

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	December 5, 2019, 10:50 a.m., [REDACTED]
Date/Time of COPA Notification:	December 9, 2019, 7:52 p.m.
Involved Officer #1:	Michael Collins, star #14288, employee ID#[REDACTED], Date of Appointment: July 28, 2008, PO, Unit 191/022, DOB: [REDACTED], 1983, Male, White
Involved Individual #1:	[REDACTED], DOB: [REDACTED], 1955, Female, Black
Involved Individual #2:	[REDACTED], DOB: [REDACTED], 1988, Male, Black
Case Type:	04B – Arrest, Improper, Procedures

**I. ALLEGATIONS**

Officer	Allegation	Finding
Officer Michael Collins	It is alleged by [REDACTED] that on or about December 5, 2019, at approximately 10:50 a.m., at or near [REDACTED], Officer Michael Collins, star #14288 committed misconduct through the following acts or omissions, by entering [REDACTED] residence without justification.	Exonerated

**II. SUMMARY OF EVIDENCE<sup>1</sup>**

[REDACTED] ([REDACTED]) stated officers came to her house multiple times, starting in October 2019, looking for her nephew, [REDACTED] ([REDACTED]), regarding a false accusation by a neighbor that [REDACTED] stole her television.<sup>2</sup> On December 5, 2019, [REDACTED] was at her house when officers came to her house. According to [REDACTED], [REDACTED] ignored the officers’ request to stop outside, walked into the house and shut the door. Officers knocked and [REDACTED] opened the door.

<sup>1</sup> COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain investigations are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

<sup>2</sup> [REDACTED] believed the police were harassing her because she told the police [REDACTED] did not reside with her. However, [REDACTED] admitted [REDACTED]’s ID listed her address, he received his disability checks at her address, and he had a prior arrest at her address. Additionally, according to Department Reports, on October 10, 2019, [REDACTED] identified [REDACTED] from a photo array as the individual that stole her television, providing officers probable cause to arrest [REDACTED]. See Attachments 8, 12.

Officer Michael Collins (Officer Collins) pushed his way inside the house over ██████'s protests that the officers did not have a search warrant.<sup>3</sup>

Body Worn Camera (BWC) shows the front door is open and ██████ is standing in the threshold. Initially, ██████ prevents Officer Collins from entering the house by extending his arm with his palm out, while stating it is his mother's house and he is trying to figure out what is happening. Officer Collins says he needs to talk to him, and ██████ identifies himself. ██████ steps backward inside the house, moves to the side and holds onto the front door. Officer Collins steps inside the house explaining he spoke to ██████ last week about this situation. ██████ denies speaking with the officers, and ██████, again, tells the officers they have the wrong house, and he wants to understand why they came inside uninvited.<sup>4</sup>

In his statement to COPA, Officer Collins stated, he remained outside when ██████ was at the door with this arm out. However, Officer Collins believed ██████ gave him nonverbal consent to enter the residence when ██████ opened the door and took a step back.<sup>5</sup> Additionally, Officer Collins stated, and BWC shows, no one told him to get out or leave.<sup>6</sup> Officer Collins explained he stepped into the house in order to keep everyone, including himself comfortable and avoid a physical encounter.<sup>7</sup> Additional officers arrive, confirm ██████'s identity, place him into custody and transport him to the police station without incident.<sup>8</sup> After, ██████ is taken into custody, Sergeant Martin Murphy explains to ██████ why the officers were there and why ██████ was taken into custody. ██████ made no complaint of the officers' conduct or entering her house.<sup>9</sup>

### III. 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.

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<sup>3</sup> Attachment 4.

<sup>4</sup> Attachment 19.

<sup>5</sup> Attachment 36.

<sup>6</sup> Attachments 19, 36.

<sup>7</sup> Attachment 36. Officer Collins stated he knew ██████ had a violent background, where ██████ had been arrested for UUW (Unlawful Use of a Weapon), assault of police officers and burglary, so he wanted control the situation until more officers arrived to avoid escalating the situation and having to go hands on.

<sup>8</sup> Attachments 4, 19-29.

<sup>9</sup> Attachment 29.

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.

#### IV. ANALYSIS AND CONCLUSION

COPA finds the allegation that Officer Collins entered ██████████' residence without justification is **Exonerated**. The fourth amendment bars warrantless and nonconsensual arrests in the home, absent exigent circumstances.<sup>10</sup> However, it has not been explicitly defined what words or conduct constitutes consent to enter the home.<sup>11</sup> In *People v. Henderson*, the Supreme Court held, when determining whether consent was given, the circumstances must have been such that the police could have reasonably believed they had been given consent to enter.<sup>12</sup>

Here, after explicitly preventing Officer Collins from entering the residence, ██████████ stepped back and moved to the side allowing Officer Collins to step inside. COPA finds it was reasonable for Officer Collins to believe ██████████'s conduct was a nonverbal invitation to enter. Furthermore, while a failure to object is not considered consent, in this case, it was reasonable for Officer Collins to believe ██████████ provided consent when ██████████ did not tell him to leave. Therefore, the evidence clearly establishes Officer Collins had consent to enter ██████████'s residence, and this allegation is **Exonerated**.

Approved: ██████████  
██████████

10/14/20

James Murphy-Aguilu  
Deputy Chief Administrator – Chief Investigator

Date

<sup>10</sup> *Payton v. New York* (1980), 445 U.S. 573, 100 S.Ct. 1371, 63 L.Ed.2d 639.

<sup>11</sup> "(Compare *People v. Bean* (1981), 84 Ill.2d 64, 69-70, 48 Ill.Dec. 876, 417 N.E.2d 608 (defendant's mother expressly invited police to enter and they did not need to get consent to advance past threshold and enter another room), with *People v. White* (1987), 117 Ill.2d 194, 221, 111 Ill.Dec. 288, 512 N.E.2d 677 (no consent when police pushed past man who opened front door without requesting his permission to enter).)" *People v. Henderson*, 568 NE 2d at 1254.

<sup>12</sup> *Id.* At 1254. (the defendant's mother's conduct constituted consent when she stepped back from the open door and pointed to the defendant's bedroom).

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	Six
<b>Major Case Specialist:</b>	██████████
<b>Supervising Investigator:</b>	██████████
<b>Deputy Chief Administrator:</b>	James Murphy-Aguilu