

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	July 1, 2018
Time of Incident:	01:40
Location of Incident:	10 E. Chicago Ave
Date of COPA Notification:	July 5, 2018
Time of COPA Notification:	16:32

██████████ alleged that while standing outside of a McDonald’s restaurant, the accused officers arrested him for disorderly conduct without probable cause.

**II. INVOLVED PARTIES**

Involved Officer #1:	██████████ star # ██████ employee # ██████ DOA ██████ 2016, PO, Unit ██████ DOB ██████/1987, M, WWH
Involved Officer #2:	██████████ star # ██████ employee # ██████ DOA ██████ 2016, PO, Unit ██████ DOB ██████ 1986, M, WWH
Involved Officer #3:	Sergeant ██████ star# ██████ employee# ██████ DOA ██████ /2000, Sgt, Unit ██████ DOB ██████/1976, M, WHI
Involved Individual #1:	██████████ DOB ██████ 1991, M, BLK

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer ██████	1. It is alleged that the accused arrested Mr. ██████ for disorderly conduct without probable cause.	Exonerated
	2. It is alleged that the accused directed profanity at Mr. ██████ during the incident that led to his arrest.	Unfounded
	3. It is alleged that the accused refused to allow Mr. ██████ to speak to a sergeant.	Unfounded

Officer [REDACTED]	<ol style="list-style-type: none"> <li>1. It is alleged that the accused arrested Mr. [REDACTED] for disorderly conduct without probable cause.</li> <li>2. It is alleged that the accused directed profanity at Mr. [REDACTED] during the incident that led to his arrest.</li> <li>3. It is alleged that the accused refused to allow Mr. [REDACTED] to speak to a sergeant.</li> </ol>	<p>Exonerated</p> <p>Unfounded</p> <p>Unfounded</p>
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**IV. APPLICABLE RULES AND LAWS**

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- Rules
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1. Violations of any law or ordinance.
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- State Law/Municipal Ordinance
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1. 720 ILCS 5/12-9. Threatening Public Officials.
  2. Chicago Code of Ordinances Title 8, Offenses Affecting Public Peace, Morals and Welfare: Chapter 8-4 Public Peace and Welfare: Section 010: Disorderly Conduct.
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- Federal Laws
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1. United States Constitution, Amendment IV: Prohibits Search and Seizure Without Probable Cause.

**V. INVESTIGATION**

**a. Interviews**

In his statement to COPA,<sup>1</sup> on November 13, 2018, [REDACTED] stated that he was at McDonald’s when the police were called regarding an incident in which he was not involved. He explained that he was standing outside in front of the restaurant when several officers, including the accused officers, began to complain about him standing near the restaurant. He said after exchanging words with several officers, the officers began leaving the scene, but the accused officers exited their vehicle and came back to talk to him. He said the accused officers were angry and accused him of threatening to shoot them and placed him under arrest. He denied making the threat to shoot the accused officers. Mr. [REDACTED] complained that because he was not charged with the offense of threatening the police, that his arrest for disorderly conduct was without probable cause.

In his statement to COPA,<sup>2</sup> on December 24, 2018, Officer [REDACTED] stated that he was assisting another unit on a disturbance call at McDonald’s restaurant. He explained that the

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<sup>1</sup> Att. 8

<sup>2</sup> Att. 6

sergeant at the scene advised Mr. [REDACTED] and his friends that they were being disorderly. He said that eventually the sergeant ended the event and he entered his vehicle with the intent to leave. Upon entering his vehicle, Mr. [REDACTED] made a threat to shoot him. He did not hear the complete threat, but he did hear Mr. [REDACTED] say he would shoot him. He exited his vehicle and approached Mr. [REDACTED] and spoke to him about the threat. He said he spoke to Mr. [REDACTED] in a strong tone because he felt this was needed after the other officers had spoken to him about his disorderly conduct. He said he did not use profanity when speaking to Mr. [REDACTED]. He explained that when he approached Mr. [REDACTED] he continued to act in a disorderly manner, so he arrested him. Officer [REDACTED] explained that he had seen Mr. [REDACTED] in that vicinity on a few prior occasions. He said Mr. [REDACTED] frequents the area with other individuals and they are disorderly, but this was the first time he had to arrest him. Officer [REDACTED] said that he spoke with Mr. [REDACTED] at the police station and Mr. [REDACTED] apologized for his actions. He also spoke with Officer [REDACTED] and Sergeant [REDACTED] about the offense and they decided that Mr. [REDACTED] would not be charged for the offense of threatening the officer.

