not issued because the Department had instructed members Investigative Alerts were no longer to be used.

⁹ Att. 40.

and within approximately 30-minutes, ██████ was observed on the property approaching and ultimately entering apartment █. Officer Enriquez relayed this information to Sgt. Poppish and Officer Lesch. After receiving the information, the Team approached apartment █ and observed ██████ at the open door. The Team announced their office and informed ██████ he was under arrest. ██████ shut the door and began to move about the apartment. Sgt. Poppish observed that ██████ was agitated and was concerned he would attempt to flee and or harm himself.¹⁰ Additionally, Sgt. Poppish explained that as he was attempting to speak to ██████ through an open window, ██████ approached the window and attempted to close it on Sgt. Poppish's arm. Sgt. Poppish ordered Officer Enriquez to force entry into the apartment and apprehend ██████¹¹ Officer Enriquez complied and Officer Lesch and Sgt. Poppish followed him into the apartment. Once inside of the apartment, ██████ was arrested and removed. Sgt. Poppish explained that no other actions were taken. Sgt. Poppish recalled that ██████ was present inside the apartment and made no objections to the Team's presence.

In a **statement to COPA**¹² on January 16, 2020, **Accused Officer Domingo Enriquez** stated essentially the same information as Sgt. Poppish. Additionally, Officer Enriquez confirmed that he conducted his surveillance from a covert grey mini-van parked in the parking lot with a clear view of apartment █. Further, Officer Enriquez confirmed the Team was at the door of apartment █ within a minute and a half of observing ██████ enter the unit. Additionally, Officer Enriquez confirmed that Sgt. Poppish ordered him to force entry only after ██████ began to pace, became irately yelling.¹³ Further, Officer Enriquez estimated the time between ██████ closing the door and Sgt. Poppish's order was less than a minute. Finally, Officer Enriquez explained that based on the information provided to him by Sgt. Poppish and the conversation with ██████ prior to conducting surveillance lead him to believe the ██████ resided at the location.

In a **statement to COPA**¹⁴ on January 16, 2020, **Accused Officer Nicholas Lesch** stated essentially the same information as Sgt. Poppish and Officer Enriquez. Additionally, Officer Lesch confirmed that ██████ was pacing around the apartment prior to Sgt. Poppish ordering the forced entry into the apartment.¹⁵ Further, Officer Lesch explained that based on the information provided to him by Sgt. Poppish lead him to believe the ██████ resided at the location. Finally, Officer Lesch estimated the time frame between Officer Enriquez relaying ██████ presence to their arrival at the apartment door to be less than a minute.

¹⁰ Sgt. Poppish described ██████ agitation as pacing, breathing heavy, having wide-eyes, and appeared that he was planning to flee.

¹¹ Sgt. Poppish estimated that it was less than one minute for ██████ closing the door to him ordering Officer Enriquez to make entry.

¹² Att. 48.

¹³ While he could not recall ██████ exact words, Officer Enriquez recounted that ██████ yelling indicated that he was not wanting to be arrested, unwilling to reopen the door, and that ██████ pacing with clenched fists created a concern that ██████ was a planning to violently lash out at the Team or ██████ Officer Enriquez explained he belief was based on ██████ actions on at the time and his criminal history, which was reviewed prior to arrival at ██████ COPA notes that ██████ has been convicted of robbery, burglary, and possession of a controlled substance and arrested for possession of a firearm. (Att. 49.)

¹⁴ Att. 44.

¹⁵ Officer Lesch explained that ██████ pacing caused him concern that ██████ was attempting to arm himself and was a possible danger to ██████

b. Documentary Evidence

██████████ Arrest Report¹⁶ and Detective Supplemental Reports¹⁷ detail that while reviewing surveillance footage during a burglary¹⁸ investigation, Detective Dennis Lanning recognized ██████████ as the offender.¹⁹ After identifying ██████████ Det. Lanning contacted Sgt. Hernandez,²⁰ showed him the surveillance footage, and he too confirmed ██████████ identity.²¹ Det. Lanning contacted Sgt. Poppish²² and informed him there was probable cause to arrest ██████████ for burglary. Upon learning of the probable cause for the ██████████ arrest, the Team established covert surveillance of an apartment building at ██████████ observed ██████████ at the location, and arrested him inside apartment ██████████²³

██████████ cellphone photographs²⁴ detail damage to a doorframe and casing of an unidentified door at an unidentified location.²⁵ The damage is consistent with a locked door being force open.

