

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	July 18, 2017
Time of Incident:	12:20 am
Location of Incident:	████████████████████ Chicago, IL 60622
Date of COPA Notification:	October 2, 2017
Time of COPA Notification:	12:05 pm

████████████████████ is the owner of a building at ████████████████████ where she rented the bedrooms to different individuals. ████████████████████ had been having issues with the tenants in the first floor, where either she or the tenants have called the police. ████████████████████ was accused of entering her tenants’ apartments without prior notice or permission. The police had repeatedly ordered ████████████████████ not to return to the premises for trespassing, but she failed to comply. ████████████████████ was finally arrested at ████████████████████ for trespassing.

**II. INVOLVED PARTIES**

Involved Officer #1:	Jennifer Zaidan, Star #8171, Employee #██████████, Police Officer, Date of Appointment: August 25, 2003, Date of Birth: ████████████████████, 1975, Unit 014, Female, White.
Involved Officer #2:	Enrique Molas Jr., Star #19297, Employee #██████████, Police Officer, Date of Appointment: December 18, 2000, Date of Birth: ████████████████████, 1961, Unit 014, Male, Asian – Pacific Islander.
Involved Individual #1:	████████████████████ Date of Birth: ████████████████████, 1953, Female, White.

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Jennifer Zaidan	It is alleged that on or about 18 July 2017 at approximately 12:30AM at ████████████████████ you:  1. Used excessive force while handcuffing ████████████████████	Not Sustained

	2. Pushed [REDACTED] into a police vehicle;	Not Sustained
	3. Failed to activate your body-worn camera during the arrest and transport of [REDACTED]	Sustained / Violation Noted
Officer Enrique Molas, Jr.	It is alleged that on or about 18 July 2017 at approximately 12:30AM at [REDACTED] you failed to activate your body worn camera during the arrest and transport of [REDACTED]	Sustained / Violation Noted

**IV. APPLICABLE RULES AND LAWS**

**Rules**

1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.
2. Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

**Special Orders**

1. S03-14: Body Worn Cameras (effective June 9, 2017 to October 16, 2017)

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

**a. Interviews**

In her interview to COPA<sup>2</sup> on October 2, 2017, [REDACTED] related she owns a two-flat apartment building at [REDACTED] where she rents the first-floor apartment bedrooms separately to different individuals. On July 7, 2017, [REDACTED] went into the first-floor apartment to collect the keys from [REDACTED] one of the tenants who rented one of the bedrooms, and he wanted to move out. [REDACTED] agreed to leave the apartment if [REDACTED] returned the deposit money. [REDACTED] agreed to return the deposit and asked [REDACTED] for the keys. [REDACTED] refused to return the keys and told [REDACTED] that he was not moving out. [REDACTED] felt intimidated by [REDACTED] because of his tone and demeanor. [REDACTED] called the police and upon their arrival, [REDACTED] explained the situation to the officers. [REDACTED] provided one of the officers (PO Travis Cole) with the deposit money to give to [REDACTED] if he promised to leave the apartment. The officer told [REDACTED] to leave the apartment that [REDACTED] would move out once he (PO Cole) gave [REDACTED] the money. [REDACTED] left the building and was told by the officers not to return since it was a civil matter.

<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>2</sup> Att. 10.

On July 7, 2017, later that afternoon, ██████ went back to her building to see if ██████ had moved out. ██████ entered the apartment, saw that ██████ was still in the apartment and an argument ensued. ██████ was upset that ██████ entered the apartment and called the police on ██████. The police arrived, told ██████ that she was trespassing, and informed her again that the situation with ██████ was a civil matter of a landlord/tenant dispute. The police advised ██████ to follow the eviction procedures and not to return. ██████ told the officers about the arrangement she and ██████ made with PO Cole. ██████ went to the police station and filed a complaint against PO Cole for not removing ██████ from the building and accused PO Cole of failure to provide services.<sup>3</sup>

On July 18, 2017, ██████ and her friend ██████ went to her property to see if ██████ had moved out. They knocked on the bedroom door of ██████ room and received no answer. When they tried to open the door, ██████ came from the rear porch. ██████ accused ██████ and ██████ of trying to break into the bedroom and called the police. Several officers arrived at the scene. One of the officers remembered ██████ from the previous incident and told her and ██████ that they were trespassing. A sergeant responded and told ██████ that if she and ██████ returned to the building, they would be arrested. ██████ showed the officers and the sergeant the police reports that she had previously filed against ██████ for assault. The officers advised her to leave the premises, take the proper eviction procedures for ██████ and not to return to the building or she would be arrested.