In his statement to COPA,<sup>3</sup> on December 24, 2018, Officer [REDACTED] stated that he and his partner, Officer [REDACTED] were assisting on a disturbance call at McDonald's restaurant. He explained that several officers and a sergeant were at the scene speaking to Mr. [REDACTED] and other individuals about their disorderly conduct. He did not speak to Mr. [REDACTED] during the event. He noticed that Mr. [REDACTED] and the other civilians continued to be belligerent and did not seem to be leaving the area. He said Officer [REDACTED] indicated that Mr. [REDACTED] had made a threat to shoot them. He said he heard Mr. [REDACTED] talking, but did not hear the threat. He said he and officer [REDACTED] exited their vehicle to speak with Mr. [REDACTED] about the threat and to get clarification, but Mr. [REDACTED] would not clarify what he said. He explained that Mr. [REDACTED] was arrested because he made a threat to the police and for the safety of those in the vicinity of the restaurant. Officer [REDACTED] said that after speaking with Mr. [REDACTED] at the station, it was decided that he would not be charged with threatening the officers. He said this decision was made because Mr. [REDACTED] seemed apologetic and because of his young age.

In his statement to COPA,<sup>4</sup> on December 27, 2018, Sergeant [REDACTED] stated that he responded to the event at McDonald's. He explained that when he arrived, he observed officers on scene and a boisterous crowd of people. He assessed the situation and spoke to the McDonald's security guard, and then to those who were being disorderly. He explained to them how they were being disorderly and directed them to leave the area. He warned Mr. [REDACTED] that he could be arrested for disorderly conduct if he did not leave the area. He ended the event after talking to the crowd and directed the officers to leave. He said that once he was inside his vehicle he observed the accused officers, exit their vehicle and approach Mr. [REDACTED]. He walked back over to the parties to find out what was happening, and Officer [REDACTED] informed him that Mr. [REDACTED] had made a threat to shoot him. He told Officer [REDACTED] to arrest Mr. [REDACTED] because he was still engaging in disorderly conduct and had now made a threat to the police. He said he did not hear Mr. [REDACTED] make the threat. Sergeant [REDACTED] explained that he was aware that the McDonald's had made several calls to 911 that evening, so he spoke again to the security guard about the matter and then he signed the complaint against Mr. [REDACTED]. The security guard informed the sergeant that he wanted to sign the complaint initially but was afraid of retaliation

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<sup>3</sup> Att. 5

<sup>4</sup> Att. 7

from Mr. [REDACTED] and his friends. Sergeant [REDACTED] said that he was informed that Mr. [REDACTED] had requested to speak to a supervisor while he was at the police station and that he was the sergeant that spoke to him. He also spoke to the accused officers, regarding the details of the arrest. He felt that the threat was stated more in general terms as opposed to a specific threat, so he and the accused officer decided that Mr. [REDACTED] would not be charged with that offense.

#### **b. Digital Evidence**

Body Worn Camera footage<sup>5</sup> of the event shows Mr. [REDACTED] and several other persons standing in front of McDonald's restaurant talking loudly and arguing with police officers. The footage captures Sergeant [REDACTED] speaking to Mr. [REDACTED] regarding his conduct and asking him to leave the area. Officer [REDACTED] and Officer [REDACTED] body worn camera footage captures the interaction between them and Mr. [REDACTED] after the alleged threat was made. At one point in the footage Mr. [REDACTED] claims that he said something along the lines of comparing the accused officers to other officers who had shot a man. None of the footage captures the accused officers directing profanity at Mr. [REDACTED]

In-Car Video<sup>6</sup> footage does not capture the accused officers directing profanity at Mr. [REDACTED]

#### **c. Documentary Evidence**

The Chicago Police Department Arrest Report<sup>7</sup> details Mr. [REDACTED] arrest and the offense cited is Disorderly Conduct-Breach of Peace. The narrative details the subjects threatening the security guard at McDonald's and describes Mr. [REDACTED] conduct as yelling, screaming obscenities, and disturbing the patrons of the restaurant.