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

¹⁶ Att. 1.

¹⁷ Att. 3.

¹⁸ The burglary occurred on June 9, 2019, at 2500 W. 51st Street.

¹⁹ Att. 3, pg. 7.

²⁰ Sgt. Hernandez arrested ██████████ for a similar burglary under JC158893.

²¹ Att. 3, pg. 7.

²² Sgt. Poppish is assigned to the Gang Investigations Team 6559.

²³ Att. 1, pgs. 1 and 2; Att. 3, pg. 7.

²⁴ Att. 12.

²⁵ The file name of the photographs indicates the photographs were taken on June 27, 2019.

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 are **exonerated**. An officer must have probable cause to arrest a subject.²⁶ "Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject had committed it."²⁷ The reasonable basis of any arrest "should be considered from the perspective of a reasonable officer at the time" of the arrest.²⁸ Further, if a subject flees from an officer attempting to effect a lawful arrest and flees into a private residence, the officer is permitted to enter the private residence so long as they are in "immediate and continuous pursuit" of the subject.²⁹ Additionally, officers may make a warrantless entry into to a private residence when there is exigent circumstances which are based on numerous factors to include: a clear showing of probable cause; the likelihood the subject would escape; strong reason to believe the subject was in the premise; the presence of a risk of harm to the subject or others.³⁰

Here, the Team possessed probable cause to arrest ██████ for the burglary he committed on June 9. Additionally, prior to establishing surveillance, the Team was informed by ██████ that ██████ was his brother³¹ and resided at the apartment.³² Further, while the Team was surveilling ██████, ██████ walked passed a covert vehicle and entered apartment █. Upon seeing ██████ the Team exited their vehicles and immediately approached apartment █ while continuing to surveille the location. As the Team approached the apartment, ██████ was observed inside, and once ██████ observed the Team, he shut the door and began to pace around the apartment while yelling and screaming. Concerned that the ██████ would flee and/or harm himself or ██████ Sgt. Poppish ordered Officer Enriquez to make entry into the apartment. Once inside the apartment the Team arrested ██████ and took no other law-enforcement action. The Team's decision to pursue ██████ was reasonable and proper, and once ██████ retreated into apartment █, the Team's decision to force entry to arrest ██████ which was in part based on the belief that ██████ would continue to flee and/or pose a danger to himself or others, was permitted by law and was reasonable and proper. Further, even if the entry into ██████ apartment was improper, Sgt. Poppish's order to Officers Enriquez and Lesch absolve them of any misconduct liability.

²⁶ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

²⁷ S04-13-09 II(D).

²⁸ S04-13-09 II(D).

²⁹ *People v. Wear*, 229 Ill. 2d 545, 569m 893 N.E.2d 631, 645-46 (2008).

³⁰ *People v. Davis*, 398 Ill. App. 3d 940, 942 N.E.2d 67 (2d Dist. 2010) (noting that the list of exigent circumstances factors provided by the court was not a complete and exhaustive list).

³¹ ██████ initially reported to COPA that ██████ was his brother, but later denied any familial relationship.

³² ██████ confirmed that he has listed the apartment as his residence with the Illinois Parole Board.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant Michael Poppish	1. Entering Mr. [REDACTED] residence, without justification, in violation of Rule 6.	Exonerated.
Officer Nicholas Lesch	1. Entering Mr. [REDACTED] residence, without justification, in violation of Rule 6.	Exonerated.
Officer Domingo Enriquez	1. Entering Mr. [REDACTED] residence, without justification, in violation of Rule 6.	Exonerated.

Ap [REDACTED]

James Murphy-Aguilu
Deputy Chief Administrator – Chief Investigator

9/29/20

 Date

Appendix A

Assigned Investigative Staff

Squad#:	2
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	Andrea Kersten