

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 27, 2018
Time of Incident:	9:00pm to 11:59pm
Location of Incident:	████████████████████
Date of COPA Notification:	March 29, 2018
Time of COPA Notification:	2:32 pm

Officer Joel Lopez (“Officer Lopez”), acting on information received from a “J Doe” source relating to ██████████ (██████████ obtained, and executed a search warrant for a building located at ██████████, Chicago IL. ██████████ lived on the second floor of the building. Officer Lopez and other Chicago Police Department (“Department”) members breached the exterior gate and door of the building. Once inside the building, the officers climbed upstairs to ██████████ second floor unit, and forced entry. ██████████ and her companion, ██████████ were in a bedroom when they heard officers enter their unit.

II. INVOLVED PARTIES

Involved Officer #1:	Joel Lopez, Star No. 7613, Employee ID No. ██████████, Date of Appointment: March 15, 2013, PO, Unit of Assignment 193, DOB ██████████, 1985, male, Hispanic
Involved Individual #1:	██████████ Date of Birth: ██████████, 1973, female, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Joel Lopez	It is alleged that on or about March 27, 2018, at approximately 9:00 pm, at or near ██████████ ██████████ Officer Joel Lopez, Star No. 7613, committed misconduct through the following acts or omissions, in violation of Department policy: 1. Entering the apartment of ██████████ without justification.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

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1. Rule 1: Violation of any law or ordinance.
 2. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 3. Rule 6: Disobedience of an order or directive, whether written or oral.

Special Orders

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1. S04-13-09(II)(D) (effective July 10, 2017)
 2. S04-19 Search Warrants (effective September 3, 2015, through May 27, 2021)

Federal Laws

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- 1.U.S. Constitution, Amendment IV

State Laws

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- 1.Illinois Constitution, Article 1, Section 6. Searches, Seizures,

V. INVESTIGATION¹

a. Interviews

██████████ provided a statement at COPA offices on March 29, 2018.² ██████████ stated that she was sleeping at home when she was awakened by a loud noise. She ran to the living room, looked out of a window, and observed police officers outside. ██████████ stated that officers did not enter her unit first and that she could hear the officers kick other doors in the building down. Three officers entered her unit by kicking her door in, without knocking. The officers then entered her bedroom, with their guns drawn, and pointed at ██████████ and ██████████ as they lay in bed. The officers asked ██████████ who lived in her unit and ██████████ responded that she did. The officers then asked her if she knew ██████████ because the officers had a warrant for the address. The officers did not show ██████████ the search warrant. Officers told ██████████ that the information they had, listed the building as a single-family home. ██████████ told the officers that she only knew ██████████ from living in the building. She explained to the officers that the building was a three-flat and that ██████████ had been gone for about five months. ██████████ recalled the police being in her unit about forty minutes while they waited for her landlord to arrive. ██████████ stated that she believed the officers searched her unit because her bathroom and living room lights were on and her bath curtain was moved. ██████████ also said that the officers did not move anything or open any drawers.

██████████ stated that the police broke the front gate, the main entry door, and all three-unit doors. The officers told ██████████ that the Department would come on Wednesday, March 28, 2018, to repair the doors, but the Department did not repair the doors until Thursday, March 29, 2018.

██████████ stated to COPA investigators that the building contained three units and that at the time of the incident, only two units were occupied – her unit and that of the landlord, who lived in the basement. ██████████ stated that the building looked like a single-family home from the outside, but from the inside it looked like an apartment building. ██████████ said that each unit had a separate door. She explained that upon entry, the first apartment is to the right, and you must go upstairs to reach the second-floor apartment where ██████████ lived. The door to the left on the first floor leads to the basement, where the landlord lived. ██████████ stated that there was no landing and no platform leading to her unit, but that there was a railing. Also, there was no “2F” on ██████████ door, but there was a wreath. ██████████ described her unit as having four separate rooms with one bedroom.

██████████ also stated that there is a large, mailbox outside the front door of the building and that on the mailbox was each resident’s name in large letters. ██████████ recalled that only her name had her apartment number, “2F” listed as well.

Officer **Joel Lopez** provided a statement to COPA on July 13, 2021.³ The following is a summary of his statement. Prior to providing his statement Officer Lopez reviewed the Original Incident Report relating to this incident.