The Office of Emergency Management and Communications Event Query Report<sup>8</sup> details four calls, classified at disturbance, made from McDonald's to 911.

#### **d. Additional Evidence**

In a telephone conversation with COPA, on December 11, 2018, COPA spoke with [REDACTED] the security guard for McDonald's. He explained that Mr. [REDACTED] and his friends were asked to leave the restaurant after engaging in a verbal altercation with other patrons. He thought their conduct was escalating and that a fight was going to ensue, so he asked them to leave the restaurant. Mr. [REDACTED] exited the restaurant but remained outside in front of the establishment. He was talking loudly and disturbing the patrons. Mr. [REDACTED] said that he did not initially sign the complaint for disorderly conduct because he feared the group would retaliate against him. He stated that he willingly signed the complaint after the offenders left the area.

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<sup>5</sup> Att. 18

<sup>6</sup> Att. 18

<sup>7</sup> Att. 9

<sup>8</sup> Att. 19

## 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

Mr. ██████ alleged that the accused officers arrested him without probable cause. This allegation must be exonerated. McDonald's personnel called 911 for assistance four times due to Mr. ██████ disorderly conduct and his refusal to leave the establishment. When officers arrived, Mr. ██████ continued to conduct himself in a disorderly manner. The officers asked him to leave and he refused. This refusal accorded the accused officers probable cause to arrest him. The initial event started as a disturbance and escalated when Mr. ██████ made the alleged threat to the police. Mr. ██████ admits to uttering words about police officers shooting someone and Officer ██████ stated that he heard him threaten to shoot them. Officer ██████ allegation that Mr. ██████ threatened to shoot the officers appears to be more credible than Mr. ██████ denial, because Mr. ██████ was not truthful in his statement to COPA. He said that he was not allowed to speak to a sergeant, but both accused officers and Sergeant ██████ stated that he was allowed to speak to Sergeant ██████ when he made the request. His conduct also lessens his credibility, because of his aggressive manner with the officers and his refusal to disburse and leave the area.

Mr. [REDACTED] alleged that the accused officers directed profanity at him during the incident. This allegation is unfounded. In this instance, there is no evidence to corroborate Mr. [REDACTED] allegation. There is no evidence of this allegation in either the body worn camera or in-car camera footage.

Mr. [REDACTED] alleged that the accused officers refused to allow him to speak to a sergeant. This allegation is unfounded. Sergeant [REDACTED] stated that the accused officers informed him Mr. [REDACTED] requested to speak to a sergeant and that he spoke to Mr. [REDACTED] Officer [REDACTED] and Officer [REDACTED] corroborate the fact that Mr. [REDACTED] spoke to Sergeant [REDACTED]

**VIII. CONCLUSION**

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	1. It is alleged that the accused arrested Mr. [REDACTED] for disorderly conduct without probable cause. 2. It is alleged that the accused directed profanity at Mr. [REDACTED] during the incident that led to his arrest. 3. It is alleged that the accused refused to allow Mr. [REDACTED] to speak to a sergeant.	Exonerated  Unfounded  Unfounded
Officer [REDACTED] [REDACTED]	1. It is alleged that the accused arrested Mr. [REDACTED] for disorderly conduct without probable cause. 2. It is alleged that the accused directed profanity at Mr. [REDACTED] during the incident that led to his arrest. 3. It is alleged that the accused refused to allow Mr. [REDACTED] to speak to a sergeant.	Exonerated  Unfounded  Unfounded

Approved:

[REDACTED SIGNATURE]

Angela Hearts-Glass  
Deputy Chief Administrator

6-19-19  
Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	█
<b>Investigator:</b>	██████
<b>Supervising Investigator:</b>	██████████
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass

