

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	December 21, 2017
Time of Incident:	11:47 p.m.
Location of Incident:	██████████ & ██████████ Chicago, IL 60617
Date of COPA Notification:	December 26, 2017
Time of COPA Notification:	12:34 p.m.

On December 21, 2017 at approximately 11:47 p.m., Chicago Police Department (“CPD”) officers were executing a warrant for ██████████ Chicago, IL 60617. Officers approached what they believed to be the address on the warrant, knocked on the door, announced their presence and immediately breached the front door.¹ During their sweep of the home, ██████████ (██████████ a tenant of ██████████² advised the officers that they entered the wrong home, and that ██████████ was the house next door. The officers retreated out of the home and went next door, where they knocked, waited a few seconds, and announced their office while breaching the door. The subject of the search warrant was home and detained while officers searched the home. During the search officers removed parts of the ceiling and/or walls and pulled down insulation.

Following its investigation, COPA reached findings of sustained for entry into ██████████ home without justification, improper documentation of damage sustained during execution of the warrant, and improper beach.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 2012, PO, Unit of Assignment: ██████████ DOB: ██████████ 1979, Male, Hispanic
Involved Officer #2:	██████████ Jr., Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 1998, PO, Unit of Assignment: ██████████ DOB: ██████████ 1968, Male, White
Involved Officer #3:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 2015, PO, Unit of Assignment: ██████████ detailed to ██████████ DOB: ██████████ 1991, Male, White

¹ ██████████ door did not function properly after it was breached, and the management company for the property ended up replacing the door before the City of Chicago could repair the door.

² COPA could not locate a property associated with the address ██████████ on the Cook County Assessors websites. However, it is undisputed that ██████████ does not live in at ██████████ and she stated her address was ██████████

Involved Officer #4:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 2005, PO, Unit of Assignment: ██████████ detailed to ██████████ DOB: ██████████ 1975, Male, White
Involved Officer #5:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 2010, PO as Detective, Unit of Assignment: ██████████ DOB: ██████████ 1985, Male, White
Involved Officer #6:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 2015, PO, Unit of Assignment: ██████████ detailed to ██████████ DOB: ██████████ 1991, Male, White
Involved Officer #7:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 2008, Sergeant, Unit of Assignment: ██████████ DOB: ██████████ 1984, Male, White
Involved Individual #1:	██████████ DOB: ██████████ 1983, Female, Black
Involved Individual #2:	██████████ DOB: ██████████ 1964, Female, Black
Involved Individual #3:	██████████ DOB: ██████████ 2000, Male, Black
Involved Individual #4:	██████████ 32 years old, Male

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer ██████████	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of ██████████ ██████████ Chicago, IL 60617, at approximately 11:49 p.m., Officer ██████████ committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> Failed to document the interior damage to the residence located at ██████████ ██████████ resulting from the execution of a search warrant. Caused unreasonable interior damage to the residence located at ██████████ ██████████ during the execution of a search warrant. Entered the residence located at ██████████ ██████████ without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

<p>Officer [REDACTED] [REDACTED] Jr.</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] Chicago, IL 60617, at approximately 11:49 p.m., Officer [REDACTED] Jr. committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 2. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 3. Entered the residence located at [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] Chicago, IL 60617, at approximately 11:49 p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED] 2. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 3. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 4. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED] 	<p>Sustained / 30 Day Suspension</p> <p>Sustained / 30 Day Suspension</p> <p>Exonerated / 30 Day Suspension</p> <p>Sustained / 30 Day Suspension</p>

	<p>5. Entered the residence located at [REDACTED] without justification.</p>	<p>Sustained 30 Day Suspension</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] Chicago, IL 60617, at approximately 11:49 p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 2. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 3. Entered the residence located at [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained / 30 Day Suspension</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] Chicago, IL 60617, at approximately 11:49 p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED] 2. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 3. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 4. Entered the residence located at [REDACTED] without justification. 	<p>Sustained / 30 Day Suspension</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] Chicago, IL 60617, at approximately 11:49 p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 2. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 3. Entered the residence located at [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Sergeant [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] Chicago, IL 60617, at approximately 11:49 p.m., Sergeant [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to ensure that officers under his command waited a reasonable amount of time before making forcible entry into the residence located at [REDACTED] 2. Failed to ensure documentation of the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 3. Failed to reasonably confirm that the residence located at [REDACTED] was the residence subject to Warrant # [REDACTED] 4. Entered the residence located at [REDACTED] without justification. 	<p>Sustained / 45 Day Suspension</p>

	5. Failed to make an immediate notification to the station supervisor that officers damaged a door while forcibly entering the residence located at [REDACTED]	Sustained / 45 Day Suspension
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IV. APPLICABLE RULES AND LAWS

Rules

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 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

Rule 5. Failure to perform any duty

Rule 6: Disobedience of an order or directive, whether written or oral.⁴

Rule 10: Inattention to duty.

Rule 11: Incompetency or inefficiency in the performance of duty.

