

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 21, 2019
Time of Incident:	7:00 pm
Location of Incident:	██████████, Chicago, IL
Date of COPA Notification:	November 12, 2019
Time of COPA Notification:	11:21 am

On February 21, 2019, Chicago Police Department (Department) members assigned to the 11th District tactical team executed a search warrant (Warrant) at the home of Ms. ██████████ (Ms. ██████████). Ms. ██████████ was an innocent citizen with no connection to the criminal activity or the person who was the subject of the search warrant. Upon forcibly entering Ms. ██████████ home, officers found her naked and alone in the residence. Ms. ██████████ was handcuffed, while naked, as armed officers searched her home. This case garnered local media inquiries in November of 2019, prompting the Civilian Office of Police Accountability (COPA) to open its investigation. Then, in November 2020 as body-worn camera footage was released to the public, the egregious images attracted extensive national and international media coverage and brought immense and well-deserved scrutiny to the Department's search warrant acquisition and execution practices.

The Department's failures in executing the Warrant were themselves preceded by the absence of required due diligence and supervision in the Warrant's acquisition. In this instance, a tactical officer, assigned to the 11th District failed to conduct reasonable and appropriate investigative steps after an anonymous, informant (J. Doe or Doe) told him that a known felon (Target) was keeping a firearm at the residence of the Target's girlfriend. Specifically, the officer failed to take reasonable steps to verify the Target's address and misidentified the apartment where J. Doe allegedly observed the weapon. Despite the officer's deficient investigation, he procured a warrant to search a residence at ██████████, the home of Ms. ██████████ who did not know the Target. Further, the Target did not even reside at the address. In fact, the residence had no connection to criminal activity.

Upon obtaining the Warrant, the officer (Aporongao) and a supervising sergeant (Wolinski) organized a team of twelve male colleagues, travelling to the address after sundown. Almost immediately upon arriving at ██████████, the officers broke open Ms. ██████████ front door and stormed into the apartment. Inside, the team encountered the dwelling's sole occupant, ██████████ a social worker. Ms. ██████████ was naked when the officers stormed into her residence. The officers quickly handcuffed Ms. ██████████ and covered her with a blanket seconds later. Only after nearly twenty minutes had lapsed, did the officers permit a female officer (who was at the scene to provide security) to escort Ms. ██████████ to a discreet area in the home to dress herself. Once Ms. ██████████ was clothed, she was again handcuffed and remained so for several more minutes. Only after holding Ms. ██████████ handcuffed and exploring her home, were Warrant execution team leaders Aporongao and Wolinski finally were satisfied that Ms. ██████████ had no connection to the Target or involvement in the criminal activity described in the Warrant. Only then was Ms. ██████████ uncuffed, given a copy of the Warrant and allowed to make a phone call. As the officers left Ms. ██████████ home, several apologized, one attempted to contact a City office to repair the damage to her door.

Although she made no formal administrative complaint of officer misconduct to COPA, Ms. [REDACTED] filed a lawsuit against the Department and the City shortly after the disturbing events of February 21, 2019. Only months later when it learned of the incident was COPA able to open an administrative investigation.¹ The same day COPA opened its file, the Department communicated that Ms. [REDACTED] had filed suit and that the Department had received a FOIA request for material including officer body-worn camera (BWC) footage captured during the search of her home.² When the Department inquired about the status of its review, COPA, consistent with existing City practice, agreed that the Department's immediate release of BWC footage at such an early stage of COPA's investigation could interfere with its progress. When media published BWC footage approximately one year later, the troubling images shook the nation.

COPA's investigative team conducted a comprehensive review of the incident, obtained an affidavit override to proceed with the investigation in the absence of a sworn statement from Ms. [REDACTED] and raised nearly one hundred allegations of misconduct against fifteen involved officers. COPA concluded that many participating officers violated applicable laws and policies. Notably, Officer Aporongao, the officer who signed the affidavit supporting the Warrant application, conducted a deficient investigation regarding the veracity of the information he received from J. Doe. Additionally, the breaching officers on the scene violated applicable knock-and-announce guidance depriving Ms. [REDACTED] of the opportunity to dress herself before they stormed into her home. Officer Aporongao and Sgt. Wolinski further failed to present the Warrant to Ms. [REDACTED] in a timely manner and failed to take reasonable actions to protect her dignity.

The investigation also indicated that much of the conduct observed was within Departmental policy. The absence of sustained findings against many officers who were involved in executing the Warrant in no way moderates the shocking nature of Ms. [REDACTED] experience: plainly, the extended duration of Ms. [REDACTED] detention was an egregious error that compounded the carelessness and lack of due diligence preceding it. The unseen cause of these events arises from negligence in acquiring the Warrant, a process that long preceded its execution. The unfortunate sequence of events leading to Ms. [REDACTED] maltreatment began with misconduct Officer Aporongao's misconduct in obtaining the Warrant and the supervisors who failed to provide adequate oversight.

Importantly, Ms. [REDACTED] experience reveals problems far more pervasive than any individual incident of officer misconduct. The intrusion against her person and the invasion of her home implicate other concerns, including lack of adequate training and supervision surrounding the Department's use of search warrants and the disproportionate impact of police actions on people of color. COPA is committed to giving these deeply serious issues its utmost attention.

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¹ COPA assigned the matter Log Number 2019-0004600 and opened its investigation on November 12, 2019.

² Illinois Freedom of Information Act (5 ILCS 140).

II. INVOLVED PARTIES

Involved Sergeant #1:	Alex Wolinski, Star #2605, Employee # [REDACTED], Date of Appointment: August 26, 2002, Police Sergeant, Unit 630, DOB: [REDACTED], 1980, Male, White
Involved Sergeant #2	Cory Petracco, Star #2545, Employee # [REDACTED], Date of Appointment: October 25, 2004, Police Sergeant, Unit 650, DOB: [REDACTED], 1981, Male, White
Involved Officer #1:	Alain Aporongao, Star #4870, Employee # [REDACTED], Date of Appointment: November 30, 2012, Police Officer, Unit 011/716, DOB: [REDACTED], 1985, Male, Asian Pacific Islander
Involved Officer #2:	Eric Acevedo, Star #13560, Employee # [REDACTED], Date of Appointment: February 2, 2015, Police Officer, Unit 011/640, DOB: [REDACTED], 1978, Male, White Hispanic
Involved Officer #3:	Gabriel Cruz, Star #2844, Employee # [REDACTED], Date of Appointment: July 15, 2013, Police Officer, Unit 011/716, DOB: [REDACTED], 1986, Male, White Hispanic
Involved Officer #4:	Bryan Mordan, Star #11437, Employee # [REDACTED], Date of Appointment: February 29, 2016, Police Officer, Unit 011, DOB: [REDACTED], 1989, Male, White
Involved Officer #5:	Cody Maloney, Star #13032, Employee # [REDACTED], Date of Appointment: February 23, 2015, Police Officer, Unit 180/716, DOB: [REDACTED], 1989, Male, White
Involved Officer #6:	Tito Jimenez, Star #14955, Employee # [REDACTED], Date of Appointment: October 27, 2014, Police Officer, Unit 011/716, DOB: [REDACTED], 1992, Male, White Hispanic
Involved Officer #7:	Filip Bieniasz, Star #15454, Employee # [REDACTED], Date of Appointment: October 27, 2014, Police Officer, Unit 011/716, DOB: [REDACTED], 1990, Male, White
Involved Officer #8	Michael Donnelly, Star #13784, Employee # [REDACTED], Date of Appointment: November 4, 2013, Police Officer, Unit 018/715, DOB: [REDACTED], 1988, Male, White
Involved Officer #9:	Nikola Saric, Star #18200, Employee # [REDACTED], Date of Appointment: August 31, 2015, Police Officer, Unit 180/716, DOB: [REDACTED], 1981, Male, White
Involved Officer #10:	Michael Orta, Star #11485, Employee # [REDACTED], Date of Appointment: February 29, 2016, Police Officer, Unit 011/189, DOB: [REDACTED], 1982, Male, White Hispanic

