

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	December 20, 2018
Time of Incident:	3:30 pm
Location of Incident:	████████████████████
Date of COPA Notification:	December 28, 2018
Time of COPA Notification:	5:26 pm

On the afternoon of December 20, 2018, ██████████ was driving and searching for a food delivery address and stepped out of his vehicle to look for the address. Sgt. Biggane was off-duty and inside his residence at ██████████ Ave., when his teenage son ran inside the house and told him that someone was in their gangway and was attempting to enter the backyard. Mr. ██████████ related that he was having a difficult time finding the delivery address and was approached by a male white, now known as Sgt. Biggane, who questioned him about being on his property. Mr. ██████████ told Sgt. Biggane that he was making a food delivery and returned to his car to text the customer for the correct address. After observing Sgt. Biggane pull out a police radio, Mr. ██████████ proceeded to drive away, but was pulled over by two squad cars at 5454 S. Natoma Ave. Mr. ██████████ was asked to exit his vehicle and was told that he was being detained and not arrested. Mr. ██████████ placed inside a squad car and informed the officers that he was making food delivery and could not find the customer’s address that was listed on his cell phone.

Mr. ██████████ observed Sgt. Biggane arrive on the scene and spoke to the officers who stopped him. The Body Worn Camera (BWC) of the responding officers documented the entire incident with Mr. ██████████. It was determined that Mr. ██████████ was indeed making a food delivery to 5336 S. New England Ave. However, that address did not exist and Mr. ██████████ mistakenly entered Sgt. Biggane’s property at ██████████ Ave. Mr. ██████████ was removed from the squad car and was informed that Sgt. Biggane was not going to press any charges against him and was released. A detail Investigatory Stop Report (ISR) was completed by the responding officer, Officer Patrick Thiry.

**II. INVOLVED PARTIES**

Involved Officer #1:	Patrick Thiry, Star #17026, Employee ID# ██████████, DOA:1/26/04, PO, Unit of Assignment 008, DOB: ██████████/81, Male, White
Involved Individual #1:	████████████████████ DOB: ██████████/83, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Thiry	1. [REDACTED] alleged that on or about December 20, 2018, at about 3:30 pm, in the vicinity of 5454 S. Natoma Ave., Officer Patrick Thiry curbed [REDACTED] vehicle and conducted a traffic stop without justification.	Exonerated
	2. [REDACTED] alleged that on or about December 20, 2018, at about 3:30 pm, in the vicinity of 5454 S. Natoma Ave., Officer Patrick Thiry failed to explain why he was detained and released without justification.	Exonerated

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
  
2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

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General Orders

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1. G01-01, Mission Statement and Core Values<sup>1</sup>
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Federal Laws

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Fourth Amendment, United States Constitution

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<sup>1</sup> Attachment #25, GO 01-01, Mission Statement and Core Values (01 Mar 11).

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## V. INVESTIGATION<sup>2</sup>

### a. Interviews

In an **interview with COPA**<sup>3</sup> which took place on December 20, 2018, ██████████ related that he was making a food delivery and exited his vehicle to look for the delivery address. While looking for the address, a male white, now known as Sgt. Joseph Biggane, approached him and asked him what he was doing. Mr. ██████████ told Sgt. Biggane that he was making a food delivery and could not find the address. The male white Sgt. Biggane questioned Mr. ██████████ and told him that he could not be around here and returned to his vehicle and attempted to text the delivery customer and find out the correct address. Mr. ██████████ observe the male white Sgt. Biggane, now known as Sergeant Joseph Biggane, reached for what he described was a walkie-talkie radio. Mr. ██████████ began to drive away and was pulled over a short distance later by two squad cars with their emergency lights activated. Mr. ██████████ was approached by an officer, now known as Officer Patrick Thiry and asked him to step out of his vehicle. Mr. ██████████ told Officer Thiry that he was making a food delivery and showed Officer Thiry his cell phone and asked if he had committed a crime. Officer Thiry explained Mr. ██████████ that he had the right to ask him to get out of his car. Mr. ██████████ exited his car and was told that he was being detained and was handcuffed and placed inside the squad car. Mr. ██████████ observed when Sgt. Biggane arrived on scene and talking to the responding officers. Mr. ██████████ noticed that the responding officers showed his identification card to Sgt. Biggane. Mr. ██████████ related that Officer Thiry took him out of the squad car and removed the handcuffs and told him that Sgt. Biggane was not going to press charges against him and was told that he can leave.