Special Orders

S03-10, City Claims Notification Program

S04-19, Search Warrants

Federal Laws

United States Constitution 4th Amendment: 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, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

³ This Rule applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association with persons of known bad or criminal reputation in the community unless such association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, order or directives of the Department.

⁴ This Rule prohibits disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior.

V. INVESTIGATION⁵

a. Interviews

██████████ (██████████)⁶

COPA interviewed ██████████ on April 25, 2018, in the presence of her attorney, ██████████. The following is a summary of her statement. ██████████ was at home in the bathroom, her mother, ██████████ (██████████) was in the living room, her brother was upstairs, and her ex-boyfriend was in ██████████ bedroom. As ██████████ was in the bathroom, she was facetimeing on her phone when she heard ██████████ start screaming. ██████████ then ran to the bathroom, saying someone was breaking into the home. ██████████ then suffered a seizure and was not able to communicate, so ██████████ tried to pull her into the bathroom. ██████████ next saw white men with guns, who she did not initially recognize as police officers. ██████████ asked the men who they were and why they were in her home, which is when they identified themselves as police officers and told ██████████ they had a warrant to ██████████. ██████████ told the officers they were in the wrong house. The officers began to leave the home, and her brother, who had been handcuffed, was released.

██████████ told investigators that after the police left they came back at her request to talk about her front door that was damaged. The door could not be secured, as it would not close properly. The officers informed ██████████ that an adjuster would come out within the next couple hours and that ██████████ would be provided with a report, both of which did not happen. After the execution of the warrant, the officers left and never came back to her home. ██████████ stated that she was given a temporary door by someone the Chicago Police Department sent out to her home, but the door was never properly fixed, and she does not feel safe.

Accused Officers' Interviews

All the accused officers were interviewed by COPA and provided statements in the presence of their attorneys. They all provided substantially the same statement of facts unless otherwise noted in the following summary.

A search warrant was obtained for ██████████ by Officer ██████████ ("Officer ██████████" after receiving information from an informant ("John Doe".) Prior to obtaining the warrant, John Doe described the home as he rode with Officer ██████████ and Officer ██████████ ("Officer ██████████" by the target house, pointing it out.⁷ Officer ██████████ obtained a photograph of the home from the Cook County Assessor's office website and positively identified the photograph as the home pointed to by John Doe. Later that evening, after the warrant had been obtained, the officers had a briefing prior to the execution of the search warrant. There were no distinct

⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁶ Attachments 42 & 43

⁷ Officer ██████████ states that he identified the first three numbers of the address from the outside of the home as 830, but was unable to see the last number, but John Doe indicated the last number to be a three.

identifiers provided regarding the target house, but a picture was shown during the briefing. Once the officers arrived at the location, Officer [REDACTED] and Sergeant [REDACTED] (“Sgt. [REDACTED]”) led the group towards [REDACTED] believing that to be the target house.⁸ The other officers followed, and took position around [REDACTED]

Officer [REDACTED] was assigned as the “breach officer⁹,” and knocked on the door after which a voice responded, “Who is it?” A few seconds later, Officer [REDACTED] announced their presence and breached the door.¹⁰ Entry was made into [REDACTED] and the officers began securing the home, detaining any individuals that were inside. [REDACTED] and [REDACTED] were towards the rear of the home near the bathroom when officers entered. It was determined while speaking with [REDACTED] that the officers were in the wrong home. The correct home was next door, and the officers retreated out of the house and went to the home next door.

Once officers arrived at [REDACTED] Officer [REDACTED] (“Officer [REDACTED]”) was assigned as the entry officer and forced entry to the outer screen door of the residence that was locked allowing access to the main door.¹¹ Officer [REDACTED] again knocked on the door, and a few seconds later announced their presence and breached the door. The officers secured the property, detaining [REDACTED] ([REDACTED] who was the target of the search warrant. A canine was called in to assist with the search and made a hit on possible drugs within [REDACTED] bedroom. The officers also stated they could smell cannabis and [REDACTED] told the officers that there was cannabis in his room. As officers searched the upstairs, and specifically in [REDACTED] bedroom, they pulled back and tore down sheets covering insulation and drywall. The officers stated that there were holes in the walls, and due to the condition of the drywall and home, they believed [REDACTED] could have hidden a gun within the walls.

The officers recovered narcotics, drug paraphernalia, currency, and proof of residency during the execution of the search warrant, but no gun or evidence of a gun was recovered. Officers [REDACTED] and Sgt. [REDACTED] prepared all the reports relative to this incident, but the damage to the property and/or removal of drywall was not documented. The officers believed that the photographs taken post execution of the search warrant were sufficient at documenting the state of the property.¹²

⁸ Officer [REDACTED] stated that he had some hesitation as they were approaching [REDACTED] believing it may be the wrong house, but everyone was funneling that way and he followed suit. Officer [REDACTED] stated that he believed [REDACTED] Avenue to be the correct target house because that is the house that the John Doe had pointed out to him.