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

² Att. 1.

³ Att. 14.

Officer Lopez stated that he was the affiant on a search warrant for [REDACTED] a single-family home. Officer Lopez said that as the affiant, he spoke with a person identified as J. Doe, who provided information to Officer Lopez and confirmed the location for the search warrant. Officer Lopez then obtained approval for the search warrant from the state's attorney and a signing judge. Officer Lopez explained that as the affiant, he researched and wrote the search warrant. He said his research as an affiant included researching the area as well as the address of the target of the search warrant, any prior addresses of the target of a search warrant, as well as the Cook County Assessor to determine the type of home. Officer Lopez also provided pictures and looked at Google maps as well as any other information. Officer Lopez further stated that as affiant, during a search, he served as a team leader and would be notified if evidence was discovered.

After Officer Lopez was shown a copy of the search warrant packet by COPA investigators, Officer Lopez identified his signature in the packet and identified himself as the listed affiant. Officer Lopez stated that the J Doe source related to him that the location of the incident was a home that was being used to manufacture crack cocaine. When Officer Lopez viewed, in the packet, a copy of a Cook County Assessor webpage showing details for the property at [REDACTED] Officer Lopez identified that the webpage stated that the property was a single-family home. Officer Lopez further stated that prior to executing the search warrant, he drove by the outside of the home which he described as a white house with a black fence. He stated that he did not notice a mailbox at that time.

COPA investigators showed Officer Lopez a photo of a black mailbox with lettering that was located outside the building at [REDACTED] When asked what a mailbox like that would indicate to him, Officer Lopez replied, "Second Floor, First Floor, Basement."⁴ Officer Lopez said that on the day of the incident, he arrived at the location in the evening at approximately 9:00pm. Officer Lopez said that officers exited their vehicles, knocked on the door, announced themselves as police officers with a search warrant, waited for a reasonable amount of time, and then entered the building through breaching. Officer Lopez did not recall noticing a black box on the property before or after entry and did not recall whether someone mentioned a mailbox or a black box to him. Officer Lopez also did not remember exactly where in the building he went but believed he entered the first level. Officer Lopez stated that on the first level of the building, officers found a pot that was used to manufacture crack cocaine.

Officer Lopez spoke to a man and woman upstairs but did not recall how entry was made into their apartment. Officer Lopez denied the allegation that he entered the apartment of [REDACTED] without justification. He stated that the target of the search warrant had used the address for multiple years when the target was arrested with no specific reference to floors. Officer Lopez also said that the Cook County Assessors office related that the address was a single-family home.

b. Digital Evidence

Relevant **Body Worn Camera (BWC) video**⁵ of officers on scene records the breach of the building as well as the entry into the three units inside of the building.

⁴ Att. 14 at 11 minutes and 44 seconds.

⁵ Atts. 29 and 30.

Officers arrive on scene and pry open a metal gate at the front of the building. Other officers cover the periphery of the building. After opening the gate, officers use a battering ram to open the front door to the building while announcing their presence. A black mailbox can be seen just to the right of the front door. Once inside the foyer, officers ram open doors on the first floor. They first open the door leading to the basement and then open the door leading to an empty apartment that [REDACTED] once occupied.

Some of the officers, including Officer Lopez, ascend a staircase to the second floor of the building. A wreath can be seen on the second-floor unit door. The officers announce themselves and then an officer rams the door, and several officers enter the unit. The officers enter [REDACTED] unit with their firearms drawn. [REDACTED] and [REDACTED] are in bed when the officers enter the unit. [REDACTED] and [REDACTED] place their hands in the air when they see the officers. [REDACTED] tells the officers that no one is in her apartment. The officers holster their firearms. In response, an officer asks, "This an apartment or a house?"⁶ [REDACTED] responds that the building is a three flat and informs the officers that she has a lease. Most of the officers then leave the [REDACTED] apartment.

