

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 9, 2019
Time of Incident:	8:02 AM
Location of Incident:	██████████, 2 nd Floor, Chicago, IL
Date of COPA Notification:	August 14, 2019
Time of COPA Notification:	11:26 AM

On August 9, 2019, Sergeant Eduardo Escalante (“Sgt. Escalante”) and his Gang Enforcement Team executed a narcotics search warrant at ██████████, 2nd Floor. Sometime between 6:30 PM and 7:00 PM, the Complainant, ██████████ (“██████████”), arrived home to her apartment, ██████████, 2nd Floor, observing the apartment in disarray and the rear door damaged. After reviewing a copy of a search warrant for a ██████████, with her home address, ██████████ called 911 and requested a CPD supervisor come to her location. The CPD supervisor arrived and verified that a search warrant execution, for a ██████████, had, in fact, occurred at her residence.

II. INVOLVED PARTIES

Involved Officer #1:	Eduardo Escalante, Star# 2295, Employee# ██████████, Date of Appointment: 09/11/2000, Sergeant, UOA: 20 ^h District, DOB: ██████████1978, Male, Hispanic
Involved Officer #2:	Jason M. Bala, Star# 9112, Employee# ██████████, Date of Appointment: 10/28/2002, Police Officer, UOA: Gang Enforcement-Area North, DOB: ██████████1978, Male, White
Involved Individual #1:	██████████, ██████████1983, Female, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant Escalante	It is alleged that on or around August 9, 2019, at approximately 8:02 AM:	

	1. Sergeant Escalante executed a search warrant at [REDACTED], 2 nd Floor, Chicago, IL, without justification.	Exonerated
	2. Sergeant Escalante searched [REDACTED], 2 nd Floor, Chicago, IL, the residence of [REDACTED], without justification.	Exonerated
Officer Bala	1. It is alleged that on or around August 9, 2019, at approximately 8:02 AM: 1. Officer Bala executed a search warrant at [REDACTED], 2 nd Floor, Chicago, IL, without justification.	Exonerated
	2. Officer Bala searched [REDACTED], 2 nd Floor, Chicago, IL, the residence of [REDACTED], without justification.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

- Rule 1:** Violation of any law or ordinance.
- Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

Special Orders

- Special Order S04-19:** Search Warrants (Effective Date: September 3, 2015)

Federal Laws

- 4th Amendment,** U.S. Constitution

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V. INVESTIGATION

a. Interviews

On August 14, 2019, **Complainant**, ██████████ (“████████”), gave COPA an audio-recorded interview.¹ At approximately 5:00 am on August 9, 2019, ██████████ left her home to go on vacation. On August 10, 2019, ██████████ received a call from her landlord, informing her that the back gate looked kicked in and asked her whether she knew anything about it. At approximately 6:30 pm on Monday, August 12, 2019, ██████████ returned home. She observed nothing wrong as she walked up the steps to the apartment’s front door. Upon opening her front door, ██████████ saw “clothes all over the floor.”² As she walked through the apartment, she observed the backdoor was closed, but “everything around it was off the hinges.”³ Fearing a break-in, she immediately dialed 911. While completing a walk-through of her apartment, she observed her television and other items were still in the apartment. However, the bedroom area and kitchen were in disarray. She also observed that her front door was unsecured. ██████████ noticed the search warrant paperwork on her table. She called 911 again, informing them it was not a break-in; instead, a search occurred at her apartment while she was not present. 911 told her a supervisor would come to the apartment.

A CPD sergeant came to her home and spoke with ██████████. She inquired as to what occurs next. The sergeant told ██████████ the search warrant involved a ██████████. She informed the sergeant she did not know a ██████████. The sergeant told her, “they [CPD] had probable cause”⁴ to enter her apartment and search it. The sergeant then left the apartment to get additional information for ██████████. He returned with a report and informed her that the search occurred based on a “John Doe” search warrant to search for drugs. ██████████ wanted a copy of the report or to take a picture with her phone, but the sergeant refused. The sergeant told ██████████ situations like hers happen all the time. ██████████ believes the police did not do a proper investigation on ██████████.

On Monday, December 28, 2020, **Police Officer Jason Bala** (“**Officer Bala**”), **Star# 9112**, assigned to Unit 189, gave COPA an audio-recorded interview.⁵ At approximately 8:00 am, August 9, 2019, Officer Bala, while assigned to a seven-person Gang Enforcement Team, proceeded in an unmarked CPD SUV to ██████████ to execute a search warrant.⁶ As the affiant, Officer Bala had utilized a confidential informant (CI), “J. Doe,” and additional investigation, to complete the complaint for a search warrant and receive approval from the State’s

¹ Attachment 12

² Attachment 12 at 3:16

³ Id., at 3:27

⁴ Id., at 5:47

⁵ Attachment 19

⁶ Officer Bala was the affiant for the search warrant being served at ██████████.

Attorney's Office and a judge.⁷ Through conversations with Officer Bala and his team, the CI told the officers that he had visited the 2nd Floor of [REDACTED] and purchased heroin, over the last three weeks, from an individual known as "[REDACTED]," also known as (the search warrant subject), [REDACTED] ("[REDACTED]"). Officer Bala also has prior history utilizing the CI. Officer Bala and J. Doe went to the residence at [REDACTED] to identify the building's outside at that location. The CI pointed to the second Floor being the location of his heroin purchases from a person know as [REDACTED], AKA "[REDACTED]." Afterward, Officer Bala proceeded to either the 15th or 25th District to search for [REDACTED]'s photo. The CI identified the person in the picture as "[REDACTED]", the person he had purchased heroin from at [REDACTED] Ave. Subsequently, Officer Bala completed the Complaint for a Search Warrant and received approval from both the State's Attorney's Office and from a Judge, who signed the search warrant.⁸

After arriving at [REDACTED], the team proceeded to the rear of the location to execute the search warrant. The chained fence was forced open, and they took the rear stairs up to the second Floor. The officers knocked and announced their office. They received no response and, after waiting approximately seven seconds, they made a forced entry into the apartment. Upon entry, the officers observed no one at the location. A search of the residence was done, but no narcotics were found. A team member took photos of the home. The back door was secured, and a copy of the search warrant was placed on a coffee table in the apartment. According to Officer Bala, the complainant, [REDACTED]'s name never came up in the investigative phase or conversations with the CI, before issuing the search warrant.

Similarly, Officer Bala did not recall seeing any mail, while at the location, with [REDACTED]'s name, which would have identified her as the apartment's current occupant. Officer Bala has been an affiant on approximately one hundred fifty (150) to two hundred (200) search warrants during his career. He approximates the execution of the search warrant took approximately twenty-five minutes.

On January 26, 2021, **Sergeant Eduardo Escalante ("Sgt. Escalante"), Star# 2295, 20th District**, gave COPA an audio-recorded interview.⁹ On August 9, 2019, while assigned to the Area North Gang Enforcement Team, Sgt. Escalante's team went to [REDACTED] to execute a search warrant.¹⁰ Sgt. Escalante's team were in unmarked, CPD vehicles, accompanied by a uniform officer in a marked CPD vehicle. The search warrant based upon information from a CI, and further investigated by the affiant, Officer Bala, named a [REDACTED] at [REDACTED]. At approximately 8:02 am, Sgt. Escalante's team made a rear door entry into the second-floor apartment. Upon entry, the group proceeded to clear the flat. No persons were home. Sgt. Escalante's team searched the location for drugs and contraband, with negative results. Following department policy, Sgt. Escalante directed before and after search pictures of the apartment be

⁷ Attachment 9

⁸ Id.

⁹ Attachment 23

¹⁰ Attachment 9

taken, and a sketch of the search location included as part of the search warrant packet. The team secured the rear door as best as possible. They also took a picture where they left a copy of the search warrant. Sgt Escalante approximates the entirety of their activity in the second-floor apartment was under an hour.

In Sgt. Escalante's description of the search warrant process, the affiant, Officer Bala, received information from someone regarding narcotics sales occurring at [REDACTED]. Officer Bala gathered the information and drafted a search warrant. Subsequently, Lieutenant Rios, the Area North watch commander, approved the search warrant, and it was forwarded for approval from the State's Attorney's Office. The warrant was then signed by a judge. Sgt. Escalante's role was to look for grammatical errors in the drafting of the document. During the search warrant's execution, Sgt. Escalante's supervisor's role is "the logistics of the safety of the officers involved,"¹¹ including the route, approach, and the information on hand regarding the search. He provides a briefing, defines officer roles, and activities if an officer is injured or an officer-involved shooting occurs. As the search team supervisor, he ensures the photographing and inventory of narcotics or contraband is performed, and the submission of reports is completed.

b. Digital Evidence

The complainant [REDACTED]'s camera phone video shows a uniformed CPD sergeant explaining the search warrant executed at her apartment.¹²

c. Physical Evidence

The **Search Warrant Data Sheet (SWDS)** for [REDACTED] shows no property recovered.¹³ It does show 18 digital photos taken and inventoried from the location.¹⁴

d. Documentary Evidence

The **Search Warrant Packet (SWP)** includes **SW#** [REDACTED], issued on August 6, 2019, as executed on August 9, 2019, at [REDACTED] Apt.2, by Area North Gang Enforcement Team 6731, supervised by Sgt. Escalante. It also shows Lieutenant Juan Rios, Star# 738, as the approving watch commander. Additionally, the Complaint for Search Warrant (CFSW) shows Officer Bala as the affiant, describes the process utilized, through his investigation, to establish probable cause, and the affixed signature of a Cook County Circuit Judge approving the issuance of the search warrant.¹⁵ The SWDS shows the name of the approving State's Attorney and Cook County Circuit Judge.¹⁶

¹¹ Attachment 23 at 24:37

¹² Attachment 20, IMG_394.mp4

¹³ Attachment 9, page 7

¹⁴ Id., Inventory ID# 14516311, Item# 9940627

¹⁵ Id., pages 1-3

¹⁶ Id., page 7

██████████'s residential lease agreement shows her as the sole tenant at ██████████ 2nd Floor, from June 1, 2019, to May 1, 2020.¹⁷

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 reviewed complied with 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 conduct complied with Department policy than that it did not, 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

1. Executing Search Warrant at ██████████, 2nd Floor, Chicago, IL without justification.

The Chicago Police Department has established procedures in preparing Complaints for Search Warrants and Search Warrants; for obtaining, executing, returning, and retaining these documents, and a process for their review by the designated unit supervisor the rank of lieutenant or above before submittal to an assistant state’s attorney.¹⁸ As shown in the Search Warrant Packet, the affiant Officer Bala, drafted the appropriate documents, with the facts’ recitation, to establish probable cause and the resultant approvals of his watch commander Lieutenant Rios, a State’s Attorney and signature of a Cook County Circuit Judge.¹⁹ Based upon clear and convincing

¹⁷ Attachment 17

¹⁸ Special Order S04-19, *Search Warrants*, September 3, 2005, effective when this search warrant was executed.

¹⁹ Attachment 9

evidence, COPA exonerates Sgt. Escalante and Officer Bala of the allegation of executing a search warrant at ██████████ 2nd Floor, Chicago, IL, without justification.

2. Searched ██████████ 2nd Floor, Chicago, IL, the residence of ██████████, without justification.

For search warrants targeting a home, the point of “particularly describing the place to be searched,” U.S. Const. Amend. 4, is to limit the search to a “single living unit (the residence of one person or family).”²⁰ A warrant does not need to perfectly describe the living unit because “room must be allowed” for officers to make “some mistakes,” given that “many situations which confront officers in the course of executing their duties are more or less ambiguous.”²¹ The affiant, Officer Bala, relied on the information given to him by the CI, who provided a physical description of the building at ██████████ and further related that he went up the steps to the 2nd Floor, knocked on the door, entered the apartment and met the subject of the search warrant to purchase heroin. The subject, ██████████, AKA ██████████ (“████████”), went into the adjacent bedroom and returned with ziplock baggies of heroin.

To confirm the correct address of the apartment that the CI claimed to purchase the narcotics from, Officer Bala and the CI went to ██████████, where Officer Bala observed the numbered address, and the CI pointed out the 2nd-floor apartment where he had purchased the narcotics from ██████████. Based upon said description of the residence and further investigation, Officer Bala obtained approval from the State’s Attorney’s Office and a Cook County Circuit Judge for a search warrant. Officer Bala and his team then relocated to ██████████ and executed the approved search warrant. Based upon clear and convincing evidence, COPA exonerates Sgt. Escalante and Officer Bala of the allegation that they searched ██████████, 2nd Floor, Chicago, IL, the residence of ██████████, without justification.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant Escalante	It is alleged that on or around August 9, 2019, at approximately 8:02 AM: 1. Sergeant Escalante executed a search warrant at ██████████ 2 nd Floor, Chicago, IL, without justification.	Exonerated

²⁰ *United States v. Hinton*, 219 F.2d 324, 326 (7th Cir. 1955)

²¹ *Maryland v. Garrison*, 480 U.S. 79, 87, n.11 (1987) (quoting *Brinegar v. United States*, 339 U.S. 160, 176 (1949))

	2. Sergeant Escalante searched [REDACTED] [REDACTED] 2 nd Floor, Chicago, IL, the residence of [REDACTED] [REDACTED], without justification.	Exonerated
Officer Bala	It is alleged that on or around August 9, 2019, at approximately 8:02 AM: 1. Officer Bala executed a search warrant at [REDACTED] [REDACTED], 2 nd Floor, Chicago, IL, without justification. 2. Officer Bala searched [REDACTED], 2 nd Floor, Chicago, IL, the residence of [REDACTED], without justification.	Exonerated Exonerated

Approved:

[REDACTED]

4-28-2021

Angela Hearts-Glass
Deputy Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	Mark A. Glenn
Supervising Investigator:	Andrew Dalkin
Deputy Chief Administrator:	Angela Hearts-Glass