⁹ As a breach officer, you are tasked with knocking, announcing the officers’ presence, and then breaching the door if needed.

¹⁰ Officer [REDACTED] stated that it sounded as if the voice that responded after the knock was trailing towards the back of the residence. Sgt. [REDACTED] mentioned he was told by officers after the home was breached that you could hear running towards the back of the house, and [REDACTED] was on multiple news outlets stating her and her mother ran towards the back of the home. None of the other officers stated they heard running; however, Officer [REDACTED] did state that he heard people inside the residence moving around.

¹¹ The officers described this as common practice, as it allows them to access the main door if they need to do a quick breach.

¹² Attachment 54-55, 60, 71, 75-76, 80, 84, and 88

b. Digital Evidence**Body Worn Camera¹³**

All of the accused officers had their body worn cameras (BWC) recording during the execution of the search warrant, with the exception of Officer [REDACTED] camera turning off¹⁴ approximately 40 minutes into the search. The body worn cameras all begin as the officers are in the car and approaching the residence of [REDACTED]. Officer [REDACTED] and Sgt. [REDACTED] appear to be leading as the officers exit the car and position themselves around the property and on the front porch.¹⁵ Officer [REDACTED] runs up onto the front porch of [REDACTED]. [REDACTED] opens the screen door, and knocks. Approximately 3 seconds after the knock a voice is heard saying, "Who is it?" Officer [REDACTED] then announces "Chicago Police, search warrant," and rams the door, all occurring within approximately 5 seconds after Officer [REDACTED] initial knock. The officers make their way into the home, giving verbal orders for the individuals to show their hands as they clear the rooms. [REDACTED] is in the back hallway with [REDACTED] is on the second floor and is escorted downstairs. [REDACTED] questions what address is listed on the search warrant, and quickly tells the officers that they are in the wrong house because she lives at [REDACTED] not [REDACTED]. [REDACTED] The officers then begin to leave the house as Sgt. [REDACTED] speaks with [REDACTED] who stated the target house is next door.

The officers move to the house next door, [REDACTED] and "pop" the lock on the screen door. Officer [REDACTED] knocks on the door, waits approximately 6 seconds and then announces his office and rams the door. The officers make entry into [REDACTED] announcing their office and telling any occupants to show their hands. [REDACTED] the subject of the search warrant, is located upstairs, placed in handcuffs, and brought to the living room downstairs. [REDACTED] is advised of the search warrant for his house, asked if there was anything illegal in the home, and officers tell him his home smells like weed and [REDACTED] replies "there ain't shit in here."

Officer [REDACTED] takes photographs of [REDACTED] prior to any of the officers searching. The officers begin looking through the upstairs bedroom belonging to [REDACTED] but also look through paperwork and briefly on the main floor and basement as well. Money, narcotics, and paraphernalia are located upstairs, but officers keep smelling the odor of marijuana. Shortly after beginning their search, officers decide to call for a canine to assist, and an officer with a canine responds a short while later. The canine alerts in the upstairs bedroom to the presence of an illegal substance, and officers continue to look for the marijuana. There are sheets up over the insulation in various places. Loose drywall is pulled back and down during their search. [REDACTED] is asked by the officers on several occasions about where the marijuana is that they are smelling and if there is a firearm in the home. [REDACTED] continues to tell the officers there is no gun and that they already found the marijuana he has. Towards the end of the search, [REDACTED] then tells the officers

¹³ Attachment 16-26

¹⁴ It is believed, but not confirmed, that the BWC turned off due to lack of power and not intentionally by the officer.

¹⁵ Officer [REDACTED] first appears to be approaching [REDACTED] before diverting his course and following Sgt. [REDACTED] to the [REDACTED] property.

¹⁶ M. [REDACTED] is heard saying that the address used to be [REDACTED] Ave., but it was changed to [REDACTED]

that there is marijuana in the crawl space by the space heater. Officers then locate a large bag of marijuana in the crawl space, as well as a set of keys.

Meanwhile, Sgt. ██████ returns to ██████. The first time he gathers information from the residents and promises ██████ that the door will be fixed within 24 hours. ██████ directs Sgt. ██████ to where her address is visible on front of her home. Sgt. ██████ states that the nine is missing, to which ██████ states that the nine is sideways. Sgt. ██████ returns a second time and tells ██████ that he cannot call in a service order on the door until the investigation next door is complete.

Office of Emergency Management and Communications (O.E.M.C.) Transmissions¹⁷

CPD radio and OEMC transmissions capture notification of the execution of the search warrant at ██████. There are also transmissions regarding ██████ calling 911 requesting a supervisor after her home was inadvertently entered during the execution of the search warrant for ██████. Sgt. ██████ responds to those radio calls to advise he will go over and talk with her again. ██████ called five times between 12:10 a.m. and 2:30 a.m. to complain about her door that could not be properly secured.

