

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date / time of Incident:	January 27, 2019, approximately 8:40 a.m.
Location of Incident:	████████████████████ Chicago, Illinois
Date / time of COPA Notification:	January 28, 2019, approximately 12:15 p.m.

This incident involves execution of a search warrant at a residence. ██████████ (██████████) who was present during the execution of the search warrant, alleged that the search warrant team members used excessive force in executing the warrant, unreasonably damaged property, and verbally maltreated those that were home. Following an investigation, The Civilian Office of Police Accountability (“COPA”) reached findings of exonerated for all allegations.

INVOLVED PARTIES

Involved Sergeant #1:	Sergeant ██████████ Star # ██████ Employee # ██████ Date of Appointment: ██████ 2008, Unit of Assignment: ██████ DOB: ██████ 1984, M/W
Involved Individual #1:	██████████ DOB: ██████ 2005, M/B
Involved Individual #2:	██████████ DOB: ██████ 1964 F/B

II. ALLEGATIONS

Officer	Allegation	Finding
Sgt. ██████████	On January 27, 2019, at approximately 8:40 a.m., at ██████████ ██████████ Chicago, Illinois, Sergeant ██████████ led a search warrant team that committed misconduct through the following acts and/or omissions:  1. Used excessive force in executing a search warrant;  2. Caused unnecessary property damage during the execution of the search warrant; and  3. Verbally maltreated the individuals that were home during the execution of the search warrant.	Exonerated  Exonerated  Exonerated

<sup>1</sup> Formal allegations were not served.

### III. APPLICABLE RULES AND LAWS

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#### Rules

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1. Rule 1, CPD Rules of Conduct (prohibiting violations of law).
  2. Rule 6. CPD Rules of Conduct (prohibiting disobedience of a CPD directive).
  3. Rule 9. CPD Rules of Conduct (prohibiting disrespect and maltreatment).
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#### Special Orders

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1. Special Order S04-19 *Search Warrants* (issue date: September 3, 2015)
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#### Federal Laws

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1. U.S. Constitution, Fourth Amendment
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#### State Laws

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1. 725 ILCS 5/108-9 (authorizing the detention of persons on the premises searched pursuant to a search warrant)

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

#### A. Interviews

██████████<sup>3</sup>

██████████ (██████████ interviewed with COPA investigators on February 1, 2019. In general, ██████████ complained about the search warrant team's use of handcuffs to restrain two juveniles who were present. ██████████ also complained about the team's display of firearms during the incident, she complained that the team damaged property, and she complained that the team verbally maltreated those that were home.

#### B. Digital Evidence

##### *Body-Worn Camera ("BWC")<sup>4 5</sup>*

In summary, BWC footage shows that at approximately 8:41 a.m. on January 27, 2019, an adult male opened the rear door of a third-floor walkup apartment and permitted Sgt. ██████████ and the warrant search team to enter. Team members displayed their handguns at the time of entry

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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 5

<sup>4</sup> Attachment 12

<sup>5</sup> There was approximately eight hours and fifty-one minutes of BWC footage capturing the incident.

and as they initially went from room to room inside the residence, gathering civilians who were present. These civilians were handcuffed by the team, except for the toddler. Two adult male civilians were brought into kitchen. One of these adult males was given his *Miranda* advisements and then asked by the team if there was any narcotics within the residence, and if so, the location. The footage then shows the officers searching each of the residence's rooms without incident. At approximately 9:50 a.m., shortly following an explanation to ██████ of how the search was documented, the team members unhandcuffed the civilians and left the premises. No damage to the residence or fixtures was captured on the BWC.

### C. Documentary Evidence

#### *Return of Search Warrant*<sup>6</sup>

A Return of Search Warrant (#█████) shows that the warrant in question directed the search of a premises described as ██████ describing the objects of the warrant to be "cocaine, any documents or evidence of residency, and any paraphernalia used in the weighing, cutting, or mixing of illegal drugs[, and a]ny U.S.C. and records detailing illegal drug transactions." The document lists Sgt. ██████ as the Search Team Supervisor.

### V. 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

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<sup>6</sup> Attachment 13

“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

### *Allegation 1*

Illinois law permits officers to reasonably detain individuals present during the execution of a search warrant in order to protect themselves and to prevent the destruction and concealment of evidence.<sup>7</sup> Additionally, a CPD directive requires officers to exercise caution with respect to the rights of civilians involved and directs officers to use only minimum and necessary force when executing a search warrant.<sup>8</sup> In the current case, we find that BWC footage captured the involved officers substantially complying with these requirements.

While BWC footage captured the officers briefly displaying their weapons upon entry and during their initial search of the residence, the officers immediately holster the weapons after their initial walkthrough/search of the premises. This initial search by armed officers with weapons readied is something we have routinely seen upon our review of various search warrant executions. This is a measure of protection for the involved officers as they enter the unknown circumstances of a private residence to be searched. Absent an overt, unreasonable threat with their weapon, we find this initial readying of a weapon by an officer during at the time of entry and initial walkthrough to be a reasonable display of force.

Except for a toddler, the BWC showed that all individuals home during the warrant’s execution were handcuffed by the involved officers. Moreover, the BWC further showed uneventful compliance by those handcuffed, in that none of them openly complained about being physically restrained. Considering the lack of any concurrent complaint, along with the inherent dangers involved in the execution of a search warrant, we find that the officers’ decision to handcuff those civilians present during the execution of the warrant to be reasonable.

For the forging reasons, COPA reached a finding of exonerated for allegation 1.

### *Allegation 2*

Like allegation 1, we also find that the BWC disproves ██████ claim of property damage. Initially, the search team gained access to the residence without the need to make a forced entry. Equally important, the BWC continued to capture the officers’ search of the residence, which was absent of any damage to the building or fixtures. For these reasons, COPA reached a finding of exonerated for allegation 2.

### *Allegation 3*

Again, we find that the BWC footage disproves ██████ claim of verbal maltreatment. The BWC captured the officers’ entry, the search itself, and finally, an explanation by Sgt. ██████

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<sup>7</sup>See 725 ILCS 5/108-9.

<sup>8</sup>Special Order S04-19 *Search Warrants* (issue date: September 3, 2015), Section VIII.D.3.

to [REDACTED] explaining how the officers approached the house, why they took pictures, and that the entire search was captured by BWC. Collectively, we considered the execution of the search uneventful, largely absent of verbal confrontation and disagreement. For these reasons, COPA reached a finding of exonerated for allegation 3.

**VI. CONCLUSION**

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

Officer	Allegation	Finding
Sgt. [REDACTED]	<p>On January 27, 2019, at approximately 8:40 a.m., at [REDACTED] Chicago, Illinois, Sergeant [REDACTED] led a search warrant team that committed misconduct through the following acts and/or omissions:</p> <ol style="list-style-type: none"> <li>1. Used excessive force in executing a search warrant;</li> <li>2. Caused unnecessary property damage during the execution of the search warrant; and</li> <li>3. Verbally maltreated the individuals that were home during the execution of the search warrant.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

Approved:

[REDACTED]

September 12, 2019

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 Andrea Kersten  
 Deputy Chief Investigator

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 Date