In an **interview with COPA**<sup>4</sup>, on January 8, 2020, Sergeant Joseph Biggane related that he is assigned to the Organized Crime Division and is assigned a take home vehicle and police radio. Sgt. Biggane was off-duty and inside his house at ██████████ Ave. and his teenage son was in the back of the house playing basketball. Sgt. Biggane said that his son ran back inside the house and told him that a person, now known as ██████████ was in the gangway and trying to enter the backyard. Sgt. Biggane's son said Mr. ██████████ walked into the gangway and called him out by a name and his son replied, that was not his name. Sgt. Biggane said that his son observed Mr. ██████████ place his hand through the iron gate and attempted to unlock it.

Sgt. Biggane looked out the backyard and observed no one and then looked out the front and observed Mr. ██████████ walking back toward his vehicle. Sgt. Biggane grabbed his police radio and went outside and approached Mr. ██████████ vehicle that was parked in front. Sgt. Biggane questioned Mr. ██████████ as to why he was trying to get inside his backyard and Mr. ██████████ said that he was making an Uber eats delivery to 5336 S. New England Ave. Sgt. Biggane informed Mr.

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Attachment #8, Audio interview of ██████████

<sup>4</sup> Attachments 26, 27, Audio interview of Sergeant Joseph Biggane.

██████ that 5336 S. New England Ave. was an address that did not exist. Sgt. Biggane question Mr. ██████ about attempting to enter his backyard and not ring the doorbell. Sgt. Biggane related Mr. ██████ became agitated and attempted to explain that his son had just ran back inside in the house and had observed him trying to get inside his backyard. At that point, Sgt. Biggane identified himself as a police officer and proceeded to run Mr. ██████ license plate over his police radio. Sgt. Biggane related that Mr. ██████ got out of his vehicle and stated “I don’t care if you’re the police.”<sup>5</sup> Mr. ██████ got back inside his vehicle and drove away. Sgt. Biggane requested for assisting units to respond and provided description of Mr. ██████ vehicle and direction he fled. Sgt. Biggane monitored the police transmissions and Mr. ██████ was stopped about a block away. Sgt. Biggane got into his vehicle and approached the responding officers and explained to them what had occurred.

### b. Digital Evidence

**Body Worn Camera (BWC)**<sup>6</sup> video shows that Officers John Johnson, Kenneth Flaherty (Beat 811) and Officer Patrick Thiry (Beat 843) responding to a call. Upon arrival, Officers Flaherty, Johnson and Thiry all exited their squad cars and approached the curbed vehicle. Officer Thiry was the first arrive and was observed talking to the driver, ██████ who was accompanied by his mother, ██████ Mr. ██████ appears to be upset, and Ms. ██████ is heard telling Mr. ██████ to cooperate with the police officers because they were just doing their job. Mr. ██████ is observed opening the driver’s side and exiting on his own. Mr. ██████ is handcuffed and informed that he is only being detained because they got a call of someone trespassing. Sgt. Biggane is observed arriving on scene and speaking to the responding officers. Officer Flaherty is observed looking at Mr. ██████ cell and related that Mr. ██████ was indeed making food delivery to 5336 S. New England Ave. Sgt. Biggane is heard stating that there is no such address and did not know why Mr. ██████ entered his through his gangway and did not ring the doorbell. Sgt. Biggane related that he attempted to further question Mr. ██████ but he drove away. Officer Flaherty is observed talking to Ms. ██████ and informing her there is no such address as “5336.” Mr. ██████ is removed out of the squad car, uncuffed and allowed to return to his vehicle and wait for the responding sergeant to arrive.

**OEMC Police Transmission**<sup>7</sup> revealed that Sgt. Joseph Biggane radioed for units to responded to ██████. Sgt. Biggane reported that he was off-duty and that a person had entered his backyard pretending to make a delivery. Sgt. Biggane reported the person who drove away was in a grey colored Hyundai. The dispatcher is heard requesting units to the scene

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<sup>5</sup> Attachment #27, Audio Interview of Sergeant Joseph Biggane, (6:21 minute).

<sup>6</sup> Attachment #23, Body Worn Camera (BWC) of Officer John Johnson, Officer Kenneth Flaherty & Officer Patrick Thiry.

<sup>7</sup> Attachment 24, OEMC Police transmission (5:10 minute).

and Unit 843, now known as Officer Patrick Thiry responded and stopped the vehicle. Sgt. Biggane is also overheard stating that he is responding to the scene.