Evidence Officer Photographs¹⁸

Officer ██████ took photographs of ██████ before and after the search of the home. The first portion of the set of pictures depict the entrance to the home and each of the rooms prior to the search. The pictures show that the home was cluttered and in disarray. There are pictures in the middle of the set that depict the evidence that was recovered including proof of residency. The later portion of the set of pictures are of the home after the search had concluded. There are items from the home thrown on the floors and drywall ripped and hanging down and on the floor.

c. Documentary Evidence

Search Warrant and Department of Law (DOL) Information¹⁹

The warrant was issued on December 21, 2017, after receiving information from a “John Doe” that there was an illegal firearm in the home of ██████ at ██████. The “John Doe” drove with Officer ██████ and Officer ██████ by the home and pointed out the home. The search warrant was executed on December 21, 2017, at approximately 11:44 p.m. A City Claims Notification (CCN) was prepared and submitted by Sgt. ██████ on December 22, 2017. The CCN documented the damage to the front door of the residence at ██████.

According to the DOL documents, a DOL file for the claim for the front door to ██████ was created on December 22, 2017 at 7:40 a.m. At 9:46 a.m. a search on the property was conducted, and it appeared to be owned by a management company. At 9:49 a.m. on

¹⁷ Attachments 33-41

¹⁸ Attachment 47

¹⁹ Attachments 5 & 48

December 22, 2017, a call was made to █████ confirming she rents the property. █████ advised that she was on her way to the property management company to tell them about her front door, and she was asked to provide DOL's information to the management company. █████ advised that her door was not currently secured but hoped the personal management company would help her. On December 26, 2017, another call was made to █████ at 7:56 a.m. who stated that her door was still not secured. A DOL representative called "ServiceMaster Restore" who advised they were looking to have it fixed that morning. The following day, on December 27, 2017, it is noted that █████ went out to fix the door, but the management company had already sent someone to repair the door; however, the door was still not working properly. █████ fixed the door properly and billed DOL. A DOL representative followed-up with █████ at 12:37 p.m. on December 27, 2017, who stated that she would not speak with DOL about her door and told DOL to call her attorney.

Chicago Police Reports²⁰

The case, arrest, and supplemental reports document a search warrant was executed in the █████ District by the █████ Tactical Team at █████. Officers initially knocked, announce, and made entry into █████ but then learned they approached the wrong address and immediately exited the residence without conducting a search. Officers relocated to the correct address, knocked, announced, and made entry into the residence. █████ was detained as officers searched the home and took into evidence proof of residency, narcotics, U.S. currency, and paraphernalia. Pre-search and post-search pictures were taken of the home. █████ was transported to the █████ District. Evidence was inventoried and a City Claims Notification form was completed.

The City Claims Notification Form²¹ documents:

While executing search warrant █████ the wrong property was initially approached. Improper location of █████ was approached, officers knocked and announced their office. A voice from an unknown subject responded, asking who it is. Officers advised "Chicago Police Search Warrant" and then proceeded with a forced entry upon hearing the subjects retreating to the rear of the property. Officers entered and secured the property, once it was determined that officers had approached the wrong address, they immediately exited the location without conducting any type of search.

A supplemental report was also completed by Officer █████ ("Officer █████ which documented that he "responded to a request for a narcotic detection canine to assist Beat █████ in a narcotic investigation and conduct a sniff of █████ followed by a money line up in the █████ District." K9 █████ was brought in to search the second floor of the residence where officers then recovered 150 grams of suspect cannabis. At the █████ District station, K9 █████ gave positive indications for the presences of narcotics on the U.S. currency that was also recovered from the home.

²⁰ Attachments 8-10 & 48

²¹ Page 9 of Attachment 48

The complaint for search warrant²² documents that a John Doe went to the home of ██████ at ██████ to chill and smoke weed. John Doe observed ██████ on the front door when he knocked, and ██████ answered the door, letting him in. ██████ began to talk about a new gun he bought and went upstairs and came back down with a shoebox he gave to John Doe which contained a black semi auto handgun. ██████ brought the shoebox containing the weapon back upstairs and they continued to smoke weed. Later John Doe rode with Officers ██████ and ██████ past the home and pointed out the front door of the residence which read ██████. A warrant was issued for the home to search for a “black, semi auto handgun, ammunition, any documents providing proof of residency and or evidence of residency, and any other evidence of illegal firearm possession.”

OEMC Event Query²³

On December 21, 2017, at 11:31 p.m. Beat ██████ was radioed to meet ██████ at ██████. At approximately 11:49 p.m., beat ██████ made radio notification of a search being conducted at ██████ with the assistance of beat ██████. On December 22, 2017 at 12:10 a.m. the first call came in from ██████ requesting a supervisor, who continued to call five more times requesting a supervisor, with the last call coming in at 2:36 a.m.

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

²² Page 12 of Attachment 48

²³ Attachment 12

“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

a. ██████████ – Unjustified Entry

COPA finds that the CPD officers made an unjustified entry in the residence located at ██████████

The Fourth Amendment to the United States Constitution provides the people are to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures without a search warrant. Generally, searching a residence that is not specifically listed in a warrant is a violation of the occupant’s constitutional rights. Police mistakes are constitutional only when they are “those of reasonable men, acting on facts leading sensibly to their conclusions of [probable case].”²⁴ In other words, mistakes are only constitutional when they result from a reasonable misinterpretation of the facts known to the police.

Where police make a mistake because they unreasonably disregard the “information available to them,” that mistake is, in turn, unreasonable.²⁵ The execution of a search warrant is unreasonable, and therefore unconstitutional, if officers should have known, based on the information available to them, that they searched the wrong location.²⁶

The entry of ██████████ was an egregious mistake. Whether the mistake was born of inattentiveness, lack of knowledge, or lack of communication, it was unreasonable. In this instance, the mistake could have been avoided by (1) observing the posted address on the front of the home located at ██████████²⁷ (2) checking the surrounding homes for posted addresses, (3) obtaining and using more specific identifiers of the property for the warrant itself to ensure there would be no confusion when executing the warrant.

In sum, the officers did not use the information readily available at the time they obtained warrant and executed the warrant, and mistakenly entering the property located at ██████████ was not objectively reasonable. Because the mistake was not objectively reasonable, the entry and search of ██████████ was a violation of the occupants’ constitutional protections, as well as a violation of CPD Rules 2²⁸, 10²⁹, and 11.³⁰

i. Officers ██████████ and ██████████ and Sgt. ██████████

²⁴ *Brinegar v. United States*, 338 U.S. 160, 176 (1949).

²⁵ *Maryland v. Garrison*, 480 U.S. 79, 85 (1987) (“[W]e must judge the constitutionality of [officers’] conduct in light of the information available to them at the time they acted.”).

²⁶ *People v. Sanchez*, 191 Ill. App. 3d 1099, 1104 (1989).

The last number of the posted address of ██████████ the “9”, was hanging sideways. Nonetheless, it was plainly evident the home was not ██████████ the target property subject to the warrant.

²⁸ Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

²⁹ Inattention to duty.

³⁰ Incompetency or inefficiency in the performance of duty.

In the framework of the above analysis, Officers █████ and █████ are most culpable for entering █████ without justification because they were the officers that identified the residence for purposes of obtaining the search warrants and led the search warrant team into the home during the execution of the warrant. Furthermore, Sgt. █████ is culpable for the unjustified entry into █████ because of his responsibility as a supervisor in overseeing the execution of the search warrant. Accordingly, Officers █████ and █████ and Sgt. █████ received sustained findings relating to this allegation.

ii. **Officers █████ and █████ Jr.**

Notwithstanding the forgoing analysis, COPA finds that Officers █████ and █████ Jr. were not responsible for identifying the property to be searched pursuant to the warrant. These officers reasonably believed that Sgt. █████ and the officers who took part in obtaining the warrant and were leading the entry into the target property would ensure they entered the target home. Accordingly, these officers received exonerated findings related to this allegation.

b. **█████ – Knock and Announce**

The Fourth Amendment to the United States Constitution, Illinois law, and Chicago Police Department Special Order S04-19 require that officers knock and knock and announce their presence and provide the resident(s) a reasonable opportunity to permit the officers to enter the home while executing a warrant.³¹ Officers must wait for a “reasonable time” after knocking and announcing their presence before using force to enter.³² The purpose of the “knock and announce” rule is to notify the person inside of the presence of the police and of the impending intrusion, give that person time to respond, avoid violence and protect privacy as much as possible.³³ Knocking alone does not serve the rule’s purposes because the point of the rule is to prevent certain harms by incentivizing the police to make their office known before they make entry.³⁴ The failure to comply with the knock and announce rule is a violation of the Fourth Amendment unless the officers have reasonable suspicion that knocking and announcing their presence and waiting a reasonable time, under the particular circumstances, would be dangerous or futile, or would inhibit the effective investigation of the crime (i.e. reasonable suspicion of exigent circumstances).³⁵

i. **Officer █████**

Officer █████ failed to wait a reasonable period before making forcible entry into the residence located at █████ in violation of the knock and announce rule.

³¹ See *United States v. Banks*, 124 S. Ct. 521, 525 (2003); 725 ILC 5/108-8(b); Special Order S04-19.

³² *Banks*, 124 S. Ct. at 525 (2003) (finding that the officers acted reasonably by forcibly entering the house after waiting 15 to 20 seconds after the “knock and announce”).

³³ *People v. Condon*, 592 N.E.2d 951, 954 (1992).

³⁴ *Sledd v. Lindsay*, 102 F.3d 282, 297 (7th Cir. 1996) (“[N]ormally police must knock and announce their presence”).

³⁵ *Hudson v. Michigan*, 547 U.S. 586 (2006); *Wilson v. Arkansas*, 514 U.S. 927 (1995). Illinois law also permits officers to request a “no knock” warrant

In this case, Officer [REDACTED] breached the doorway to [REDACTED] without giving the occupants reasonable notice of impending intrusion and time to respond. The BWC footage demonstrates that approximately three seconds after Officer [REDACTED] knock, without any announcement of the police presence, a voice from inside resident asks, “Who is it?” and Officer [REDACTED] then announces, “Chicago Police, search warrant,” while ramming the door. The entire encounter took approximately five seconds.