█████ left the premises with ██████. However, shortly thereafter ██████ returned to the building because she left her keys in the basement and needed to fix a closet door in the basement that contained her personal belongings. ██████ and another tenant from the basement called the police. Two officers (PO Jennifer Zaidan and PO Enrique Molas, Jr.) responded and assisted ██████ in fixing her basement closet door. The officers informed Tymchycshy that she would be arrested if she returned to the building. After ██████ left the building, she learned from the same officers that her tenants filed a complaint against her. Officers Zaidan and Molas, Jr. saw ██████ in the area and accused her of returning to the building. The officers stopped and placed ██████ under arrest on the signed complaint. ██████ stated that Officer Zaidan used excessive force while handcuffing her and in that she was grabbed and pushed against the police vehicle. ██████ sustained a bruise to her arm and back. She later sought medical treatment at Swedish Medical Hospital.

In his interview to COPA<sup>4</sup> on October 2, 2017, ██████ who works for the Spanish Coalition Housing program, met ██████ through the program and assisted her in the past. In early July 2017, ██████ informed ██████ that she was renting bedrooms in her first-floor apartment of a two-flat building she owns at ██████. ██████ told ██████ she was having problems with one of her tenants, ██████ who verbally assaulted ██████. ██████ directed ██████ to initiate the eviction process for ██████. ██████ informed ██████ on a prior incident with ██████ where the police were called to the building and the officers told her

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<sup>3</sup> ██████ filed a complaint against Officer Travis Cole registered under Log Number 1085868, for failure to provide services. ██████ provided PO Cole with \$460.00 USC to give to ██████ after she was promised by PO Cole and ██████ that ██████ was going to move out of the apartment. PO Cole failed to ensure that ██████ would move out. However, ██████ remained in the apartment until the month of July.

<sup>4</sup> Att. 14.

not to return to the property. ██████ provided ██████ deposit money to one of the officers that had responded to the building, who was supposed to provide it ██████ and have him immediately move out. However, ██████ did not move out, and the police did not enforce it.

On July 18, 2017, at approximately 3:30 pm, ██████ met ██████ at her building per her request. ██████ wanted to see if ██████ had moved out as promised. Upon arrival, ██████ walked into the first-floor apartment and saw ██████ arguing with a tenant. The tenant demanded money from ██████ as he was moving out. ██████ resolved the situation and the tenant left. ██████ knocked on the door of the bedroom that ██████ was renting, but there was no response. ██████ attempted to open the door, per ██████ request. ██████ arrived at the apartment and accused ██████ and ██████ of trying to break into his bedroom. ██████ called the police. Several officers and a sergeant responded. ██████ provided the responding officers and the sergeant the police report filed against ██████ for assault from the prior incident. The Sergeant told ██████ and ██████ to leave the premises or they would all be arrested. ██████ left the building and ██████ remained in the property with the officers because she wanted to get her keys from the basement. ██████ returned to the property after one of the officers asked him to get ██████ or she would be arrested. ██████ returned to the property, got ██████ and she insisted that her keys were in the basement. ██████ and ██████ returned to the area, told the sergeant about the keys but the sergeant threatened to arrest them if they entered to the property. ██████ and ██████ left the building again. ██████ left ██████ in the neighborhood and he returned to work.

A few days later, ██████ received a call from ██████ who informed him that she was arrested the night of July 17, 2017. ██████ learned that ██████ returned to the building to fix a closet door in the basement that contained ██████ personal items. The tenant from the basement, ██████ called the police on ██████ for entering his apartment without permission. The police responded, assisted ██████ with fixing the door and instructed ██████ not to return to the property or she would be arrested. ██████ left the building, but shortly thereafter the female officer placed ██████ under arrest while she was at the bus stop. ██████ learned from ██████ that the female officer pushed ██████ against the squad car, twisted her arms, and was being rough with ██████ during her arrest. ██████ later showed ██████ bruises on her upper arms and her wrists, and above the hip area (not sure which side of the body). ██████ was not a witness to ██████ arrest but learned that ██████ saw her doctor for medical treatment.

On November 21, 2017, in an interview with COPA,<sup>5</sup> **Officer Jennifer Zaidan** discussed the incident of July 18, 2017, at approximately 12:30 am, at approximately ██████. She stated that she and Officer Molas originally responded to a call regarding a landlord and tenant dispute at ██████ at around 10:30 pm (on July 17, 2017). Upon arrival, they learned that ██████ (landlord) entered her tenants' apartments (█████ 1<sup>st</sup> floor and ██████—basement apt), without their permission. Officers Zaidan and Molas explained to ██████ the landlord and tenants' rights that prohibited her from entering the tenants' apartments without their consent or advance notice. ██████ informed them that she wanted to fix a closet door in the basement where she had personal belongings. The officers assisted ██████ in fixing the door and told her not to return to the apartment or she would be arrested. ██████ was

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<sup>5</sup> Att. 52.

argumentative and could not understand the reasons but left the building. While at the scene, the officers learned from ██████ that ██████ had been at the house earlier that day where other officers and Sgt. Mescall had responded and had previously ordered ██████ not to come back to the property. Officers Molas assisted in fixing the closet door, explained to ██████ again not to return to the property or to enter the tenants' apartments without their permission or she would be arrested. ██████ left the building. Officers Zaidan and Molas completed a report for ██████ who requested to place charges against ██████ for criminal trespass. Officers Zaidan and Molas left the building and while in the area shortly after midnight saw ██████ returning to the property. Officer Zaidan and Molas stopped and placed ██████ under arrest due to the complaint filed against her by ██████

Officer Zaidan admitted that she failed to activate her body worn camera during the arrest of ██████. She further denied using excessive force on ██████ during the handcuffing or placing of ██████ against the squad car.

In his interview with COPA<sup>6</sup> on November 21, 2017, **Officer Enrique Molas, Jr.** stated basically the same account as Officer Zaidan regarding their interaction with ██████. Officer Molas added that numerous attempts were made to explain to ██████ that she could not be trespassing into her tenants' apartments, and after no cooperation from her, they had to arrest ██████ because she returned to the area and a signed complaint was filed by ██████. However, because ██████ was an older woman, he and Officer Zaidan were careful with ██████ during her arrest and made sure the handcuffs were not tight. Officer Molas said that although ██████ was belligerent, she complied with their instructions and entered the squad car without any problems. Officer Molas explained that when he and Officer Zaidan saw ██████ walking back toward the property they immediately stopped the squad car, approached ██████ told her about the report against her and placed her under arrest. Officer Molas admitted that he failed to activate his body worn camera when placing ██████ under arrest because he forgot to do so since the body worn cameras program was new at the district. Officer Molas denied the allegations made against Officer Zaidan that she used excessive force when placing ██████ under arrest.

#### **b. Digital Evidence**

**Body Worn Camera footage<sup>7</sup> (BWC)** from various officers were obtained for two separate calls for incidents that occurred on July 18, 2017, both preceding the encounter resulting in ██████ arrest. The BWC videos captured the interaction between ██████ several officers, ██████ (1<sup>st</sup> floor tenant) and ██████ (basement tenant) who called the police on ██████ for entering their apartments without permission. The BWC cameras captured ██████ claiming to live in the building on Crystal, her refusal to comply with numerous orders from officers and sergeants, her behavior and refusal to comply with not returning to the building. Sgt. Mescall attempted to explain the law, eviction procedures and to assist ██████ with her complaints against tenants

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<sup>6</sup> Att. 53.

<sup>7</sup> Atts. 31-34, 36.

numerous times. Sgt. Mescall provided [REDACTED] chances to avoid arresting her, but [REDACTED] refused to listen or be cooperative. [REDACTED] was caught at the building trespassing again later that night and was finally arrested by Officers Zaidan and Molas who had given her the chance to leave the area, but she failed to do so. Police reports were filed against [REDACTED] for trespassing. Tenants informed the officers on both occasions that [REDACTED] does not reside in the building, but continuously trespasses into their rented spaces without permission or advance notice. Additional footage is captured in the police station. Officers Zaidan and Molas are recovering [REDACTED] personal property, including her jewelry.

Audio recordings of **911 calls** from the **Office of Emergency Management and Communications (OEMC)**<sup>8</sup> from July 17, 2017, at approximately 3:27 pm, from [REDACTED] where she called the police and accused one of her tenants of pushing her. At 3:30 pm, a call was made by [REDACTED] asking for the police because someone entered his apartment and tried to enter his bedroom. Several officers responded and a complaint for assault against [REDACTED] was filed.

### c. Documentary Evidence

An **Original Case Incident Report**<sup>9</sup> lists [REDACTED] and [REDACTED] as the suspects, and the first-floor tenant, [REDACTED] of [REDACTED] St., as the victim, in a criminal trespass to residence offense that occurred on July 17, 2017, at 3:30 pm. The report documented that [REDACTED] came home and found [REDACTED] and [REDACTED] trying to pry open his bedroom door. Responding officers learned [REDACTED] was the landlord of the building and had asked [REDACTED] to help her change the locks. [REDACTED] claimed she was trying to evict the tenant, and she had returned the tenant's security deposit, but he had not moved out as promised. The tenant claimed he paid to stay until the end of the month, and planned to move out at that time, and also that [REDACTED] had not given him a lease agreement or payment receipts. The tenant stated he had been continually harassed by [REDACTED] since he moved in. The report documents that [REDACTED] thought she had the right to enter the apartment because she only rents out individual bedrooms. Sgt. Kenneth Mescall explained to [REDACTED] that it is illegal to enter the apartment and she would be arrested if it happened again. [REDACTED] then stated she lives in one of the bedrooms in the first-floor apartment, however officers found no evidence to support this claim. Sgt. Mescall advised [REDACTED] to consult with an attorney regarding the eviction process and warned her not to return or she would be subject to arrest. As Sgt. Mescall was leaving, he saw [REDACTED] and [REDACTED] returning to the apartment. [REDACTED] said she had locked her keys inside the building. Sgt. Mescall again warned [REDACTED] and [REDACTED] that they would be arrested for criminal trespass if they returned. The report notes that Sgt. Mescall's body-worn camera provides a complete account of the incident.

A **Supplementary Report**<sup>10</sup> details that Officers Molas and Zaidan responded to the location because [REDACTED] had let herself into the basement apartment on July 17, 2017, at 10:21 pm, to fix a closet door, without giving the tenant, [REDACTED] prior notice. The report documents that Officers Zaidan and Molas assisted [REDACTED] with fixing the door and repeatedly asked her to leave and not return to the building. The officers were made aware of the

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<sup>8</sup> Att. 26.

<sup>9</sup> Att. 6.

<sup>10</sup> Att. 28.

incident that had occurred earlier in the day by the tenants in the building where Sgt. Mescall had previously instructed ██████████ not to return. The first-floor tenant (██████████) provided officers with a police report and signed complaint for criminal trespass to residence against ██████████. The report documented that officers located ██████████ in the area and arrested her based on the signed complaint.

An **Arrest Report**<sup>11</sup> states that ██████████ was arrested on July 18, 2017, at 12:17 am, at ██████████ for criminal trespass to real property. ██████████ is listed as the victim and complainant. ██████████ was arrested on signed complaints.

A **Misdemeanor Complaint**<sup>12</sup> alleges that ██████████ committed the offense of criminal trespass to residence at ██████████ St. The complaint was signed by ██████████ on July 18, 2017.

**Medical Records**<sup>13</sup> for ██████████ documented that she sought medical treatment at Swedish Hospital on July 20, 2017, for being physically assaulted, complained of bruises, anxiety and depression. ██████████ complained of bruises to the left arm and left hip area due to altercations with tenants and the police. ██████████ told medical personnel that her tenants kicked and poked her from behind. ██████████ further stated that she was falsely arrested on July 18, 2017, and sustained bruises to the left arm from the policewoman grabbing her. ██████████ wanted to file a police report for the brutality. The final diagnosis was injury due to physical assault and superficial bruising. She was referred for counseling due to depression and agitation.

## 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 reviewed complied with 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

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<sup>11</sup> Att. 3.

<sup>12</sup> Att. 54.

<sup>13</sup> Att. 43.

investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, 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

### Officer Jennifer Zaidan

COPA makes a finding of Not Sustained for Allegation #1, that Officer Zaidan used excessive force while handcuffing ██████████ in violation of Rule 8. There is insufficient evidence to support or refute the allegation. There are no witnesses other than Officer Molas who denied Officer Zaidan using force toward ██████████. Instead, Officer Molas stated that because ██████████ is an older person, they were careful with her during the arrest. Officer Zaidan denied the allegation against her and there are no other facts or evidence against her. Post-arrest video from the district does not show ██████████ to exhibit any indications of being afraid of either officer, complain of any misconduct or injury, or show any signs of being in physical pain or discomfort. While it is not dispositive in reaching a conclusion here, it is worth noting that the Officer Zaidan's demeanor when she and Officer Molas first encountered ██████████ in their extended contact an hour or so earlier, was a display of a great deal of tolerance, patience and concern for all of the parties that were present.

