

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 5, 2018
Time of Incident:	2:52 AM
Location of Incident:	3730 N. Clark St. Chicago, IL
Date of COPA Notification:	November 7, 2018
Time of COPA Notification:	4:00 PM

Officer Eddie Figueroa and other officers responded to calls for service at Smartbar regarding two intoxicated individuals. Upon arrival, Smartbar security identified Ms. [REDACTED] and Mr. [REDACTED] as the two individuals trying to start fights with other patrons and Smartbar staff. [REDACTED] and [REDACTED] were given multiple orders to leave the area or else they would be arrested. Both failed to leave the area and were subsequently arrested by Officer Figueroa for criminal trespassing and disorderly conduct on criminal complaints signed by Smartbar security. The allegations that Officer Figueroa arrested [REDACTED] and [REDACTED] without justification, are both exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Eddie Figueroa / Star # 17241 / Employee ID # [REDACTED] / DOA: 3 Jan 2005 / Unit: 019 / DOB: [REDACTED] 1981 / Male / Hispanic
Involved Individual #1:	[REDACTED] / [REDACTED] 1986 / Female / White
Involved Individual #2:	[REDACTED] / [REDACTED] 1983 / Male / White

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Eddie Figueroa	1. Arrested [REDACTED] without justification	Exonerated
	2. Arrested [REDACTED] without justification	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6 – Disobedience of an order or directive, whether written or oral.

Special Orders

1. S04-13-09 Investigatory Stop System

v. INVESTIGATION**a. Interviews**

COPA interviewed complainant [REDACTED] on November 7, 2018.¹ [REDACTED] and her friend, [REDACTED] were attempting to enter Smartbar when they were denied entry by security. Smartbar security told them that they were intoxicated and needed to wait 40 minutes before they could enter. Members of a group [REDACTED] and [REDACTED] were with prior to Smartbar arrived and got in line to enter. [REDACTED] and [REDACTED] followed the group in line and were denied entry again and asked by security to leave. [REDACTED] told security that they (her and [REDACTED]) were free to stand on the sidewalk.

While standing on the sidewalk, the pair heard someone in another group outside the bar call them “Russian garbage”. An argument between [REDACTED] and the group followed. [REDACTED] was kicked by a member of the other arguing party in front of Smartbar security and CPD officers who had arrived. [REDACTED] asked the officers to do something about her being kicked which they responded by telling her they ([REDACTED] and [REDACTED]) needed to go home. [REDACTED] began to yell at the officers who responded by arresting both her and [REDACTED] for not leaving. [REDACTED] believed that the officer that arrested them could not do so because they were on the sidewalk which is public property.

COPA interviewed complainant [REDACTED] on November 7, 2018.² After getting to Smartbar with [REDACTED] explained to him that they were not allowed in for 30 to 40 minutes by security. While speaking to [REDACTED] in Russian, [REDACTED] overheard someone calling the pair “Russian garbage”. An argument with the other group started and one of the opposite group members spilled a drink on [REDACTED] continued to argue with the other group when one of them hit her. [REDACTED] attempted to retaliate against that person but was prevented from doing so. [REDACTED] and [REDACTED] approached CPD officers to speak with them about what had just happened between the two groups. [REDACTED] continued to speak with the officers when [REDACTED] tried to convince her to leave. Without saying anything, the officers put [REDACTED] in handcuffs and transported him to the police station.

b. Digital Evidence

An audio recording of a 911 call was reviewed.³ The caller tells the dispatcher that some people, now identified as [REDACTED] and [REDACTED] were denied entry to Smartbar because they’re drunk and were now causing trouble outside the bar. The caller relates that the two are being racist towards bar security and verbally harassing them. The caller identifies a police officer, and the dispatcher instructs them to speak with the officer.

¹ Att. 5

² Att. 7

³ Att. 16: EV# 01030.mp3

Officer Figueroa's BWC was reviewed.⁴ Upon arrival, Officer Figueroa's BWC records [REDACTED] yelling and arguing with officers who had already responded to the disturbance. Officers attempt to calm [REDACTED] and ask her to lower her voice as she continues to loudly express her frustration regarding her interaction with another patron. [REDACTED] speech is clearly impaired as she repeatedly states, "white lives don't matter" and other similar iterations.⁵ Officer Figueroa approaches [REDACTED] and tells them ([REDACTED] and [REDACTED]) that they need to go multiple times. [REDACTED] grabs [REDACTED] arm, says "let's go"⁶ and attempts to lead her away but [REDACTED] refuses and continues yelling. Officer Figueroa and other officers again tell [REDACTED] that she needs to leave as [REDACTED] again attempts to lead her away but is rebuffed.

Officer Figueroa briefly speaks to Smartbar security who tells him that [REDACTED] was saying racist things to him and threatened to call ICE⁷ on him.⁸ Officer Figueroa again tells [REDACTED] that it is time to leave, and her response is that she wants the DEA⁹. Officer Figueroa confirms with Smartbar staff that if [REDACTED] and [REDACTED] do not leave they would be willing to sign complaints against the pair. Officer Figueroa approaches [REDACTED] and [REDACTED] giving them a final warning that they need to leave the area, or they both will go to jail. [REDACTED] responds "okay, let's go to jail"¹⁰ and both are placed into handcuffs. [REDACTED] is placed in a separate vehicle than [REDACTED] who verbally refuses and physically resists being put in the rear of another vehicle by Officer Figueroa.¹¹

BWC records Officer Figueroa completing paperwork documenting the arrest, providing information to Smartbar security staff (complainants), and transport of [REDACTED] to 019 District for processing. The remainder of BWC recording shows [REDACTED] and [REDACTED] being processed in lockup before Officer Figueroa ends the event while documenting their personal items.

Multiple assisting officers BWC recordings were reviewed.¹² All recordings reviewed show the event as seen by Officer Figueroa's BWC but from different perspectives.

c. Documentary Evidence

An arrest report for [REDACTED] was reviewed.¹³ [REDACTED] was denied entry to Smartbar by security due to her level of intoxication. Security requested [REDACTED] leave the premises, but she began to argue with other patrons. Security called 911 and [REDACTED] was asked by officers to leave. [REDACTED] was arrested by Officer Figueroa for criminal trespass to land and disorderly conduct on complaints signed by Smartbar security [REDACTED] was transported to the 019th District for processing.

An arrest report for [REDACTED] was reviewed.¹⁴ [REDACTED] was denied entry to Smartbar by security due to his level of intoxication. Security requested [REDACTED] leave the premises, but he began to argue with other patrons. Security called 911 and [REDACTED] was asked by officers to leave. [REDACTED] was arrested by Officer Figueroa for criminal trespass to land and disorderly conduct on complaints signed by Smartbar security [REDACTED] was transported to the 019th District for processing.

⁴ Att. #14 – Accused Ofc Figueroa

⁵ Att. 14 – Accused Ofc Figueroa: 01:15 – 02:15

⁶ Att. 14 – Accused Ofc Figueroa: 02:53

⁷ ICE: Immigration and Customs Enforcement

⁸ Att. 14 – Accused Ofc Figueroa: 09:07

⁹ Drug Enforcement Agency

¹⁰ Att. 14 – Accused Ofc Figueroa: 12:30

¹¹ Att. 14 – Accused Ofc Figueroa: 14:35

¹² Att. 14: Officers Carodine, Gadek, Galvan, Gunning, Lopez, Melecio, Williams

¹³ Att. 8

¹⁴ Att. 9

An Original Case Incident Report was reviewed.¹⁵ [REDACTED] and [REDACTED] were denied entry by Smartbar security [REDACTED] due to being highly intoxicated. Both got back in queue line and were denied entry again. [REDACTED] and [REDACTED] began altercations with other waiting patrons and were asked to leave the property. [REDACTED] called 911. Responding officers requested that the pair leave which they refused resulting in their arrest.

Attendance and assignment records for the incident date were reviewed.¹⁶ Review of attendance records identified the Detention Aides who were assigned to 019 District male lockup. DA Robert Liapis and DA Eddie Skerrett were working at the time [REDACTED] was detained in the 019 District male lockup.

Supervisor Management and Watch Incident Logs were requested and reviewed.¹⁷ Logs did not indicate any incidents involving [REDACTED] and [REDACTED] while in CPD custody.

Daily Prisoner Logs for 019 Male Lockup were requested and reviewed.¹⁸ Prisoner count during each watch is indicated and the status of each cell occupant during mandatory visual observations every 15 minutes. There were no notable occurrences.

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 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

¹⁵ Att. 10

¹⁶ Att. 18

¹⁷ Att. 21

¹⁸ Att. 22

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 the allegations that Officer Figueroa arrested [REDACTED] and [REDACTED] without justification, are exonerated. An officer 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 BWC of Officer Figueroa showed he had warned and ordered both [REDACTED] and [REDACTED] to leave the area multiple times which they refused or ignored. Additionally, Smartbar security [REDACTED] signed criminal complaints against both for their refusal to leave the area of his employer’s property. Both were subsequently arrested for criminal trespassing and disorderly conduct by Officer Figueroa. The allegation that Officer Figueroa arrested [REDACTED] and/or [REDACTED] without justification, are **EXONERATED**.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Eddie Figueroa	1. Arrested [REDACTED] without justification	Exonerated
	2. Arrested [REDACTED] without justification	Exonerated

Approved:

[REDACTED SIGNATURE]

12/27/2021

 Matthew Haynam
 Deputy Chief Administrator – Chief Investigator

 Date

¹⁹ Att. 23: S04-13-09 Investigatory Stop System: II. Definitions – D. Probable Cause – effective 10 Jul 2017
²⁰ Att. 23: S04-13-09 Investigatory Stop System: II. Definitions – D. Probable Cause – effective 10 Jul 2017