Officer [REDACTED] did not have justification for simply knocking on the door rather than simultaneously knocking and announcing his office.³⁶ Regardless, Officer [REDACTED] did not wait a reasonable period time after knocking to forcibly enter the property.

Officer [REDACTED] stated in his interview that he breached the doorway because he heard occupants running away from the door, however, his account is not corroborated by the available BWC footage or most of the other officers’ accounts of the incident. Regardless, Officer [REDACTED] had not even announced the police presence at the time he allegedly heard this noise, and a voice from inside the residence affirmatively responded to the knocking by asking who was at the door. Under these circumstances, a reasonable officer would not believe that knocking and announcing and waiting a reasonable period of time would be dangerous or futile, or that evidence may be destroyed before entering the residence. Alternatively, as explained above, a reasonable officer would not even have approached [REDACTED] when [REDACTED] was the target of the warrant, and therefore no reasonable officer would believe an exigency existed requiring immediate entry into [REDACTED]. Therefore, exigent circumstances did not justify Officer [REDACTED] departure from the knock and announce rule. Accordingly, Officer [REDACTED] received a sustained finding relating to this allegation.

ii. Sgt. [REDACTED]

Sgt. [REDACTED] failed to ensure that officers under his command, specifically Officer [REDACTED] waited a reasonable amount of time before making forcible entry into the residence located at [REDACTED]. It was Sgt [REDACTED] responsibility to ensure that Officer [REDACTED] followed “knock and announce” procedures during the execution of a search warrant.³⁷ Accordingly, Sgt. [REDACTED] received sustained finding relating to this allegation.

c. [REDACTED] – Claim Notification

The directive addressing claims notifications states that “in cases of exigent circumstances or hardship to the affected party, such as a damaged door to a residence, and the required case reports will not be completed for several hours, the supervisor will complete a City Claims Notification form and make an immediate notification to the station supervisor of the district of occurrence.”³⁸

³⁶ The law requires officers to both knock and announce and then wait a reasonable period of time. Thus, officers increase the period they must wait before forcibly entering by not knocking and announcing at the same time.

³⁷ Special Order S04-19(VIII)(D)(1)(a).

³⁸ Special Order S03-10(III)(B)(2).

In this case, Sgt. ██████ did not immediately complete a City Claims Notification and make immediate notification to the station supervisor at the ██████ District. The claim was filed the following morning, December 22, 2019, at 7:40 a.m. At this point the door had remained inoperable for over seven hours during the late night and early morning hours in the middle of winter. Sgt. ██████ made multiple promises to ██████ that he would report the incident and get a crew out to fix the door immediately, but he did not ensure this occurred. Accordingly, Sgt. Peters received sustained finding relating this allegation.

d. ██████ – Interior Damage

Courts recognize that “officers executing search warrants on occasion must damage property in order to perform their duty.”³⁹ But the government’s interest in finding evidence must be balanced against the resident’s interest in the integrity of their home.⁴⁰ Accordingly, property damage in the execution of a search warrant violates the Fourth Amendment if it is unreasonable.⁴¹

Although it is “generally left to the discretion of the executing officers to determine the details of how best to proceed with the performance of a search authorized by a warrant,” the discretion is not unbounded.⁴² It is only “so long as the officer’s conduct remains within the boundaries of reasonableness” that “an officer has discretion over the details of how best to proceed with a search warrant’s execution.”⁴³

COPA finds that the involved officers did not cause unreasonable interior damage to the residence located at ██████ during the execution of a search warrant.

The damage the officers caused to 8303 ██████ resulted from a valid search pursuant to a search warrant with a reasonable belief that such damage would result in finding evidence of criminal activity. The search warrant justified the search of the entire home. The officers smelled cannabis called in a canine unit to identify the location of the cannabis. The canine marked several locations including some that required the officers to remove drywall that they believed to be purposefully damaged to hide cannabis and/or a firearm/ammunition. Because these beliefs were reasonable, and because the small items were listed in the warrant, the officers’ actions were justified. The damage that did occur was reasonable under the circumstances. Accordingly, the involved officers received exonerated findings relating to this allegation.

e. ██████ – Documenting Damage

i. Officer ██████

CPD policy designates the officer who obtained the search warrant as responsible for submitting the appropriate case or supplementary report(s) following execution of the warrant.⁴⁴

³⁹ *Dalia v. United States*, 441 U.S. 238, 258 (1979).

⁴⁰ *Johnson v. Manitowoc County*, 635 F.3d 331, 335 (7th Cir. 2011).

⁴¹ *United States v. Ramirez*, 523 U.S. 65, 71 (1998) (citation omitted)

⁴² *Dalia*, 441 U.S. at 257,

⁴³ *Lawmaster v. Ward*, 125 F.3d 1341, 1349 (10th Cir. 1997).

⁴⁴ Special Order S04-19(VIII)(F)(1)(a).

In this case, Officer █████ acted as the affiant on the warrant and was also present in the vehicle when the John Doe identified the target residence. Therefore, Officer █████ was responsible for obtaining the warrant.

CPD policy requires written documentation in the appropriate case report of any interior damage sustained as a result of executing the warrant, which did not occur in this case.⁴⁵ Accordingly, Officer █████ received a sustained finding relating to this allegation.

ii. Sgt. █████

Sgt. █████ failed to ensure that Officer █████ completed the required paperwork and documentation as required by CPD policy.⁴⁶ Accordingly, Sgt. █████ received sustained finding related to this allegation.

f. █████ – Knock and Announce

i. Officer █████

COPA finds that Officer █████ failed to wait a reasonable amount of time before making entry in to █████

Generally, the knock and announce rule requires the officers knock and announce their presence only one time per dwelling.⁴⁷ However, Officer █████ used the “Chicago Bar” to access the locked outer door before Officer █████ knocked on the inner door. By breaking the lock to the security door without knocking and announcing the police presence, Officer █████ violated the knock and announce rule. Accordingly, the Officer █████ received sustained finding for this allegation.

ii. Officer █████

COPA finds that Officer █████ failed to wait a reasonable amount of time before breaching the doorway to █████

As explained above, Officer █████ did not knock and announce the police presence prior to breaking the lock on the metal gate of the entry door. Therefore, Officer █████ had to knock and announce the police presence prior to forcibly entering the inner door. Officer █████ entry into █████ was nearly identical to his entry into the █████ Avenue residence. Officer █████ knocked on the door, waited approximately six seconds and then simultaneously announced the police presence and breached the door. Officer █████ did not provide any basis for an exigency. Officer █████ actions violated the knock and announce rule. Accordingly, Officer █████ received sustained finding related to this allegation.

⁴⁵ Special Order S04-19(VIII)(E)(5)(b)(3). The Special Order specifically refers to damage to dry wall in the note section.

⁴⁶ Special Order S04-19(II)(A)(3).

⁴⁷ *United States v. Bragg*, 138 F.3d 1194, 1195 (7th Cir. 1998).

iii. Sgt [REDACTED]

COPA finds that Sgt. [REDACTED] failed to ensure that officers under his command waited a reasonable amount of time before making forcible entry into the residence located at [REDACTED]

On the execution of a warrant it is the supervising member's responsibility to instruct the team on knock and announce procedure.⁴⁸ Sgt [REDACTED] was the supervising member of highest rank on the execution of the search warrant. After making wrongful entry to the home next door Sgt. [REDACTED] gave no instructions regarding the procedure for the second forcible entry, did not acknowledge or correct the improper procedure followed by Officer [REDACTED] when entering [REDACTED] Avenue and did not stop the improper entry at [REDACTED]. Accordingly, Sgt. [REDACTED] received sustained finding relating to this allegation.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**a. Officer [REDACTED]**

- i. **Complimentary and Disciplinary History:** Deployment Operations Award, 1; Presidential Election Deployment Award 2008, 1; Emblem of Recognition – Physical Fitness, 3; Attendance Recognition Award, 4; Department Commendation, 8; Honorable Mention, 166; Complimentary Letter, 4; Life Saving Award, 1; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1; Arnold Mireles Special Partner Award, 1; 2009 Crime Reduction Award, 1; Unit Meritorious Performance Award, 2; Annual Bureau of Recognition, 1.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 3:** Entered the residence located at [REDACTED] [REDACTED] without justification. **Penalty:** 30 Day Suspension.

b. Officer [REDACTED]

- i. **Complimentary and Disciplinary History:** Attendance Recognition Award, 2; Special Commendation, 1; Department Commendation, 4; Honorable Mention, 83; Complimentary Letter, 4; Police Officer of the Month Award, 1; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1; Life Saving Award, 2; Top Gun Arrest Award, 1. No prior sustained findings of misconduct within the past 5 years.

⁴⁸ Special Order S04-19(VIII)(D)(1)(a).

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 1:** Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED]
[REDACTED] **Penalty:** 30 Day Suspension.

c. Officer [REDACTED]

- i. Complimentary and Disciplinary History:** Emblem of Recognition – Physical Fitness, 1; Attendance Recognition Award, 1; Department Commendation, 7; Special Commendation, 1; Honorable Mention, 117; Police Officer of the Month Award, 2; Honorable Mention Ribbon Award, 1; Top Gun Arrest Award, 1. No prior sustained findings of misconduct within the past 5 years.

ii. Recommended Penalty, by Allegation

- 1. Allegation No. 1:** Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED]
[REDACTED] **Penalty:** 30 Day Suspension.
- 2. Allegation No. 2:** Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. **Penalty:** 30 Day Suspension.
- 3. Allegation No. 4:** Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED]
[REDACTED] **Penalty:** 30 Day Suspension.
- 4. Allegation No. 5:** Entered the residence located at [REDACTED]
[REDACTED] without justification. **Penalty:** 30 Day Suspension.

d. Sergeant [REDACTED]

- i. Complimentary and Disciplinary History:** Deployment Operations Center Award, 1; Presidential Election Deployment Award 2008, 1; Emblem of Recognition – Physical Fitness, 9; Attendance Recognition Award, 1; Department Commendation, 9; Honorable Mention, 108; Complimentary Letter, 4; Police Officer of the Month Award, 1; Life Saving Award, 1; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1; 2009 Crime Reduction Award, 1. No prior sustained findings of misconduct within the past 5 years.

ii. Recommended Penalty, by Allegation

1. **Allegation No. 1:** Failed to ensure that officers under his command waited a reasonable amount of time before making forcible entry into the residence located at [REDACTED] **Penalty:** 45 Day Suspension.
2. **Allegation No. 2:** Failed to ensure documentation of the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. **Penalty:** 45 Day Suspension.
3. **Allegation No. 3:** Failed to reasonably confirm that the residence located at [REDACTED] was the residence subject to Warrant # [REDACTED] **Penalty:** 45 Day Suspension.
4. **Allegation No. 4:** Entered the residence located at [REDACTED] without justification. **Penalty:** 45 Day Suspension.

In support of the recommended penalties, COPA finds that the sustained findings in this case resulted from completely avoidable mistakes by the involved CPD members. The involved members haphazardly went about executing the warrant by disregarding ample opportunities to correctly identify and then enter the correct target residence. In sum, their carelessness and ignorance towards how such mistakes violated [REDACTED] rights and the safety of the members themselves warrant the recommend penalty.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] [REDACTED] [REDACTED] at approximately 11:49p.m., Officer [REDACTED] [REDACTED] committed misconduct through the following acts or admissions: <ol style="list-style-type: none"> 1. Failed to document the interior damage to the residence located at [REDACTED] [REDACTED] resulting from the execution of a search warrant. 	Exonerated
	<ol style="list-style-type: none"> 2. Caused unreasonable interior damage to the residence located at [REDACTED] 	Exonerated

	<p>Avenue during the execution of a search warrant.</p> <p>3. Entered the residence located at [REDACTED] without justification.</p>	<p>Exonerated</p>
<p>Officer [REDACTED] Jr.</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] at approximately 11:49p.m., Officer [REDACTED] Jr. committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 2. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 3. Entered the residence located at [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] at approximately 11:49p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED] 2. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 3. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 	<p>Sustained / 30 Day Suspension</p> <p>Sustained / 30 Day Suspension</p> <p>Exonerated</p>

	<p>4. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED]</p> <p>5. Entered the residence located at [REDACTED] without justification.</p>	<p>Sustained / 30 Day Suspension</p> <p>Sustained / 30 Day Suspension</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] at approximately 11:49p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 2. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant. 3. Entered the residence located at [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Sustained 30 / Day Suspension</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] at approximately 11:49p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <ol style="list-style-type: none"> 1. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED] 2. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant. 3. Caused unreasonable interior damage to the residence located at [REDACTED] 	<p>Sustained / 30 Day Suspension</p> <p>Exonerated</p> <p>Exonerated</p>

	<p>Avenue during the execution of a search warrant.</p> <p>4. Entered the residence located at [REDACTED] without justification.</p>	<p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] at approximately 11:49p.m., Officer [REDACTED] committed misconduct through the following acts or admissions:</p> <p>1. Failed to document the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant.</p> <p>2. Caused unreasonable interior damage to the residence located at [REDACTED] during the execution of a search warrant.</p> <p>3. Entered the residence located at [REDACTED] without justification.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
<p>Sergeant [REDACTED]</p>	<p>It is alleged that on or about December 21, 2017, at or near the vicinity of [REDACTED] at approximately 11:49p.m., Sergeant [REDACTED] committed misconduct through the following acts or admissions:</p> <p>5. Failed to ensure that officers under his command waited a reasonable amount of time before making forcible entry into the residence located at [REDACTED]</p> <p>6. Failed to ensure documentation of the interior damage to the residence located at [REDACTED] resulting from the execution of a search warrant.</p> <p>7. Failed to reasonably confirm that the residence located at [REDACTED] was the residence subject to Warrant # [REDACTED]</p>	<p>Sustained / 45 Day Suspension</p> <p>Sustained 45 Day Suspension</p> <p>Sustained / 45 Day Suspension</p>

	<p>8. Entered the residence located at [REDACTED] without justification.</p> <p>9. Failed to make an immediate notification to the station supervisor that officers damaged a door while forcibly entering the residence located at [REDACTED]</p>	<p>Sustained / 45 Day Suspension</p> <p>Sustained / 45 Day Suspension</p>
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Approved:

[REDACTED]

July 31, 2019

Tracie Smith
First Deputy

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	
Supervising Investigator:	████████████████████
Deputy Chief Administrator:	Andrea Kersten