

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date / Time of Incident:	February 21, 2019 at approximately 6:45 p.m.
Location of Incident:	821 N. Michigan Ave., Chicago
Date of COPA Notification:	March 6, 2019

On or about on February 21, 2019, at approximately 6:45 p.m., at or near 821 N. Michigan Ave., Chicago Police Department (“CPD”) Officers Thomas Loeb (“Officer Loeb”) and David Green (“Officer Green”) went into the Lookingglass Theatre to use the restroom. [REDACTED] ([REDACTED]) alleged that at that time Officer Loeb committed misconduct by stating words to the effect of, “President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women’s restroom.” The Civilian Office of Police Accountability (“COPA”) has determined, by a preponderance of the evidence, that Officer Loeb did in fact state the above-stated remark.

II. INVOLVED PARTIES

Accused Officer #1:	Officer Thomas Loeb, Star #18650, Employee # [REDACTED] 0, Date of appointment December 5, 1994, Rank: Police Officer, Unit of Assignment: 8 th District, DOB: [REDACTED], 1970, Male, White
Involved Officer #2:	Officer David Green, Star #18498, Employee # [REDACTED], Date of Appointment: October 3, 1994, Rank: Police Officer, Unit of Assignment: 15 th District, DOB: [REDACTED], 1968, Male, African-American
Complainant #1:	[REDACTED]

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Thomas Loeb	1. It is alleged by [REDACTED] that on or about February 21, 2019, at approximately 6:45pm, at or near 821 N Michigan Ave., that Officer Thomas Loeb (#18650) committed misconduct by stating words to the effect of, "President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women’s restroom.”	Sustained/3-day suspension and re-training

IV. APPLICABLE RULES AND LAWS

Rules

- 1) Rule 2 – Any action or conduct which...brings discredit upon the Department
 - 2) Rule 6 – Disobedience of an order or directive, whether written or oral.
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V. INVESTIGATION ¹

a. Interviews

██████████

COPA interviewed ██████████ (██████████) on February 27, 2019.² ██████████ the ██████████ at the Lookingglass Theatre, stated that, at approximately 6:45 p.m., on February 21, 2019, Officer Thomas Loeb (“Officer Loeb”) and his partner, Officer David Green (“Officer Green”) came into the Lookingglass Theatre to use the restroom. Officer Green asked ██████████ which restroom to use, and ██████████ told him that he could use either restroom as they were unisex. ██████████ stated that Officer Green was standing next to Officer Loeb when Officer Loeb made the following remark. ██████████ alleged that Officer Loeb then told her that she was in a historical building and needed a history lesson. He further stated words to the effect of, “President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women’s restroom.” ██████████ told Officer Loeb that was not true, but Officer Loeb insisted that it was true. ██████████ believed the statement was transphobic and in poor taste. Officer Loeb then talked about legislation regarding transgender individuals using restrooms. ██████████ said that Officer Loeb continued talking and defended why he was working on his day off.

██████████ spoke to Officer Green about the remark. According to ██████████ Officer Green told her that Officer Loeb was difficult. Officer Green further explained that the Chicago Police Department has had training in interacting with people from the LGBT communities but said that not every officer listened to the training, and the training did not make an impression on every officer. ██████████ stated that she was very appreciative for the way in which Officer Green listened to her.

██████████ was determined to make a complaint about Officer Loeb’s comment. Accordingly, after the officers left the Lookingglass Theatre, ██████████ called 311 and was transferred to COPA, and she left a message with COPA which prompted this investigation.

¹The following is a summary of the material evidence relied upon by COPA in our analysis.

²Attachment 3.

Officer Thomas Loeb

COPA interviewed Officer Loeb on June 25, 2019.³ Officer Loeb stated that he knew that he worked the Violence Reduction Initiative (“VRI”) on February 21, 2019, but he did not recall who he worked with on that date. Officer Loeb did not recall either this incident and did not know [REDACTED]. He was, however, familiar with the restrooms at Lookingglass Theatre. Officer Loeb first stated that he did not recall making the alleged statement that, “President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women’s restroom.” However, later during the interview, Officer Loeb became more certain and unequivocal, and ultimately changed his statement from not recalling whether he made the comment, to denying that he made the comment.

Officer Loeb stated that he has had interactions with transgender individuals and had no feelings about transgender people. When asked how he interpreted the remark he allegedly made, Officer Loeb said it did not make sense to him. He also said that it seemed like something that would be written on the sign of a protester.

Officer David Green

COPA interviewed Officer Green on July 18, 2019.⁴ Officer Green stated that on February 21, 2019, he worked the VRI. On February 21, 2019, Officers Green and Loeb went into the Lookingglass Theatre to use the restroom. After Officer Green came out of the restroom, [REDACTED] called him over and asked him if he had heard what his partner had said. Officer Green said he had not heard, because he had been in the restroom when Officer Loeb made the comment. Officer Green did not recall what [REDACTED] told him that Officer Loeb had said to her, but he denied that she told him that Officer Loeb made the remark that, “President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women’s restroom.” He also said that [REDACTED] did not tell him that Officer Loeb’s remark was transphobic.

Although Officer Green did not recall what [REDACTED] told him that Officer Loeb had said, he did recall apologizing to [REDACTED] on Officer Loeb’s behalf. He also recalled telling [REDACTED] that he believed that Officer Loeb probably did not think before he made the remark and did not mean any harm by it. In addition, Officer Green said he did not believe that [REDACTED] was complaining to Officer Green, and [REDACTED] did not seem upset. Officer Green stated that [REDACTED] did not try to make a complaint or ask for a supervisor. When asked if he told [REDACTED] that Officer Loeb could be difficult, Officer Green said Officer Loeb is “quirky.” Officer Green explained that he told [REDACTED] that Officer Loeb was quirky, because [REDACTED] had said something to him. To Officer Green’s knowledge, Officer Loeb has never said anything political to members of the public, however, Officer Green also stated that he does not listen to anything political because it can turn into a disagreement. Officer Green further stated that Officer Loeb was a nice guy and that Officer Loeb never said or did anything to indicate that he was prejudiced. When asked why he apologized on Officer Loeb’s behalf, Officer Green said that he was trained at the academy to smooth out any

³Attachment 11.

⁴Attachment 13.

situations where a person had a problem with his partner. Finally, Officer Green did not find anything that Officer Loeb said to be offensive.

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 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 that, based on a preponderance of the evidence standard, there is sufficient evidence to sustain a finding that Officer Loeb committed misconduct by stating words to the effect of, "President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women's restroom."

Credibility

COPA finds the complainant ██████ to be a credible witness, in large part because our investigation discerned no motive on ██████ part to lie or embellish. In addition, Officer Green corroborated parts ██████ account by placing himself and Officer Loeb at the Lookingglass Theater with ██████ on the 21st of February and recalled interacting with ██████ Finally, ██████ was detailed in telling investigators a coherent, plausible account.

In contrast, Officer Loeb did not deny the possibility of him being at the Lookingglass theater on the 21st of February. Nevertheless, Officer Loeb's recollection of the 21st was vague and shifting. Specifically, Officer Loeb could not recall making the alleged remark, however, later during his interview Officer Loeb shifted to unequivocally denying making the remark all together, something COPA found to be maximizing and self-serving.

Officer Loeb's Remark

Finally, we find the alleged remark inappropriate, because the remark itself and the context in which Officer Loeb made the remark suggests a negative reference to transgender, intersex and gender nonconforming members of our community. Department policy requires that officers, "treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will *act, speak, and conduct themselves in a professional manner*, recognizing their obligation to safeguard life and property, and *maintain a courteous, professional attitude in all contacts with the public*" (Emphasis added).⁵ It is evident from [REDACTED] interview and complaint that she found Officer Loeb's remarks unprofessional.

For the above-mentioned reasons, COPA reached a finding of sustained for allegation 1 against Officer Loeb.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Thomas Loeb

Complimentary and Disciplinary History: 2004 Crime Reduction Award, 1; 2009 Crime Reduction Award, 1; Attendance Recognition Award, 2; Complimentary Letter, 6; Democratic National Convention Award, 1; Department Commendation, 1; Emblem of Recognition – Physical Fitness, 7; Honorable Mention, 32; Life Saving Award, 1; NATO Summit Service Award, 1; Other Awards, 1; and Presidential Election Deployment Award, 1. No applicable disciplinary history.

i. Recommended Penalty, by Allegation

Allegation No. 1: On February 21, 2019, at approximately 6:45 p.m., at or near 821 N. Michigan Ave., Chicago, the accused made the following remark: "President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women's restroom." **Penalty:** 3-day suspension and re-training on applicable issues surrounding the treatment of LGBTQ communities.

⁵ Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals, General Order G02-01-03.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Thomas Loeb	1. It is alleged by [REDACTED] that on or about February 21, 2019, at approximately 6:45pm, at or near 821 N Michigan Ave., that Officer Thomas Loeb (#18650) committed misconduct by stating words to the effect of, "President John F. Kennedy was the president who allowed men to walk on the moon, Obama is the man who let men walk into the women's restroom."	Sustained/3-day suspension and re-training

Approved:

[REDACTED]

January 27, 2019

 Andrea Kersten
 Deputy Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	Michele Lavin
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Andrea Kersten