COPA makes a finding of Not Sustained for Allegation #2, that Officer Zaidan pushed ██████████ into a police vehicle, in violation of Rule 8. The reason for this finding is the same reason as documented for Allegation #1 above.

COPA makes a finding of Sustained for Allegation #3, that Officer Zaidan failed to activate her body worn camera during the arrest and transport of ██████████ in violation of Rule 6. Special Order S03-14 – Body Worn Cameras is the policy directing the use of body worn cameras (BWC) by Department Members. It sets forth that it is mandatory for an officer to activate his or her BWC during law-enforcement-related activities, including (but not limited to) calls for service, arrests, and arrestee transports.<sup>14</sup> This incident clearly fit within the mandates of the Body Worn Camera policy. Officer Zaidan admitted that she forgot and failed to activate her body worn camera during the arrest of ██████████.

### Officer Enrique Molas, Jr.

COPA makes a finding of Sustained for Allegation #1, that Officer Molas failed to activate his body worn camera during the arrest and transport of ██████████ in violation of Rule 6. Officer Molas admitted that he forgot and failed to activate his body worn camera during the arrest

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<sup>14</sup> S03-14(II)(A)(2).



of [REDACTED] The same reasons stated above regarding this allegation against Officer Zaidan apply here for Officer Molas.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Jennifer Zaidan

**i. Complimentary and Disciplinary History** Officer Zaidan's Complimentary History includes two Department Commendations; four Complimentary Letters; 40 Honorable Mentions; one NATO Summit Service Award; one Presidential Election Deployment Award (2008); three Crime Reduction Ribbons and Awards (2004, 2009, 2019); and two Attendance Recognition Awards. She does not have any sustained complaints and has one SPAR, for which she received a reprimand in September 2019, for a preventable accident.

### ii. Recommended Penalty, by Allegation

**1. Allegation No. 3** Officer Zaidan activated her body-worn camera during her previous encounter with [REDACTED] and recorded over an hour of their contact. Officer Zaidan's attitude and demeanor during that previous encounter gave no indication that there would be any reason to intentionally hide future encounters between them. COPA finds that this violation is not intentional, considers Officer Zaidan's Complimentary and Disciplinary history, and recommends a Violation Noted.

### a. Officer Enrique Molas, Jr.

**i. Complimentary and Disciplinary History** Officer Molas, Jr.'s Complimentary History includes one Department Commendation; two Complimentary Letters; 44 Honorable Mentions; one NATO Summit Service Award; one Presidential Election Deployment Award (2008); three Crime Reduction Ribbons and Awards (2004, 2009, 2019). She does not have any sustained complaints and has one SPAR, for which she received a reprimand in September 2019, for a preventable accident.

### ii. Recommended Penalty, by Allegation

**2. Allegation No. 1** Officer Molas, Jr. activated his body-worn camera twice during his previous encounters with [REDACTED] and recorded over an hour of their contact. Additionally, he activated it at the police station. COPA finds that this violation is not intentional, considers Officer Molas, Jr.'s Complimentary and Disciplinary history, and recommends a Violation Noted.

**IX. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Officer Jennifer Zaidan	It is alleged that on or about 18 July 2017 at approximately 12:30AM at [REDACTED] you:  1. Used excessive force while handcuffing [REDACTED]  2. Pushed [REDACTED] into a police vehicle;  3. Failed to activate your body-worn camera during the arrest and transport of [REDACTED]	Not Sustained  Not Sustained  Sustained / Violation Noted
Officer Enrique Molas, Jr.	It is alleged that on or about 18 July 2017 at approximately 12:30AM at [REDACTED] you failed to activate your body worn camera during the arrest and transport of [REDACTED]	Sustained / Violation Noted

Approved:

[REDACTED]

10-27-2020

\_\_\_\_\_  
 Angela Hearts-Glass  
 Deputy Chief Investigator

\_\_\_\_\_  
 Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	5
<b>Investigator:</b>	██████████
<b>Supervising Investigator:</b>	██████████
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass