

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 26, 2019
Time of Incident:	3:36 pm – 3:55 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	January 2, 2020
Time of COPA Notification:	12:55 pm

[REDACTED] is a tenant at [REDACTED]. On November 26, 2019, the new property manager of the building, [REDACTED] was on location to evict squatters and follow up on a complaint of tenants stealing electricity. [REDACTED] observed an extension cord that appeared to connect a first level apartment to a basement apartment. [REDACTED] being under the impression that the basement apartment was vacant, opened the unlocked door where he encountered [REDACTED] was caught off guard and immediately grabbed the handle of an axe and approached [REDACTED] and his worker, [REDACTED] yelling and threatening physical harm against them. [REDACTED] announced who he was, but [REDACTED] refused to believe him. As [REDACTED] attempted to explain why he was there, [REDACTED] remained irate and continued to threaten them with the stick. [REDACTED] and [REDACTED] fearing being battered by [REDACTED] called the police due to [REDACTED] continued verbal threats to physically harm them.

Officers Smith and Villegas responded to the location and observed [REDACTED] with a stick in his hand, [REDACTED] and [REDACTED] were in close proximity of [REDACTED] and ordered [REDACTED] to put the stick down. Interviews were conducted at the scene with all parties involved, including an additional witness, a black female, who refused to be identified. [REDACTED] indicated to officers that he wanted to sign a complaint against [REDACTED] because he was threatened and feared for his life. [REDACTED] inquired about signing a complaint against [REDACTED] for entering his apartment, he was told by the officers that cross complaints were not allowed and there was no evidence supporting [REDACTED] entered his apartment illegally. The officers placed [REDACTED] under arrest for aggravated assault.

COPA finds that a preliminary investigation was conducted regarding this incident and Officers Smith and Villegas were within policy when they placed [REDACTED] under arrest.

II. INVOLVED PARTIES

Involved Officer #1:	Jordan Smith, Star #17346, Employee ID# [REDACTED] Date of Appointment: December 14, 2015, PO, Unit of Assignment: 018, DOB: [REDACTED] 1989, Male, White
Involved Officer #2:	Emmanuel Villegas, Star #9649, Employee ID # [REDACTED] Date of Appointment: August 16, 2017, PO, Unit of Assignment: 006, DOB: [REDACTED] 1996, Male, Hispanic

Involved Individual #1:

██████████ DOB: ██████████ 1963, Male Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Jordan Smith	1. Failed to conduct a preliminary investigation regarding the above incident, in violation of Rule 10.	Exonerated
	2. Arrested ██████████ without justification, in violation of Rule 6.	Exonerated
Officer Emmanuel Villegas	1. Failed to conduct a preliminary investigation regarding the above incident, in violation of Rule 10.	Exonerated
	2. Arrested ██████████ without justification, in violation of Rule 6.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 6: Disobedience of an order or directive, whether written or oral.
- 2. Rule 10: Inattention to duty.

General Orders

- 1. General Order 04-01 – Preliminary Investigations

V. INVESTIGATION¹

a. Interviews

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

In his statement to COPA² on January 6, 2020, ██████ said, approximately a month prior, he got permission to move from the basement apartment to a second-floor apartment and had recently received the keys for the apartment. On November 26, 2019, he began moving some of his belongings to the second-floor apartment but got tired because he is disabled. He sat down and started watching television, a short time later, a white male and a black male opened the door to his apartment and walked in three to four feet without permission. ██████ did not know these two men and was startled by their presence. ██████ asked the two males who they were and what they were doing in his apartment. ³ ██████ asked ██████ what he was doing in the basement apartment because it was supposed to be vacant. ██████ said he has lived in the basement apartment for three winters and just did not move the week prior. He did not believe ██████ as being the property manager because he had never seen him before, and he was white. ██████ said the only property manager he had knowledge of was ██████ who is black and ██████ from Middleton Real Estate.

██████ said, when he realized ██████ and ██████ were 3 to 4 feet inside his apartment, he grabbed his stick and walked towards them, at which time they turned around and walked up the stairs and he followed them outside to the rear of the apartment building. ██████ said he told ██████ he was not going to leave until the police arrived, and his neighbor called the police for him. When the police arrived in the alley, the officers told ██████ to place the stick down and he complied. ██████ told the officers what happened and the Hispanic officer, Villegas remained with him, while the white male officer, Smith talked to ██████ and ██████

The officers finished their interviews and Officer Smith told ██████ that ██████ and ██████ were signing a complaint against him and he was being placed under arrest. ██████ said he asked to file a complaint against ██████ and ██████ for trespassing, but the officer told him that cross-complaints could not be filed. ██████ later learned that ██████ was the new owner of the building. It is his belief that he should not have been arrested and that ██████ and ██████ should have been arrested. ██████ admitted he was supposed to have been moved to the second-floor apartment, but because of his back issues, he was moving little by little.

In his statement to COPA on August 11, 2020, **Officer Jordan Smith** related that upon arrival to the scene there were several individuals in the alley, and at the rear of the building. ██████ was observed holding a stick in his hands. Officer Smith described the stick to be an ax handle without the blade on top. Officer Smith said ██████ complied with order to put the stick down. He conducted a preliminary investigation and interviewed ██████ and an unidentified female black tenant that refused to provide identification. Officer Smith later learned she was evicted by ██████

Officer Smith said ██████ accused ██████ of threatening him with physical harm while holding a stick. ██████ further told him he followed an extension cord from a first level apartment to the basement apartment and opened the unlocked door to an apartment he believed to be vacant. He immediately saw ██████ and identified himself to as the property manager. ██████ said they never entered the apartment and remained at the doorway. ██████ was very irate and threatened them with an ax as they turned to walk up the stairs. ██████ followed them and told them they weren't going

² Att. 10.

³ The white male was identified as ██████ new manager for the building.

anywhere, and if they moved, he would knock his motherfucking head off. ██████ told him he feared for his life and called the police.

Officer Smith said when he talked to ██████ he told him ██████ opened his apartment door and entered without permission. ██████ said ██████ did identify himself as the property manager, but he did not believe him because he had never seen him before. ██████ said further that he was only aware of ██████ and ██████ from Middleton Real Estate as property managers and they were black. Officer Smith could not recall what if anything PO Villegas said or did with ██████ or ██████ but saw him speaking with them on separate occasions.

Officer Smith stated ██████ account of the incident was consistent with ██████ and the unidentified black female tenant. Officer Smith stated that he arrested ██████ based on the totality of all of the circumstances, which included observing ██████ with the axe handle stick upon arrival, obtaining corroborating statements from all the involved parties' and obtaining a signed complaint from ██████. Officer Smith explained to ██████ that they were not allowed to make cross complaints.

In his statement to COPA on July 29, 2020, **Officer Emmanuel Villegas** stated a similar account as Officer Smith. Officer Villegas recalled OEMC calls from the property manager that he feared being battered and that a tenant was threatening him with a stick, they also received a call about man with a knife. Officer Villegas said upon arrival he observed ██████ holding a yellow metal object that appeared to be a handle of an ax. He was ordered to drop it, in which he immediately complied. ██████ and ██████ were separated, and he talked to ██████ while Smith talked to ██████. He noticed ██████ to be vocal and in an excited manner. ██████ was complaining that ██████ opened the apartment door and that's when he grabbed the stick. ██████ further related to him that he has never seen ██████ and ██████ and followed them outside because he feared for his life.

Officer Villegas remained with ██████ while Officer Smith proceeded to talk to ██████. Officer Villegas explained to ██████ that they were trying to gather the information of the incident.

Officer Villegas also spoke with ██████. ██████ told him he was at the property to evict a tenant and was following up on complaints of tenants stealing electricity. ██████ said he followed an electrical cord from one apartment to the basement apartment that should have been vacant. The door was not locked, and he opened the door. He announced that he was the property manager checking on a tenant stealing electricity. ██████ came after him in an aggressive manner and pick up an ax and approached him. ██████ account was supported by ██████. Officer Villegas said he and Officer Smith conducted a preliminary investigation and arrested ██████ on sign complaints.

b. Digital Evidence

The **Body Worn Cameras** (BWC)⁴ of Officers Smith and Villegas were obtained and the videos captured conversations with all of the involved parties. Officers Smith and Villegas interviewed ██████ and another tenant, a black female who refused to identify herself. The BWC video captured ██████ standing in between the opening of the rear fence with his left hand holding onto the gate while continuously pointing his right finger at ██████, and yelling that he

⁴ Atts. 16, 17.

opened his door without permission. As Officer Smith and Officer Villegas approach, [REDACTED] stepped out from the gate into the alley, then [REDACTED] walked out-of the gate. [REDACTED] continued yelling that [REDACTED] entered his apartment without permission. As Officer Smith and Officer Villegas separate them, [REDACTED] told Officer Villegas that [REDACTED] tried to swing an ax at them. Officer Smith then walked inside the gate with [REDACTED]

Officer Villegas stood by with [REDACTED] and him to tell him what happened, in a loud tone [REDACTED] told him he has no idea who [REDACTED] is, but they went into his home. [REDACTED] appeared very agitated, he talked loudly and pointed his finger continuously towards [REDACTED] stating, "I never seen this white man before in my life." Officer Villegas told [REDACTED] he need to calm down, [REDACTED] responded, that if he had a gun he could have shot them. [REDACTED] continued to say that all he had was "that" (pointing to the ax handle) because he didn't want them to leave, and [REDACTED] tried to leave when he called the police.

In the BWC videos, [REDACTED] does not deny opening the basement apartment door after following an electrical cord from one apartment to the basement which he believed was vacant. [REDACTED] denied entering the apartment and indicated that he identified himself as the property manager to [REDACTED] but [REDACTED] refused to believe him. [REDACTED] account was supported by [REDACTED] added that when [REDACTED] told [REDACTED] to call the police, he told [REDACTED] "If you move, I'm going to knock your motherfucking head off." The BWC also captured a black female who confirmed that [REDACTED] opened the door to [REDACTED] apartment and [REDACTED] held a stick to [REDACTED] and [REDACTED] then followed them to the back. The female failed to provide her information after Officer Smith asked her for her name and identification.

c. Documentary Evidence

The **Department Reports:⁵ Arrest, Case and Supplementary Reports** regarding [REDACTED] arrest for Aggravated Assault by Officers Smith and Villegas is supported by a signed complaint from the victim, [REDACTED]. The officers responded to a call of a man with a knife, upon arrival [REDACTED] was observed near the alley in an excited manner holding a yellow stick that appeared to be the handle of an axe. The officers ordered him to drop the stick and [REDACTED] complied. The victim, [REDACTED] told the officers that he was the property manager for [REDACTED] and that he was at the location regarding an eviction of a tenant, and a complaint of another tenant stealing electricity. [REDACTED] followed the electrical cord to [REDACTED] apartment in the basement which he expected it to be vacant. [REDACTED] found the door to be unlocked and opened the door, at which time [REDACTED] immediately became irate, yelled at him, and threatened him with the yellow stick. [REDACTED] said he never went inside the apartment, and that he turned around and walked up the stairs, [REDACTED] followed. He reasonably believed that [REDACTED] was going to batter him after [REDACTED] told him not to move because he was going to knock head off, and that's when he called the police. [REDACTED] said he identified himself to [REDACTED] but [REDACTED] did not believe him. [REDACTED] and an unidentified black female tenant were a witnesses to the incident and confirmed [REDACTED] account. [REDACTED] was placed under arrest on a sign complaint from [REDACTED]

⁵ Atts. 1, 2, 15.

The **Event Queries**⁶ documented various calls from the location of incident. One call was from someone identified as ██████████ complaining that the building manager turned off her lights in the basement illegally and that her neighbor has a 2 x 4 up to the building manager. A call came from ██████████ who accused a man of swinging at him with an axe in the alley and of a person with a knife.

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 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

COPA finds Allegations #1 and #2 against Officers Smith and Villegas a finding of EXONERATED. The body worn camera videos of Officers Smith and Villegas captured several conversations between the officers and ██████████ regarding this incident. The BWC recordings documented ██████████ behavior, the weapon he used to threatened ██████████ and his own admission that he did threatened ██████████ with physical harm for opening his apartment door. ██████████ account of the incident was supported by various witnesses captured in the BWC and the Department reports. The officers conducted a preliminary investigation by speaking with all the individuals at the scene. ██████████ was placed under arrest after ██████████ requested to have him arrested and signed a

⁶ Atts. 4 - 6.

complaint against [REDACTED] for aggravated assault. Therefore, due to the totality of the circumstances and the preponderance of evidence, COPA finds that the Officers Smith and Villegas acted within policy and in accordance to Department Rules and Regulations. COPA finds that these allegations should be closed as Exonerated.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Jordan Smith	1. Failed to conduct a preliminary investigation regarding the above incident, in violation of Rule 10.	Exonerated
	2. Arrested [REDACTED] without justification, in violation of Rule 6.	Exonerated
Officer Emmanuel Villegas	1. Failed to conduct a preliminary investigation regarding the above incident, in violation of Rule 10.	Exonerated
	2. Arrested [REDACTED] without justification, in violation of Rule 6.	Exonerated

Approved:

[REDACTED SIGNATURE]

10-28-2020

 Angela Hearts-Glass
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	11
Investigator:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	Angela Hearts-Glass
*Attorney:	████████████████████