Sergeant Wolinski obtains [REDACTED] and [REDACTED] information. Sergeant Wolinski clarifies whether the building is a single-family home and [REDACTED] states that it is not and offers to show Sergeant Wolinski her bills. Sergeant Wolinski asks where the landlord lives, and [REDACTED] tells him that the landlord lives in the basement but is currently at work. [REDACTED] states that the landlord should arrive in 10 minutes. [REDACTED] tells Sergeant Wolinski that her landlord's name is [REDACTED]. Sergeant Wolinski tells [REDACTED] that they have a search warrant and asks [REDACTED] who [REDACTED] is. [REDACTED] responds that she believes he is her neighbor that moved out. Sergeant Wolinski asks how long [REDACTED] has been gone and [REDACTED] replies that he has been gone about 6 months. Sergeant Wolinski tells [REDACTED] that he is going to make a couple of calls and that he's going to get "this taken care of,"⁷ [REDACTED] asks if she needs to call [REDACTED] and Wolinski said she should call him and tell him that the police are here and exits. [REDACTED] calls [REDACTED] from her apartment and tells him that the officers are looking for [REDACTED] tells the officers still present in her unit that the owner is on the way. An officer asks [REDACTED] how long she has lived in her unit and [REDACTED] tells him, three and a half years. [REDACTED] says that no one else lives in the building but [REDACTED]. An officer asks [REDACTED] if the landlord lives in the basement, and she confirms that he does. [REDACTED] calls [REDACTED] back and [REDACTED] states that [REDACTED] told her that [REDACTED] has not lived in the building for three months, but [REDACTED] tells [REDACTED] that the police still want to speak with [REDACTED].

Sergeant Wolinski returns to [REDACTED] unit and tells [REDACTED] that he will be leaving a copy of the search warrant for [REDACTED]. [REDACTED] asks him if the officers are going to search her unit and Sergeant Wolinski tells her that they will not. Sergeant Wolinski states that the building divided into units is different information than what the officers were given. Sergeant Wolinski tells [REDACTED] that they are sorry that they disturbed her and that they will get the door taken care of. He states that he will explain to [REDACTED] what [REDACTED] can do to get the doors repaired. Sergeant Wolinski states that more than likely he will have the city meet with [REDACTED] the next morning to get things taken care of with the door.

⁶ Att. 29, T01:45:07Z (Acavedo, BWC).

⁷ Att. 29, T01:49:00Z (Jimenez, BWC).

Officers in [REDACTED] vacant unit conduct a search of each room and take pictures inside the unit. A red cup and a metal pot found on the stove in the kitchen are inventoried. Officers also find and inventory mail for [REDACTED] arrives later and speaks with Sergeant Wolinski in [REDACTED] vacant unit.

Photographs taken by the Department⁸ of the incident capture the outside of the building, the common areas and the inside of [REDACTED]'s unit. The photos include images of the damage to the front door of the building as well as damage to the first-floor doors leading to the basement and [REDACTED]'s unit. In a photo of damage to the front door, a black mailbox can be seen to the right of the door. On the mailbox are large black letters on a white background that state in three rows, [REDACTED] 2F," [REDACTED] 1F" and "[REDACTED] BA." The photos taken inside [REDACTED] unit include a shot of mail addressed to [REDACTED] at the building. The mail identifies [REDACTED] unit as "#1." The photos also include images of a metal pot and a red plastic cup, both appearing to contain residue from narcotic processing.

Photographs submitted by [REDACTED] after the incident shows damage to the doors of the building caused by the officers. Specifically, the photos include images of damage to the door to [REDACTED] unit as well as a photo of the temporary plywood placed on the front door immediately after the incident. The photos also include a close-up image of the black mailbox described above.

c. Documentary Evidence

A **search warrant packet¹⁰** relating to this incident contains a copy of the Complaint for Search for Warrant ("Complaint") presented by Officer Lopez in the Circuit Court of Cook County. The Complaint requests permission to search the subject of the search warrant, [REDACTED] J. [REDACTED]¹¹ as well as the premise, "Single family home [REDACTED] Chicago Illinois." The Complaint describes the items to be seized including "any paraphernalia used in the...mixing of illegal drugs." The Complaint also sets forth the basis for probable cause of the search, a detailed J. Doe Warrant statement by a person who claimed to have observed [REDACTED] make crack cocaine on the premises of [REDACTED]. The Complaint further says that [REDACTED] positively identified [REDACTED] as well as the house located on the premises. A Cook County judge found that the Complaint stated sufficient probable cause for a search warrant and issued the warrant on March 20, 2018.

A print copy of a webpage from the Cook County Assessor's site, with a search date of "3/27/18," is included in the search warrant packet and lists the characteristics of the property at [REDACTED]. The property is described as 1.5 to 4.9 story residence. The webpage also indicates that the use of the property is "Single Family," and that the property contains "0" apartments. The search warrant packet also includes a list of the items inventoried including a cup and a metal pot containing drug residue.

⁸ Att. 22.

⁹ Att. 26.

¹⁰ Att. 9.

¹¹ The Complaint transposes [REDACTED] first and last name.

A criminal history report ¹² for █████ records twenty-seven arrests. In every arrest summary listed, █████ address of residence is recorded as █████ Chicago, IL 60651” with no reference to an apartment number.

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

Unjustified entry into █████ apartment would be a violation of the Fourth Amendment of U.S. Constitution and Department Rule 1, Rule 2, and Rule 6. “The physical entry of the home is the chief evil against which the wording of the fourth amendment is directed. [citations omitted]. The fourth amendment guarantees: ‘The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause.’ U.S. Const., amend. IV; accord Ill. Const. 1970, art. I, § 6. Probable cause, as defined in Department policy, is “where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it.”¹³ Officer Lopez’s Complaint sufficiently set forth support for probable cause to believe that cocaine and/or cocaine paraphernalia would be found at █████

¹² Att. 31.

¹³ S04-13-09(II)(D).

The statement provided specific information about criminal activity, and Officer Lopez preformed additional independent research as described in his statement to COPA. Moreover, evidence of drug processing was found inside [REDACTED], supporting that the information provided in the Complaint was sound.

However, in addition to establishing probable cause, when preparing his search warrant, Officer Lopez was required to ensure that the Complaint and the search warrant accurately and specifically described the premises to be searched.¹⁴ In both documents, Officer Lopez described the exterior appearance of the premises with particularity and noted that the property was a single-family home as characterized by the Cook County Assessor's office. Conversely, [REDACTED] correctly noted evidence indicating that the building was in fact functioning as a multi-unit apartment, specifically, a mailbox in front of the building that listed the names and floors of residents in the building, including [REDACTED]. Based on BWC video, this information was available to Lopez prior to entry into the building, as the labeled mailbox was to the right of the front door and visible at the time of the execution of the search warrant. However, this evidence must be weighed against other evidence available to Officer Lopez to determine whether his entry into [REDACTED] residence was justified.

Here, the evidence is clear and convincing that Officer Lopez's entry into the apartment of [REDACTED] was justified. The Cook County Assessor property records that Officer Lopez used in his research of the property indicating its use as a single-family home, were current at the time of the execution of the search warrant and were from an official source. It was therefore reasonable for him to rely on that information. It is also reasonable to consider that information to be more reliable than mailbox labels that could have been added by anyone for any purpose. In any event, there is no evidence that Officer Lopez noticed and read the labels on the black mailbox prior to entry being made into [REDACTED] unit. Also, Officer Lopez and [REDACTED] state that from the outside, the building appears to be a single-family residence. Moreover, as noted by Officer Lopez in his statement to COPA, the criminal history report for [REDACTED] which records several arrests dating back to 2004, consistently lists his address of residence as [REDACTED] in each arrest, with no reference to any apartment number.

In sum, although it is regrettable that officers entered [REDACTED] residence, considering the clear and convincing evidence supporting that it was reasonable for Officer Lopez to believe that the building at [REDACTED] [REDACTED] was a single-family home, COPA finds that Officer Lopez is **Exonerated** of the allegation against him.

¹⁴ S04-19 (IV)(A)(2).

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Joel Lopez	<p>It is alleged that on or about March 27, 2018, at approximately 9:00 pm, at or near [REDACTED] [REDACTED] Officer Joel Lopez, Star No. 7613, committed misconduct through the following acts or omissions, in violation of Department policy:</p> <p>1. Entering the apartment of [REDACTED] without justification.</p>	Exonerated

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

8-30-2021

Date

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	Vanessa McClinton-Jackson
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass