

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	April 25, 2018/ 10:55 a.m./ 1458 S Canal, Chicago, IL
Date/Time of COPA Notification:	May 21, 2018/ 12:27 p.m.
Involved Officer #1:	Michael Jacob, Star #5478, employee ID # [REDACTED], Date of Appointment: 24-Jan-2000, Police Officer, Unit of Assignment: 020, DOB: [REDACTED]1973, Male, White
Involved Officer #2:	Nickolas Tavares, Star #19722, employee ID # [REDACTED], Date of Appointment: 04-Dec-1995, Police Officer, Unit of Assignment: 001, DB: [REDACTED]1964, Male, Spanish
Involved Officer #3:	David Gushiniere, Star #8511, employee ID # [REDACTED], Retirement Date: 16-Oct-2019
Involved Individual #1:	[REDACTED]1982, Male, Black
Case Type:	False Arrest

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Michael Jacob	1. Arresting [REDACTED] without justification.	Exonerated
Officer Gushiniere ¹	1. Arresting [REDACTED] without justification.	Exonerated

II. SUMMARY OF EVIDENCE

Officers Jacob, and Gushiniere (collectively “the officers”) responded to Pacific Mission Garden located at 1458 S Canal Street for a call of Criminal Trespass. Upon arrival, the officers met and spoke with the Security Guard, [REDACTED] (hereafter Mr. [REDACTED] who stated [REDACTED] (hereafter Mr. [REDACTED]) had been warned several times not to visit the property. Mr. [REDACTED] stated he wanted Mr. [REDACTED] removed from the property and arrested. The Officers were approached by staff member, [REDACTED], who stated at approximately 8:45 a.m.,

¹ David Gushiniere, Star #8511, Employee ID # [REDACTED], is also an accused officer. However, he retired 15-Oct-2019. His Personnel Action Request (PAR) Summary in incorporated as Att. 21.

Mr. ██████ advised her that [he] was going to “get,” ██████. Ms. ██████ did not take the threat lightly. Both Mr. ██████ and ██████ signed complaints against Mr. ██████ for trespass and assault. The Officers placed Mr. ██████ in custody and conducted a search and removed all of Mr. ██████ belongings from his pockets. Mr. ██████ was then turned over to Officers Gregory Cox and Sofia Arellano for transport to the district.

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.

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.² 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.³ Clear and convincing is 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.”⁴

IV. ANALYSIS AND CONCLUSION

COPA finds that the allegation against the Officers is **EXONERATED**. The actions taken by the officers were justified and within department policy. The Officers had probable cause to effect the arrest of Mr. ██████ based on signed complaints. Accordingly, the allegation is **EXONERATED**.

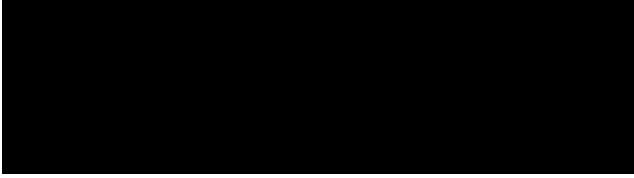
Since the Officers’ conduct was reasonable and proper, there is no reason for the Officers to answer to the allegation.

² 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 been found to be more probably true than not).

³ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁴ *Id.* at ¶ 28.

Approved:



6-30-2022

Angela Hearts-Glass
Deputy Chief Investigator

Date