### c. Documentary Evidence

**CPD Investigatory Stop Reports<sup>8</sup>** of ██████████ states that on December 20, 2018, at approximately 3:40 pm, Officer Patrick Thiry responded to call of criminal trespass to land made by an off-duty sergeant, now known Sergeant Joseph Biggane who resides at ██████████ Ave. Sgt. Biggane related that a male black, now known as ██████████ had entered his yard claiming that he was making a delivery. Sgt. Biggane attempted to question Mr. ██████████ who refused to answer any questions and drove away from the scene. Sgt. Biggane called the police and Officer Thiry curbed Mr. ██████████ vehicle at approximately 5454 S. Natoma Ave. and waited for an assisting unit to arrive before approaching Mr. ██████████ Officer Thiry asked Mr. ██████████ to exit his vehicle and at first refused, but subsequently complied and was detained in handcuffs. It was discovered that Mr. ██████████ was an Uber Eats delivery driver and that the delivery address, 5336 N. New England Ave. was an invalid address. This information was related to Sgt. Biggane who related that he did not want to sign complaints for criminal trespass. Mr. ██████████ was taken out of handcuffs and advised to sit in his vehicle until the responding sergeant arrived on the scene.

**CPD Event Query Report #1835409078<sup>9</sup>** indicated that on December 20, 2018, at approximately 3:34 pm, at ██████████ Ave., Beats 810, 811, 815 and 843 responded to a criminal trespassing. The report indicated that the driver, ██████████ was curbed at 5454 N. Natoma Ave.

## 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.

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<sup>8</sup> Attachment #22, Investigatory Stop Report, ISR 000781922.

<sup>9</sup> Attachment #9, CPD Event Query #1835409078.

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 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.

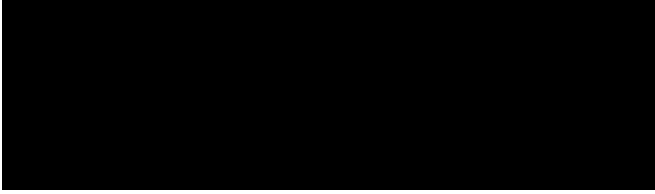
## VI. ANALYSIS

Mr. ██████ alleged that his vehicle was curbed, and a traffic stop was conducted without justification. Mr. ██████ was making an Uber eats delivery to 5336 S. New England Ave. and was having difficult time in finding the address. Mr. ██████ exited his vehicle and attempted search for the address but could not find the address. Sergeant Joseph Biggane who was off duty at the time was inside his residence at ██████ Ave. Sgt. Biggane was alarmed by his teenage son who told him that someone was trying to enter through the backyard.

Sgt. Biggane looked to the back and looked to the front of the house observed Mr. ██████ parked in front of his house. Sgt. Biggane went outside to question Mr. ██████ about entering his property. Mr. ██████ related that he was attempting to make delivery and was looking for an address. Sgt. Biggane questioned Mr. ██████ as to why he tried to enter his backyard and not ring the doorbell. Sgt. Biggane pulled out his police radio and called to check out Mr. ██████ license plate number. Mr. ██████ exited his vehicle and confronted Sgt. Biggane and told him that he did not care if he was the police. Mr. ██████ got back inside his vehicle and proceeded to drive away and was stopped about a block away by responding units. Officer John Johnson and Officer Kenneth Flaherty were working Beat 811 and Officer Patrick Thiry was working Beat 843 and their Body Worn Cameras captured the stop of Mr. ██████. Officer Thiry was the first to arrive and approached Mr. ██████ vehicle and asked Mr. ██████ to exit his car. Mr. ██████ appeared to be agitated but did comply and exited his vehicle. Officer Thiry completed an Investigatory Stop Report (ISR) described in detail the incident involving Mr. ██████. Officer Thiry informed Mr. ██████ that he was being stopped and detained because they were responding to a call of someone trespassing. Officers curbed and temporarily detained Mr. ██████ after receiving information that had been identified as trespassing on the property of Sgt. Biggane. The available evidence clearly provides reasonable suspicion, if not probable cause, to allow officers to conduct a brief, investigatory stop of Mr. ██████. Therefore, COPA finds **Allegation #1 to be Exonerated.**



Approved:



5-23-2020

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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

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Date



**Appendix A**  
Assigned Investigative Staff

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<b>Squad#:</b>	12
<b>Investigator</b>	Roberto Soto
<b>Supervising Investigator</b>	Andrew Dalkin
<b>Deputy Chief</b>	Angela Hearts-Glass