

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 02, 2018
Time of Incident:	8:16 am
Location of Incident:	██
Date of COPA Notification:	December 5, 2018
Time of COPA Notification:	3:48 pm

On December 2, 2018, at approximately 08:16 am, Officers James Murray, Isai Junes, and Admir Duratovic, responded to ██████████ in response to ██████████ 911 call regarding a trespasser inside the aforementioned location. The officers spoke with ██████████ and ██████████ while on the scene. ██████████ claimed that ██████████ was trespassing on the property and that no one allowed her inside. ██████████ claimed to be visiting her daughter, ██████████ who is the second-floor tenant. ██████████ corroborated that ██████████ had permission to be in her apartment. ██████████ also alleged, to the officers, that ██████████ battered her by pushing her on her chest in an attempt to physically remove her from the apartment. ██████████ signed a criminal complaint against ██████████ for battery and he was arrested.

II. INVOLVED PARTIES

Involved Member #1:	Name: James Murray; Rank: Police Officer; Star#: 7825; Employee ID ██████████ Unit of Assignment: 015; DOA: August 25, 2003; Male; White.
Involved Individual #1:	Name: ██████████ Male; Black.

III. ALLEGATIONS¹

Officer	Allegation	Finding
Officer James Murray	1) Arrested ██████████ without justification.	Unfounded.
	2) Used profane language.	Exonerated.
	3) Acted in a rude and unprofessional manner.	Unfounded.

¹ COPA’s preliminary investigation revealed that only Officer Murray warranted allegations during this incident.]

IV. INVESTIGATION

a. Interviews

In his statement to COPA on December 18, 2018, ██████████ explained that he and his wife, ██████████, own the property at ██████████. ██████████ stated that on the day of this incident he called the police regarding ██████████ the mother of the 2nd floor tenant, ██████████⁴ ██████████ explained that ██████████ is not allowed on the property because she previously damaged a door inside the building and because she uses drugs and sleeps in the hallway. ██████████ has been able to gain access to the building because she has a key from ██████████

Officer Murray and two other male uniformed officers arrived in response to ██████████ 911 call. After the officers spoke to ██████████ and ██████████ they asked ██████████ if he hit ██████████ replied, "What? Well maybe we hit her because the lady's breaking the house and caused damage."⁵ ██████████ also denied having any physical contact with ██████████ stated that it was possible that ██████████ told the officers that he struck her.

██████████ stated that Officer Murray then placed him under arrest, during which Officer Murray cursed at him.⁶ ██████████ also alleged that Officer Murray falsely arrested him, explaining that he never struck ██████████

In a statement to COPA on January 31, 2019, **Officer Isai Junes**⁷ stated he, Officers De La Torre and Murray, responded to ██████████ 911 call. Upon arrival, ██████████ informed them that she let her mother, ██████████ stay with her in her apartment overnight. ██████████ told the officers that ██████████ pushed her. ██████████ denied having any physical contact with ██████████ Officer Junes stated that because ██████████ wanted to sign a complaint against ██████████ he was placed under arrest for battery.

Officer Junes stated that Officer Murray may have used profanity but could not recall exactly what he may have said.

In a statement to COPA on January 31, 2019, **Officer Admir Duratovic**⁸ relayed essentially the same information as Officer Junes. Officer Duratovic stated that ██████████ was arrested because ██████████ signed a criminal complaint against him for battery. Officer Duratovic stated that Officer Murray used profanity during the incident, but he could not recall exactly what was said. Officer Duratovic added that he felt that Officer Murray acted in a professional manner throughout this incident.

² Att. 41.

³ During his statement, ██████████ referred to ██████████ as ██████████.

⁴ During his statement, ██████████ referred to ██████████ as ██████████.

⁵ Transcript of ██████████ Page 13, Lines 16-17.

⁶ ██████████ did not elaborate as exactly what curse words Officer Murray directed at him.

⁷ Att. 40.

⁸ Att. 31.

In a statement to COPA on January 31, 2019, **Officer James Murray**⁹ stated that on the day of this incident he was working with Officers Duratovic and Junes. Officer Murray stated that he and his partners responded to [REDACTED] 911 call for assistance, and upon arrival encountered [REDACTED] and [REDACTED] on the front porch of the residence. [REDACTED] complained that [REDACTED] was on the premises unlawfully. The officers spoke with [REDACTED] and [REDACTED] and determined that [REDACTED] was there with permission from [REDACTED] the resident of the second floor of the building. [REDACTED] informed the officers that prior to the officers' arrival, [REDACTED] pushed her on her chest in an attempt to physically force her to leave her daughter's apartment. [REDACTED] denied pushing or having any physical contact with [REDACTED] claimed to have a witness that would corroborate his version of events, but that his witness did not want to speak with the police officers. [REDACTED] signed a criminal complaint against [REDACTED] for battery. [REDACTED] was then taken into custody. Officer Murray stated that he did not recall using any profanity during the incident but conceded that it was entirely possible.

b. Digital Evidence

The recordings from the **Body-Worn Cameras**¹⁰ assigned to Officers Murray, Junes, and Duratovic showed that upon arrival to [REDACTED], they were met by [REDACTED] and [REDACTED] on the front porch. [REDACTED] and [REDACTED] both repeatedly claimed to have made police reports against the other, but neither could produce a report number or a copy of the reports. [REDACTED] stated that on the date of this incident [REDACTED] attacked her, and that she armed herself with a liquor bottle. [REDACTED] claimed that the week prior she reported [REDACTED] to the police for attacking her. Officer Murray asked her did she obtain an Arrest Warrant or an Order of Protection, but [REDACTED] told him she had not because she was in the hospital.

[REDACTED] claimed that [REDACTED] was trespassing in the building, but [REDACTED] repeatedly said her family currently resides in the building. [REDACTED] admitted that [REDACTED] relatives do live in the building and added that he also lived in the building. [REDACTED] informed the officers that [REDACTED] was lying, that he did not live in the building. [REDACTED] and [REDACTED] repeatedly interrupted, and talked over, each other and Officer Murray. Officer Murray had to repeatedly request them to stop interrupting and to just answer his questions.

[REDACTED] told Officer Murray that it was impossible that any of [REDACTED] relatives allowed her into the building because he asked them not to let her in. As Officer Murray attempted to ask additional questions to gain clarity as to who actually resides in the building, [REDACTED] repeatedly interrupted and talked over Officer Murray, prompting Officer Murray to say, "Would let me get a fucking¹¹ word in edge wide. You're killing me."¹²

When Officer Murray asked [REDACTED] who else lives in the building, [REDACTED] replied that his question was vague. [REDACTED] then entered the residence to retrieve the people that told him that they did not allow [REDACTED] into the building. The officers remained on the front porch with [REDACTED]

⁹ Att. 41.

¹⁰ Att. 34.

¹¹ This is the only time Officer Murray used any profanity during the nearly 30-minute encounter.

¹² Att. 34, file Murray – AXON_Body_2_Video_2018-12-02_0759 at 04:29.

who reiterated that [REDACTED] attacked her, and that [REDACTED] only called 911 after she armed herself with a liquor bottle to defend herself against him.

[REDACTED] returned alone to the front porch and informed Officer Murray that witnesses corroborated his story, but that they did not want to come outside to speak to the police. Initially, he offered to let the officers into the building to go speak to the witnesses, but then he began to argue with Officer Murray. [REDACTED] agreed to go back inside and return with the witnesses to corroborate that [REDACTED] was trespassing, but [REDACTED] again returned without the witnesses. [REDACTED] was asked, and she confirmed that [REDACTED] battered her. [REDACTED] was then placed under arrest for battering [REDACTED].

Once [REDACTED] was secured in the Department vehicle, the officers speak to [REDACTED] who confirms she allowed [REDACTED] to stay with her and that [REDACTED] regularly enters her apartment and batters [REDACTED] when she is present.¹³

c. Documentary Evidence

The **Office of Emergency Management and Communication PCAD Event Query #1833604075**¹⁴ stated that on December 2, 2018, [REDACTED] telephoned 911 and informed the Call Taker that there was a trespasser in his building located at [REDACTED]. He claimed to have a police report on the trespasser, [REDACTED] would not answer the Call Taker's questions.

The related **Department reports**¹⁶ stated that Officers Murray, Duratovic, and Junes responded to a disturbance call at [REDACTED]. Upon arrival the officers spoke to [REDACTED] who related that [REDACTED] broke into the residence. The officers then spoke to [REDACTED] who related that her daughter, [REDACTED] resides on the second floor of the residence, and that she let [REDACTED] stay with her the night before. [REDACTED] corroborated her mother's account. [REDACTED] claimed that [REDACTED] intentionally pushed her on her chest with both of his hands. [REDACTED] signed a criminal complaint and [REDACTED] was arrested for the misdemeanor battery of [REDACTED].

V. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. **Sustained** - where it is determined, by a preponderance of the evidence, that the allegation in fact occurred;¹⁷

¹³ Att. 34, file Junes – AXON_Body_2_Video_2018-12-02_0800 at 13:30.

¹⁴ Att. 16.

¹⁵ [REDACTED] is identified as [REDACTED] on the document.

¹⁶ Atts. 12 to 14.

¹⁷ **Preponderance of evidence** is described as evidence indicating that it is more likely than not that the conduct occurred and violated Department policy. 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. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005).

2. Unfounded - where it is determined, by clear and convincing evidence, that an allegation is not supported by the facts;¹⁸
3. Exonerated - where it is determined, by clear and convincing evidence, that the conduct described in the allegation occurred, but it is lawful and proper; or
4. Not Sustained - where there is insufficient evidence to sustain, unfound or exonerate the allegations.

VI. ANALYSIS AND CONCLUSION

COPA finds that Allegation #1 against Officer Murray, that he improperly arrested ██████ is **unfounded**. A Department member must have probable cause to arrest a subject.¹⁹ “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.”²⁰ The reasonable basis of any arrest “should be considered from the perspective of a reasonable officer at the time” of the arrest.²¹

Here, the officers’ investigation revealed that ██████ alleged that ██████ battered her and that she was willing to sign a criminal complaint. ██████ allegation and willingness to sign a complaint established the probable cause to arrest ██████ for battery. Therefore, the arrest of ██████ was reasonable and proper.

COPA finds that Allegations #2 against Officer Murray, that he used profane language; is **exonerated**. Department members are required to “treat all persons with courtesy and dignity which is inherently due every person as a human being” and do so while “speak[ing] ... in a professional manner and maintain[ing] a courteous attitude in all contacts with the public.”²²

In this instance, COPA find the use of profanity was limited and not intended to degrade or refer to ██████. Conversely, COPA finds Officer Murray’s use of profanity was intended to impress upon ██████ that his actions were impeding Officer Murray’s ability to complete the needed interviews for his investigation.

COPA finds that Allegation #3 against Officer Murray, that he acted in a rude and unprofessional manner, is **unfounded**. Department members are required to “treat all persons with courtesy and dignity which is inherently due every person as a human being” and do so while

¹⁸ **Clear and convincing evidence** is described a more that preponderance of the evidence but lower than beyond-a-reasonable doubt required to convict a person of a criminal offense. Clear and Convincing is described as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable” there was no misconduct. *See People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹⁹ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964).

²⁰ S04-13-09 II(D), Investigatory Stop System (effective July 10, 2017 to current).

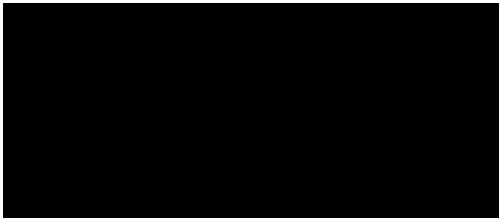
²¹ S04-13-09 II(D), Investigatory Stop System (effective July 10, 2017 to current).

²² G02-01 III (B), Human Rights and Resources (effective October 15, 2017 to current); G02-04 II (C), Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective December 1, 2017 to current).

“speak[ing] ... in a professional manner and maintain[ing] a courteous attitude in all contacts with the public.”²³

As discussed above, during the entire interaction [REDACTED] and [REDACTED] actively spoke over Officer Murray and impeded his ability to conduct the needed criminal investigation. Further, while Officer Murray raised his voice, it was in an attempt to control the investigation that both [REDACTED] and [REDACTED] were actively trying to obstruct. Therefore, this allegation against Officer Murray, this allegation is **unfounded**.

Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

9/28/2022

Date

²³ G02-01 III (B), Human Rights and Resources (effective October 15, 2017 to current); G02-04 II (C), Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective December 1, 2017 to current).