Involved Officer #11: Joseph Lisciandrello, Star #19362, Employee # [REDACTED], Date of Appointment: February 18, 2014, Police Officer, Unit 011, DOB: [REDACTED], 1975, Male, White

Involved Officer #12: Ella French, Star #15013, Employee # [REDACTED], Date of Appointment: April 16, 2018, Police Officer, Unit 010/716, DOB: [REDACTED], 1991, Female, White

Involved Officer #13: Jose Villa, Star #14319, Employee # [REDACTED], Date of Appointment: March 27, 2006, Police Officer, Unit 010, DOB: [REDACTED], 1981, Male, Other

Involved Individual #1: [REDACTED] DOB: [REDACTED], 1970, Female, Black

III. ALLEGATIONS

Police Officer Alain Aporongao	
Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Alain Aporongao, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	SUSTAINED
4. Searched the residence located at [REDACTED], without justification.	SUSTAINED
5. Failed to independently verify and/or corroborate the specific information provided by the J Doe.	SUSTAINED
6. Failed to promptly present a copy of the search warrant to Ms. [REDACTED] pursuant to Special Order S04-19.	SUSTAINED
7. Failed to exercise due caution with respect to Ms. [REDACTED] rights, in violation of Special Order S04-19.	SUSTAINED
8. It is alleged by COPA CIO Andrea Kersten that on or about February 20, 2019 and February 21, 2019 at various locations, Officer Aporongao knowingly made false, incomplete, inaccurate, and/or misleading statements of material fact in the complaint for search warrant. To wit: the specific information provided by J. Doe and the steps taken to verify and corroborate that information.	UNFOUNDED
9. It is alleged by COPA CIO Andrea Kersten that on or about January 27, 2021, during an interview at the Civilian Office of Police Accountability at 1615 W. Chicago Avenue, Officer Aporongao willfully made false, incomplete, inaccurate, and/or misleading statements of material fact in his account of efforts	NOT SUSTAINED

made to independently verify and corroborate the information provided by J. Doe.	
<p>10. It is alleged by COPA CIO Andrea Kersten that on or about January 27, 2021, during an interview at COPA's offices, at 1615 W. Chicago Ave, Officer Aporongao willfully made false, incomplete, inaccurate, and/or misleading statements of material fact when he stated the following:</p> <p>Q: Have you seen John Doe since these events of February 2019?"</p> <p>A: No, sir.</p> <p>Q: Have you had any communication with him, a phone call or e-mail or anything else, since February of 2019?</p> <p>A: No, sir.</p>	NOT SUSTAINED
<p>11. It is alleged by COPA CIO Andrea Kersten that on or about January 27, 2021 and/or March 8, 2021, during interviews at COPA's offices at 1615 W. Chicago Ave., Officer Alain Aporongao failed to cooperate in an ongoing investigation by refusing to identify department members who assisted him in the search warrant investigation and/ or approval on February 20, 2019 and February 21, 2019.</p>	SUSTAINED

Sergeant Alex Wolinski

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Sergeant Alex Wolinski, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Failed to consult a SWAT team supervisor prior to the execution of the search warrant as required under Special Order S04-19.	SUSTAINED
6. Failed to ensure each member participating in the execution of the search warrant exercised due caution with respect to Ms. [REDACTED] rights, in violation of Special Order S04-19.	SUSTAINED
7. Failed to ensure Department members executing the search warrant provided Ms. [REDACTED] a reasonable opportunity to allow entry, in violation of Special Order S04-19.	SUSTAINED
8. Failed to adequately supervise officers under his supervision in that he permitted them to enter the residence located at [REDACTED], without justification.	EXONERATED

9. Failed to adequately supervise officers under his supervision in that he permitted them to search the residence located at [REDACTED], without justification.	EXONERATED
10. Failed to promptly present a copy of the search warrant to Ms. [REDACTED] pursuant to Special Order S04-19.	SUSTAINED
It is alleged by COA CIO Andrea Kersten that on or about February 20, 2019 at various times and on February 21, 2019 at various times Sgt. Alex Wolinski, committed misconduct through the following acts or omissions, by:	
11. Failed to supervise the activities of tactical team personnel to ensure team personnel functioned productively.	SUSTAINED
12. It is alleged that on or about January 29, 2021, during an interview at the Civilian Office of Police Accountability, at 1615 W. Chicago Avenue, Sergeant Wolinski willfully made false, incomplete, inaccurate, and/or misleading statements of material fact when he denied having any role in the preparation of the search warrant on February 20, 2019.	NOT SUSTAINED

Sergeant Cory Petracco

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten that on or about February 20, 2019, at various times, Sgt. Cory Petracco, committed misconduct through the following acts or omissions, by:	
1. Failed to supervise the activities of tactical team personnel to ensure team personnel function productively.	SUSTAINED
2. Failed to ensure that all reports detailing the activity of tactical team personnel are accurately completed and appropriately submitted.	UNFOUNDED
3. Failed to prepare and submit a Supervisor's Management Log for each tour of duty.	SUSTAINED
4. It is alleged by COPA CIO Andrea Kersten that on or about February 18, 2021, during an interview at the Civilian Office of Police Accountability, at 1615 W. Chicago Avenue, Sergeant Petracco willfully made false, incomplete, inaccurate, and/or misleading statements of material fact when he denied accompanying Officer Aporongao to have the search warrant approved by Lieutenant Bruno.	NOT SUSTAINED

Police Officer Eric Acevedo

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Eric Acevedo, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	UNFOUNDED

2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED].	EXONERATED
4. Made forcible entry into the residence located at [REDACTED]. without justification.	UNFOUNDED

Police Officer Gabriel Cruz

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Gabriel Cruz, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	UNFOUNDED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Failed to wait a reasonable period of time before making forcible entry into the residence located at [REDACTED].	SUSTAINED

Police Officer Bryan Mordan

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Bryan Mordan, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED

Police Officer Cody Maloney

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Cody Maloney, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	UNFOUNDED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED

3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Detained a male individual at or near [REDACTED], without justification.	EXONERATED
6. Failed to properly complete an ISR or any other documentation regarding the detention of a male individual at or near [REDACTED].	SUSTAINED

Police Officer Tito Jimenez

Allegation	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Tito Jimenez, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED

Police Officer Filip Bieniasz

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Filip Bieniasz, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED

Police Officer Michael Donnelly

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Michael Donnelly, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED

3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Detained a male individual at or near [REDACTED], without justification.	EXONERATED
6. Handcuffed a male individual at or near [REDACTED], without justification.	EXONERATED
7. Searched and/or patted down a male individual at or near [REDACTED], without justification.	EXONERATED
8. Searched a vehicle at or near [REDACTED], without justification.	SUSTAINED
9. Failed to activate body worn camera in a timely manner, in violation of Special Order 03-14.	SUSTAINED
10. Failed to properly complete an ISR or any other documentation regarding the detention of a male individual at or near [REDACTED].	SUSTAINED

Police Officer Nikola Saric

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Nikola Saric, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED

Police Officer Michael Orta

Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Michael Orta, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	UNFOUNDED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Handcuffed Ms. [REDACTED] without justification.	EXONERATED

Police Officer Joseph Lisciandrello	
Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Joseph Lisciandrello, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Pointed your rifle at or in the direction of Ms. [REDACTED] without justification.	EXONERATED
6. It is alleged by COPA CIO Andrea Kersten that on or about January 20, 2021, during an interview at the Civilian Office of Police Accountability, at 1615 W. Chicago Avenue, Officer Joseph Lisciandrello willfully made false, incomplete, inaccurate, and/or misleading statements of material fact when he denied accompanying Officer Aporongao and J. Doe and/or knowing who accompanied Officer Aporongao and J. Doe to present the search warrant for judicial approval.	NOT SUSTAINED

Police Officer Ella French	
Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Ella French, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	UNFOUNDED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Handcuffed Ms. [REDACTED] without justification.	EXONERATED
6. Detained a male individual at or near [REDACTED], without justification.	EXONERATED
7. Failed to timely activate body worn camera, in violation of Special Order 03-14.	SUSTAINED
8. Failed to properly complete an ISR or any other documentation regarding the detention of a male individual at or near [REDACTED].	SUSTAINED

Police Officer Jose Villa	
Allegations	Finding / Recommendation
It is alleged by COPA CIO Andrea Kersten on or about February 21, 2019, at approximately 7:00PM at or near [REDACTED], Officer Jose Villa, committed misconduct through the following acts or omissions, by:	
1. Failed to intervene in the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
2. Failed to report the maltreatment of Ms. [REDACTED]	NOT SUSTAINED
3. Entered the residence located at [REDACTED], without justification.	EXONERATED
4. Searched the residence located at [REDACTED], without justification.	EXONERATED
5. Handcuffed a male individual at or near [REDACTED], without justification.	EXONERATED
6. Detained a male individual at or near [REDACTED], without justification.	EXONERATED
7. Failed to activate body worn camera in a timely manner, in violation of Special Order 03-14.	SUSTAINED
8. Failed to properly complete an ISR or any other documentation regarding the detention of a male individual at or near [REDACTED].	SUSTAINED

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 1: Violation of any law or ordinance.
2. 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.
4. Rule 5: Failure to perform any duty.
5. Rule 6: Disobedience of an order or directive, whether written or oral.
6. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
7. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
8. Rule 10: Inattention to duty.
9. Rule 11: Incompetency or inefficiency in the performance of duty.
10. Rule 14: Making a false report, written or oral.
11. Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.
12. Rule 38: Unlawful or unnecessary use or display of a weapon.

13. Rule 51B: Failure to cooperate when called to give evidence or statements by any investigative branch or superior officer of the Chicago Police Department or the Police Board when the evidence or statements sought relate specifically, directly and narrowly to the performance of his official duties.

General Orders

1. G01-01 Vision, Mission Statement, and Core Values (effective March 1, 2011 – May 21, 2019)³
 2. G08-01 Complaint and Disciplinary Procedures (effective May 4, 2018 – present)⁴
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Special Orders

1. S04-19 Search Warrants (effective September 3, 2015 – January 2, 2020)⁵
 2. S04-13-09 Investigatory Stop System (effective July 10, 2017 - present)⁶
 3. S03-14 Body Worn Cameras (effective April 30, 2018 - present)⁷
 4. S03-03-06 District Field Sergeants (effective March 3, 2017 – present)⁸
 5. Bureau of Patrol Special Order 14-06 District Tactical Teams (effective Nov. 19, 2014 – present)⁹
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Federal Laws

1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.¹⁰

V. INCIDENT LOCATION

Ms. [REDACTED] resides in the first-floor apartment at [REDACTED], which is part of a 3-story townhouse-style apartment building on the west side of [REDACTED] just south of [REDACTED] Street. There are a total of twelve apartments in the building; six are single-floor apartments entered directly at street level, and six are duplex-up apartments entered one story above grade, accessible from the street via exterior stairs. The front doors all face east, opening onto the sidewalk on the west side of [REDACTED]. The front door to Ms. [REDACTED] home is the second door on the west (right) side of [REDACTED] when traveling south from [REDACTED]. Ms. [REDACTED] front door is maroon in color, while the front doors to the adjacent apartments are green. All the apartments also have rear doors, facing west, exiting to a common parking lot behind the building. The apartment at [REDACTED] is immediately south of Ms. [REDACTED] apartment, one door away. The Warrant Target, [REDACTED] [REDACTED] was arrested in

³ Attachment 299.

⁴ Attachment 307.

⁵ Att. 88.

⁶ Att. 302.

⁷ Att. 301.

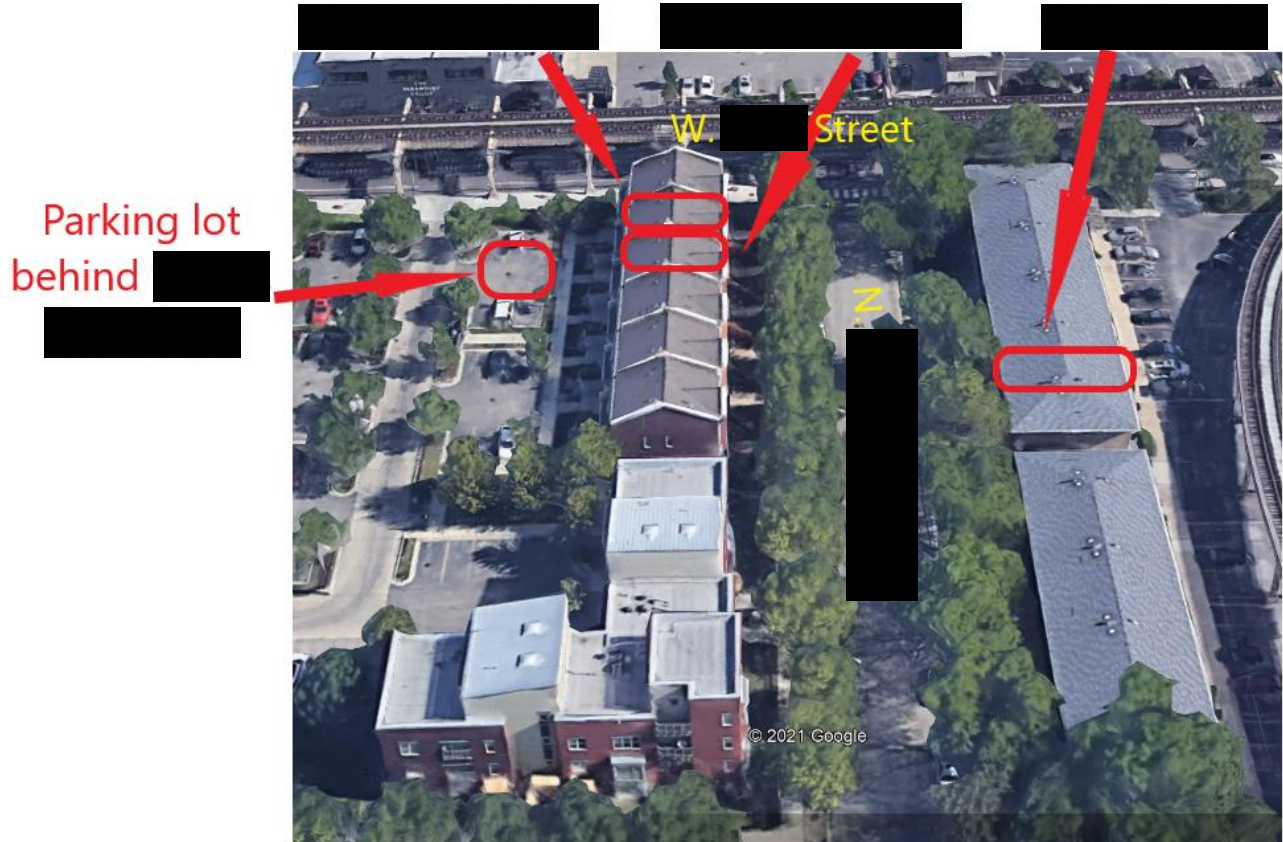
⁸ Att. 308.

⁹ Att. 187.

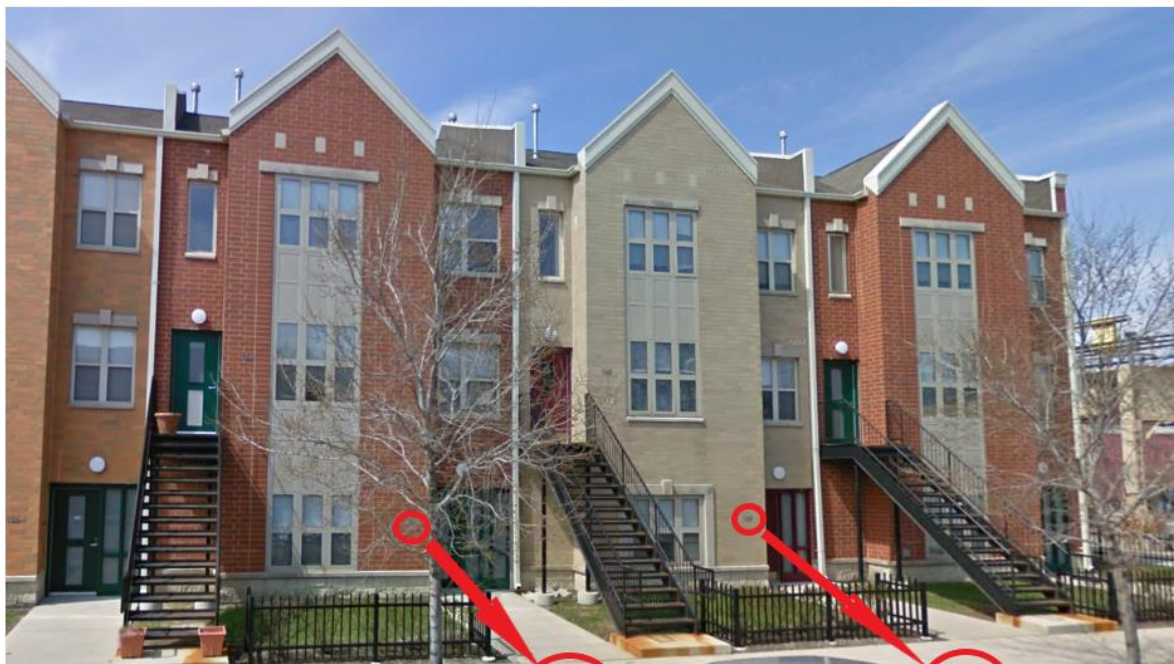
¹⁰ The Fourth Amendment to the United States Constitution provides:

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.

December of 2018 while attempting to enter [REDACTED] from the sidewalk. [REDACTED] arrest history also indicates a home address of [REDACTED], an older, 2-story rowhouse-style apartment located across the street and slightly to the south of Ms. [REDACTED] residence. The rowhouse-style apartments have [REDACTED] Street addresses, apparently because their parking lot is accessed from [REDACTED] Street, but the rowhouse-style building is located on the east side of [REDACTED] south of [REDACTED] with back-patio sliding doors facing [REDACTED]. Each back-patio entrance is marked with the street number of the apartment, such as “1759.”



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VI. SUMMARY OF INVESTIGATION

COPA conducted a thorough investigation into both the Warrant's acquisition, a process which began during the afternoon of February 20, 2019 and continued through the morning of February 21, 2019, and the Warrant's execution which was conducted on the evening of February 21, 2019. Below is an overview of the most material parts of the investigation.

A. Collection of Documentary and Video Evidence

1. Body Worn Camera Evidence

COPA gathered and reviewed all BWC footage relevant to this incident. All 14 officers who participated in the Warrant execution were equipped with body-worn cameras, all of which captured portions of the Warrant execution on February 21, 2019. The BWC footage captures the breach of Ms. [REDACTED] front door at [REDACTED], her, the sole occupant's, handcuffing and detention, the search of Ms. [REDACTED] residence, the handcuffing, detention and search of a male and the search of his vehicle in the parking lot behind the row of residences including [REDACTED], the photographing of Ms. [REDACTED] residence, Ms. [REDACTED] eventual release from handcuffs, and the attempts to secure her damaged front door. Review of this footage was used to attribute specific actions to individual officers and largely informed the drafting of allegations relative to the Warrant's execution.

COPA reviewed and indexed all the body-worn cameras, noting all the actions captured on each separate camera recording. Below is a brief timeline of the most relevant events pertaining to Ms. [REDACTED] treatment that are captured on BWC video.¹¹

- First recorded event begins as officers exit their vehicles and approach the residence
- Officers announce "search warrant" approximately 16 seconds after they exit their vehicles
- Officers first ram the front door of [REDACTED] approximately 5 seconds after officers announce "search warrant," in order to make a forcible entry
- Officers breach the door approximately 19 seconds after they exit their vehicles
- Officers immediately enter Ms. [REDACTED] residence and find her naked
- Officer handcuffs Ms. [REDACTED] while naked, approximately 15 seconds after her door was breached
- Approximately 16 seconds after Ms. [REDACTED] is handcuffed (31 seconds after entering her residence), officers place a jacket over her in an attempt to cover her naked body
- Approximately 44 seconds after Ms. [REDACTED] is handcuffed and approximately 13 seconds after initially being covered by the jacket, officers wrap a large blanket around her in a further attempt to cover her naked body
- Ms. [REDACTED] is handcuffed and wrapped in a blanket for approximately 10 minutes before a female officer takes Ms. [REDACTED] to a bedroom, unhandcuffs so she could clothe herself
- After dressing, Ms. [REDACTED] is handcuffed again and remains handcuffed for another 6 minutes, 41 seconds

¹¹ Att. 258.

- Nearly 15 minutes elapse from the time officers enter Ms. [REDACTED] home and allow her to dress until she is shown a copy of the search warrant
- Approximately 16 minutes elapse from the time Ms. [REDACTED] first requests to make a phone call until she is allowed to make a phone call
- Approximately 32 minutes elapse from the time officers forcibly breach Ms. [REDACTED] residence until they attempt to secure her damaged door
- Officers are present in Ms. [REDACTED] home for a total of 62 minutes

2. Documentary Evidence

COPA gathered all available Warrant - related documentation from the Department, which initially included copies of the Warrant packet, all relevant case reports, and the post - Warrant execution reports.¹² As the investigation progressed, investigators gathered further relevant information, such as time-keeping records, training materials, email and GPS records, in addition to other Department controlled documents. COPA also subpoenaed and reviewed materials from the Department of Law related to Ms. [REDACTED] civil lawsuit. COPA investigators also acquired materials regarding the Target of the Warrant from the Cook County Sheriff's Office.¹³

B. Witness Interviews

a. Department Member Interviews

COPA served misconduct allegations against 15 officers and interviewed several other officers as witnesses. Accused officers' descriptions of events were largely consistent with each other as well as events as captured on BWC. Several accused officers indicated they lacked Warrant - specific training. Several expressed sympathies for Ms. [REDACTED]. However, these interviews elicited little new information, all essentially reiterated the content of documents COPA investigators had already obtained and reviewed. Most of the officers claimed to have little if any memory of the Warrant execution incident other than as shown in BWC footage or written in a report. Some officers sought to minimize or even deny involvement in certain aspects of this incident as discussed more fully below.

b. J. Doe

Analysis of officer interviews and related records enabled COPA investigators to identify, locate, and interview J. Doe, who provided the information regarding the Warrant Target. Doe offered a version of events that differed significantly from those offered by the officers. So different was Doe's account

¹² The search warrant packet comprises a set of documents retained by the Department unit responsible for executing the warrant. The packet contains copies of the search warrant, the complaint for search warrant (affidavit), a sketch of the interior layout of the building or apartment searched, and other documents, such as case reports, arrest reports, and inventory reports related to the search warrant. A copy of the search warrant along with photographs taken by a designated CPD member before and after the search, must also be inventoried in the Department's centralized evidence storage location, the Evidence and Recovered Property Section (ERPS).

¹³ In February 2019, Warrant Target [REDACTED] was on bond on a felony charge under Case No. 19CR [REDACTED] and was subject to electronically monitored home confinement as a condition thereof. COPA obtained documents related to the electronic monitoring, which list [REDACTED] residence as [REDACTED], the address of a different residence, south of Ms. [REDACTED] home at [REDACTED]. Att. 62.

that it cast doubt upon the Warrant's legitimacy. COPA investigators expended significant effort in attempting to establish the accuracy of many elements of Doe's statement.

c. Judge, Assistant State's Attorney and Cook County Sheriff's Office

COPA investigators also spoke with the Cook County judge who signed the search warrant, the Assistant State's Attorney who approved the Warrant, and Cook County Sheriff's Office Electronic Monitoring Program and General Counsel's Office staffs.

d. Male Civilian Who Was Detained

COPA identified the male civilian who was detained behind the residences at [REDACTED] and had his vehicle searched during the Warrant execution. However, despite multiple attempts to speak with him, COPA investigators were unable to do so. COPA investigators spoke with a female who resembled a woman who appears on BWC footage during the detention and search of the male civilian, but she did not recall these events.¹⁴

e. Ms. [REDACTED]

COPA investigators made more than a dozen attempts to obtain a statement from Ms. [REDACTED]. Her attorney declined to make Ms. [REDACTED] available to provide her first-hand account of the incident. COPA investigators first reached out to Ms. [REDACTED] upon opening the investigation in November 2019. These efforts continued throughout the investigation. As recently as February 2021 Ms. [REDACTED] attorney again made clear that she would not participate in this investigation. As a consequence, COPA has concluded its investigation and reached its conclusions without the benefit of Ms. [REDACTED] cooperation.¹⁵

C. Site Visits

COPA personnel also visited the scene of the incident on multiple occasions in an effort to locate additional witnesses and familiarize themselves with the various addresses involved.

VII. SUMMARY OF EVIDENCE¹⁶

A. SEARCH WARRANT ACQUISITION

FEBRUARY 20, 2019 (2:00 PM) THROUGH FEBRUARY 21, 2019 (10:15 AM)

At approximately 2:00 PM on February 20, 2019, 11th District Tactical Officers conducted a routine narcotics arrest and transported the arrestee to 11th District Police Station. This arrestee served as J. Doe for the Warrant. While being processed for the narcotics arrest, Doe stated that he had information about an illegal weapon. Doe eventually volunteered that he had observed an acquaintance, the Warrant

¹⁴ Att. 70–75, 287–290. *See* Investigative Case Notes from April 9, 2021 and April 14, 2021.

¹⁵ *See* Investigative Case Note from March 3, 2021, memorializing phone conversation from February 23, 2021.

¹⁶ Section VII summarizes material evidence gathered and relied upon in COPA's analysis. Given the large number of accused officers and allegations, certain evidence is discussed in subparagraph F (Legal Analysis) below.

Target [REDACTED] brandish a firearm at his girlfriend's residence near the West Loop.¹⁷ Doe also indicated that [REDACTED] under house arrest and subject to electronic monitoring.

Officer Aporongao, one of the 11th District Tactical Officers who arrested Doe, began an investigation to seize the illegal weapon and the Target under the supervision of his immediate supervisor, Sergeant Petracco.¹⁸ Aporongao obtained Department reports of the Target's December 2018 arrest for a weapons-related offense, which listed [REDACTED] address as [REDACTED] Street.¹⁹ The 2018 arrest took place on the sidewalk in front of [REDACTED]. The arrest report states that [REDACTED] in an attempt to evade arrest, tried to enter the front door of [REDACTED]. Officer Aporongao also obtained [REDACTED] criminal history, which confirmed that for several years, he had consistently listed [REDACTED] Street as his home address. Officer Aporongao also accessed a Cook County Circuit Court database and verified the Target was subject to electronic monitoring. However, Aporongao failed to take reasonable steps to confirm the address where the Target was confined.²⁰ Instead, although he had multiple law enforcement records listing [REDACTED] as the Target's residence and a report describing a recent arrest that indicated a connection between the Target and [REDACTED], Aporongao disregarded all of this information and instead relied exclusively on J. Doe's statements that the Target's address was [REDACTED].²¹ After reviewing the reports he collected, Aporongao escorted Doe to the area near [REDACTED] Street and [REDACTED] Avenue and asked him to verify the

¹⁷ See att. 97, Aporongao Statement at 64:7–12.

¹⁸ See att. 118, Bruno Statement at 43:22–24, 44:1–3 (stating that in February 2019 Officer Aporongao and Sgt. Petracco approached him together to seek approval for a search warrant application). Sgt. Petracco, however, did not recall participating in any significant part of the Warrant investigation or approval process—including presentation of the warrant application to Cmdr. Bruno. See, e.g., att. 132, Petracco Statement at 54:1–56:9. Officer Aporongao also insisted that, although Sgt. Petracco was his immediate superior, Petracco did not play a significant role in the investigation. See, e.g., att. 97, Aporongao Statement at 58:13–59:4. These denials of the sergeant and his subordinate are spurious. When Officer Aporongao began his investigation, he had only limited experience as an affiant for search warrant applications. See *id.* at 11:20. It is improbable that such a relatively inexperienced officer would fail to consult with his sergeant about the complex process of procuring a warrant based on a tip from an anonymous, unregistered informant. Indeed, like many of his colleagues, Officer Aporongao indicated that instead of formal training, he relied upon the guidance of veteran officers to navigate a range of issues at all stages of the process. See, e.g., *id.* at 15:5–6; 28:1–7. Furthermore, Sgt Petracco's email records indicate that he was indeed involved in this process. Specifically, he was responsible for obtaining the deconfliction number for the Warrant and he received an update on the plan to obtain approval of the Warrant at about midnight on February 20 - long after his shift ended. Lieutenant Panosh, the watch operations lieutenant on the evening of February 21, 2019 also telephoned Sgt. Petracco (not realizing the sergeant was off duty) to ask about the Warrant. This supports the conclusion that Petracco was, at the very least, aware of Officer Aporongao's investigation for the Warrant application and had a duty to supervise the work.

¹⁹ See att. 97, Aporongao Statement at 16:14–17:19.

²⁰ See *id.* at 20:8–11. Aporongao claimed that he contacted the Cook County Sheriff's Office (CCSO) in an attempt to obtain the Target's address, but CCSO refused to give him the information citing an internal policy that prohibited it from disclosing the whereabouts of an individual subject to electronic monitoring in the absence of an active arrest warrant. See *id.* at 20:18–20. However, when COPA contacted CCSO, its investigators were told that no such policy was in place. See Investigative Case Note from February 11, 2021. CCSO also found no documentation indicating that it had received such an inquiry seeking the Target's address. See att. 184. Further, Aporongao failed to document that he made such a request of CCSO in any Department report.

²¹ See att. 97, Aporongao Statement at 49:20. There are significant material discrepancies between the accounts of Doe and Officer Aporongao regarding their interactions, including the address Doe identified as the Target's residence. These inconsistencies, as well as both men's credibility, are discussed in detail in the analysis below.

Target's address. Based upon the information Doe provided, Aporongao formed a belief that the Warrant Target resided at [REDACTED].²²

Officer Aporongao prepared a warrant application to search the residence at [REDACTED]. He submitted the application with supporting documents for Lieutenant Bruno's approval, which was granted.²³ Later that night, Officer Aporongao provided a copy of the warrant application package to the Cook County State's Attorney Office's Felony Review Unit which issued search warrant number 19SW [REDACTED] and approved the application for presentment to a judge.²⁴ The next morning, February 21, 2019, Officer Aporongao escorted J. Doe to the Circuit Court of Cook County and presented him to a judge who approved the application for a warrant to search [REDACTED].²⁵ Officer Aporongao returned Doe to the lockup and began planning for the Warrant's execution.

B. SEARCH WARRANT EXECUTION

FEBRUARY 21, 2019 (7:00 PM)

Later that day, consistent with Departmental directives, Officer Aporongao and Sergeant Alex Wolinski held a planning meeting for the search team. Sergeant Wolinski was covering for Sergeant Petracco, who was not working on February 21, 2019. Officer Aporongao provided the team with basic information about the search objective, *i.e.*, Target identity, residence layout, and related information.

²² While Officer Aporongao claimed he took multiple steps to verify the information Doe provided him, COPA could not confirm that he actually did so. For example, Aporongao claimed that he directed his team members to drive Doe back to [REDACTED] to confirm it was indeed the Target's address. However, no other officer recalled taking this action and there was no vehicle GPS data reflecting that it occurred. *See id.* at 114:25-116:8; *but cf.* att. 91, GPS data. Officer Aporongao also said he showed Doe several mugshots to see whether Doe could identify the Target, asked Doe to identify the Target's address on a map produced from *Google Earth*, and had him draw a sketch of the Target's apartment. Again, Aporongao produced no support for his statements, saying that he did not retain the documents and that they were "probably in the garbage." *Id.* at 112:4-6, 49:19-50:6; 120:18-122:20.

²³ The role of the approving Lieutenant is to review the search warrant materials for accuracy, probable cause, and to ensure the content is supported by an independent investigation. COPA's review of this incident did not extend to the actions of Department members of Lieutenant's rank or above. Chicago's Office of the Inspector General will review such senior officers' actions if it determines such a review is warranted. COPA investigators interviewed Department member Kevin Bruno as a witness in its investigation. Kevin Bruno was a Lieutenant in February 2019 when this incident occurred. He has since been promoted to the rank of Commander but will be referred to as Lieutenant throughout this document, as it is describing events that occurred when he was a Lieutenant.

²⁴ CCSAO's Felony Review Unit routinely reviews search warrant applications for all municipal police departments in Cook County, including the Chicago Police Department. Each search warrant application is assigned to an assistant state's attorney (ASA) who conducts a review focused on whether the facts as alleged are sufficient to establish probable cause. The ASA's review is limited to the four corners of the complaint for the warrant and supporting affidavit, as presented by the police officer. The ASA review does not address the investigatory steps taken by the officer to verify the facts as alleged. Att. 149.

²⁵ *See* att. 47, Warrant Package, pp. 1-3; att. 97, Aporongao Statement at 86:6-81:19, *but cf.* att. 148, J. Doe Statement (Jan. 14, 2021) at 11:16-12:2 (stating that he met with the judge outside of a convenience store, not at a courthouse, and that the meeting occurred *before* officers drove him to the area of the Target's supposed address and asked him to point out the Target's residence). Officer Aporongao also maintained his own search-warrant file, which contained additional documents and images. *See* att. 206. Inconsistencies in witness accounts is addressed more fully below.

In addition to Officer Aporongao and Sergeant Wolinski, the search team included ten other male tactical officers: Officers Acevedo, Bieniasz, Cruz, Donnelly, Jimenez, Lisciandrello, Maloney, Mordan, Orta, and Saric. Two uniformed officers, Officer Villa and Officer French, the sole female officer involved, were to assist and satisfy Department requirements that two uniformed officers be present at the execution of a search warrant. No search team member had received more than a few hours of warrant-related training since leaving the Police Academy.²⁶ In fact, most of the officers stated they had learned about the warrant process through informal conversations with more experienced officers.²⁷

Shortly before 7:00 p.m. on February 21, 2019, the search team traveled to [REDACTED]. As they approached the site, Officer Lisciandrello alerted the other officers over the radio that he saw a male individual behind the apartment buildings.²⁸ The officers reached the ground-floor apartment at [REDACTED] and Officers Aporongao and Lisciandrello knocked on the front door of the address listed in the Warrant. They announced they were police officers but, after waiting only five seconds for an answer, Officer Cruz began attempting to break open the door with a battering ram. He became exhausted after using the ram for about fifteen seconds at which point Officer Acevedo relieved him and struck the door twice. The door gave way, and the officers stormed into the residence.²⁹

Almost immediately upon entering the residence, Officer Lisciandrello encountered the occupant, [REDACTED], who was naked. Officer Lisciandrello aimed his weapon at her until she raised her hands. Approximately fifteen (15) seconds after entering Ms. [REDACTED] home Officer Orta placed Ms. [REDACTED] in handcuffs. Sixteen (16) seconds later, Orta covered Ms. [REDACTED] upper body with a jacket.³⁰ Once the officers were confident that Ms. [REDACTED] was alone in the home, Officers Aporongao and Cruz found a blanket to more fully cover Ms. [REDACTED].³¹ Young was covered with the blanket approximately forty-four (44) seconds after she was initially handcuffed. Ms. [REDACTED] who was emotionally shaken, became upset and started sobbing, exclaiming that the officers were raiding the wrong residence. Sergeant Wolinski told Ms. [REDACTED] that the officers had a warrant but when Ms. [REDACTED] demanded to see a copy of the paperwork, Wolinski simply ignored her or questioned her about the Target.³² Ms. [REDACTED] told Wolinski that she did not know the Target and was the sole occupant of her residence. Although officers spoke calmly and respectfully to Ms. [REDACTED] during this exchange, she remained handcuffed, naked, and covered only by a blanket.

Meanwhile, Officers Donnelly, Maloney, French and Villa arrived at the rear of Ms. [REDACTED] home. The four officers observed a man in a vehicle parked directly behind the back door of the apartment. Officer Donnelly said that he was concerned the man might be the Target, especially in light of Officer

²⁶ See, e.g., att. 97, Aporongao Statement at 10:11-18; att. 96, Wolinski Statement at 11:8-12:3; att. 98, Bieniasz Statement at 12:16-21; att. 29, French Statement at 12:21-24; att. 31, Acevedo Statement at 16:20-24; att. 39, Villa Statement at 10:23-11:16. See also Training Records, Att. 207-21.

²⁷ See, e.g., att. 97, Aporongao Statement at 22:9-16; att. 96, Wolinski Statement at 12:17-24; att. 132, Petracco Statement at 22:2-15; att. 33, Mordan Statement at 11:3-8; att. 37, Maloney Statement at 10:18-23; att. 31, Acevedo Statement at 26:2-27:4; att. 35, Cruz Statement at 14:4-11.

²⁸ See att. 27, Lisciandrello Statement at 86:12-20.

²⁹ The officers' entry into Ms. [REDACTED] apartment is captured on multiple BWC videos. See, e.g., att. 7, Aporongao BWC at 00:38-1:20; att. 8, Lisciandrello BWC at 00:55-1:35; att. 11, Wolinski BWC at 00:29-1:15; att. 13, Cruz BWC at 00:55-1:35; att. 15, Acevedo BWC at 00:27-55.

³⁰ See att. 10, Orta BWC at 01:40-01:48.

³¹ See att. 13, Cruz BWC at 02:15-02:30.

³² See *id.* at 02:00-15:07; att. 17, Wolinski BWC at 00:40.

Lisciandrello's radio message about the man he observed behind the apartment building. Donnelly also noted the man's close proximity to the search site and initially believed he resembled the Target.³³ Officer Donnelly told Officers French and Villa to watch the man in the vehicle. Donnelly ordered the man out of the vehicle and Villa attempted to handcuff him. Officer Donnelly conducted a pat-down of the man and also searched the front passenger seat of his vehicle. The man was compliant, informing the officers that he had nothing to do with the search they were conducting. At about this time, a woman appeared from one of the units in the apartment complex. She demanded that the officers stop searching her vehicle and told them that the man they were detaining had nothing to do with their search. At that point, the officers released the man but did not complete an investigatory stop report ("ISR").³⁴

Officer French then entered Ms. [REDACTED] apartment and offered - - to escort Ms. [REDACTED] to a discreet area so she could put on clothing, which Sergeant Wolinski approved.³⁵ After Ms. [REDACTED] had been handcuffed naked, covered only by blanket for approximately 10 minutes, Officer French escorted her to a bedroom, where the officer removed the handcuffs and allowed Ms. [REDACTED] to dress herself. Once Ms. [REDACTED] was clothed, Officer French again handcuffed Ms. [REDACTED] and brought her back to Sergeant Wolinski. Ms. [REDACTED] demanded the officers allow her to make a phone call to her pastor. Officer Cruz asked Wolinski if she could make the call. He and Officer French also asked if they could remove the handcuffs from Ms. [REDACTED]. Wolinski did not respond positively to any of the officers' requests at that time.³⁶ Approximately 20 minutes after officers initially entered Ms. [REDACTED] home, Sergeant Wolinski finally allowed Officer Cruz to remove the handcuffs.

Within approximately a minute of entering Ms. [REDACTED] home, officers realized that the Warrant Target was not present. After handcuffing and detaining Ms. [REDACTED] for several minutes, it also became apparent to the officers that the Target was not associated with the address. Several officers remained in the residence to continue photographing and documenting the search warrant execution, as required. Sergeant Wolinski and Officer Aporongao continued speaking with Ms. [REDACTED] as other officers prepared to leave, and they prepared to leave.³⁷ Several officers remained in the residence to continue photographing and documenting the Warrant execution, as required. Sergeant Wolinski and Officer Aporongao continued speaking with Ms. [REDACTED] as other officers prepared to leave. Concerned that Ms. [REDACTED] home was no longer secure because of the damage caused by the battering ram, Officer Cruz attempted to contact city services and request that an employee come to Ms. [REDACTED] residence to secure the door.³⁸ When that failed, Officer Cruz improvised, creating a makeshift barricade for her door with an ironing board. While taking these actions, Officer Cruz accidentally broke a flowerpot and cleaned it up. He also offered to get Ms. [REDACTED] a glass of water.

³³ See att. 94, Donnelly Statement at 43:2-45:8, 71:1-72:2.

³⁴ See *id.* at 56:18-57:15.

³⁵ See att. 12, French BWC at 06:40. Officer French deactivated her BWC as Ms. [REDACTED] got dressed, which is the only portion of the events that occurred inside of Ms. [REDACTED] residence that were not captured on any BWC footage.

³⁶ See att. 13, Cruz BWC at 19:00-19:45.

³⁷ This was evident in their tone and demeanor on body worn camera footage and was confirmed in statements of both Officer Aporongao and Sergeant Wolinski.

³⁸ See att. 35, Cruz Statement at 56:24-59:9.

C. DEPARTMENT SEARCH WARRANT TRAINING

Each of the officers involved in the Warrant acquisition and execution stated that they received little to no formal Department training relative to search warrants. Department records indicate that, with the exception of Officer French, each officer involved in the Warrant acquisition and execution, had received search warrant training, prior to February 20, 2019. COPA obtained copies of relevant training materials and interviewed Commander Matthew Cline, who has conducted many such trainings. The training material covered many search warrant - related topics, including the appropriate treatment of people inside the residence being searched and proper verification of a J. Doe or confidential informant's information. Training materials are quite comprehensive and demonstrate the clear subject matter expertise of certain Department members. However, many training sessions were presented in large venues such as the United Center to groups of hundreds of officers, including many officers were involved in executing this Warrant, specifically Officer Aporongao. Such conditions were far from ideal for conveying the detailed and nuanced information necessary to understand the complexity of search warrant acquisition and execution. Furthermore, there was no evaluation or assessment process to determine if an attendee actually learned or retained important information. Officers involved in this matter generally indicated that they had learned search warrant - related process informally from more experienced officers, not from Department or official training.

D. LEGAL STANDARD - STANDARD OF PROOF

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.³⁹ 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 satisfied.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but less demanding than “proof-beyond-a-reasonable-doubt” that applies in criminal cases.⁴⁰ 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.”⁴¹

³⁹ See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005), which states, “A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”

⁴⁰ See, e.g., *People v. Coan*, 2016 IL App (2d) 151036.

⁴¹ *Id.* ¶ 28.

E. CREDIBILITY ANALYSIS

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness; and, 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

Due to the extensive amount of BWC footage in this case, the facts concerning the execution of the warrant were not in material dispute. The officers who participated in the execution of the warrant all provided statements to COPA, and their accounts of the event were all substantially similar to what was captured on video and therefore reliable. Insofar as these officers' statements to COPA addressed the execution of the warrant, they were accurate and credible. The reliability of the officers and witnesses who provided accounts of the events which preceded the execution is another matter, specifically with respect to the statements of Officer Aporongao, Sgt. Petracco, Sergeant Wolinski, Officer Lisciandrello and Doe. At the conclusion of the first interviews of Officer Aporongao, Officer Lisciandrello, and Sgt. Petracco, there were major discrepancies between their statements and other sources of evidence. As the investigation progressed, most of these discrepancies were resolved and what remained was an unwillingness to identify, or attempt to identify, which officers took certain steps during the investigation.

As a threshold matter, Doe appeared truthful in his interviews with COPA. He was able to provide a detailed account of the events of February 20th and 21st 2019. He had no advanced knowledge of COPA's interview or the matters about which he would be questioned and he was offered nothing in return for his information. Moreover, given his incarceration, he was unaware of the media attention the case had received at the time COPA investigators interviewed him. Doe's demeanor was confident and relaxed during his interviews. When he was uncertain of specific information, he made that clear to investigators. Doe displayed what appeared to be genuine surprise when confronted with information that differed from his recollection. Additionally, much of the information Doe provided, such as specific facts about the Target's father's home and his recollection of how he initially came into contact with officers on February 20, 2019, was consistent with established facts. However, further investigation following Doe's interviews indicated that other important aspects of his statements, such as the circumstances surrounding his meeting with the judge and his recollection of encountering Officer Aporongao many months after the Warrant execution, were likely inaccurate. Ultimately COPA determined that Doe was not wholly reliable as a witness.

Officer Aporongao, Officer Lisciandrello, Sergeant Wolinski, and Sergeant Petracco also displayed many of the same attributes as Doe in their respective interviews. All four men expressed shock and even anger when confronted with certain allegations of misconduct during their interviews. They all appeared confident and engaged during their interviews. Unlike Doe, Officers Aporongao and Lisciandrello and Sergeants Wolinski and Petracco enjoyed and exercised their contractual right to the advice of counsel prior to and at their interviews. Officers Aporongao and Lisciandrello also had an additional representative from the Fraternal Order of Police present during their statements. Officers Aporongao and Lisciandrello and Sergeants Wolinski and Petracco all met with counsel prior to giving statements and importantly, their counsel also represented other accused officers and key witness officers who were interviewed in this matter. Additionally, all officers have a contractual right to confer with counsel when questioned during interviews.

Officer Aporongao gave very detailed accounts of his activities with respect to his investigation to independently verify Doe's information. Initially, many of the facts he provided were in conflict with

Doe's version of events as well as the Department's records. However, COPA investigators were ultimately able to verify many of the facts Officer Aporongao provided and establish the reliability of his account through other sources. Having reviewed additional documentary evidence, COPA investigators ultimately found that Officer Aporongao was a largely credible witness.

Officer Lisciandrello's statements were consistent with what was depicted on his body worn camera footage, but he denied having any involvement in Officer Aporongao's activities leading up to the Warrant execution, which was proven to be false. Unlike Officer Aporongao, Officer Lisciandrello did not offer additional detail or demonstrate any independent memories of these events. Accordingly, COPA investigators did not ultimately find Officer Lisciandrello to be a credible witness.

Sergeant Petracco ultimately claimed to have no recollection of the details of the Warrant investigation. He also denied any involvement in Officer Aporongao's activities pertaining to the Warrant, with the exception of obtaining the deconfliction number.⁴² Unlike Officer Aporongao, COPA's investigators were unable to verify Sergeant Petracco's version of events. Indeed, email records and Lieutenant Bruno's statement indicate that Sergeant Petracco was significantly involved in supervising the investigation supporting the Warrant acquisition, although his role was not memorialized in any official Department report. Sergeant Petracco's version of events was not reliable and was in fact refuted by other evidentiary sources. At the conclusion of this investigation, having had the benefit of reviewing additional documentary evidence, COPA investigators ultimately found that Sergeant Petracco was not a forthcoming or credible witness.

Much like Sergeant Petracco, Sergeant Wolinski also claimed to have no specific memories of any details of the Warrant investigation. He outright denied supervising Officer Aporongao's activities preliminary to acquiring the Warrant on the night of February 20, 2019. However, email documentation obtained by COPA investigators shows that Sergeant Wolinski was directly supervising Aporongao's activities.⁴³ While many of Sergeant Wolinski's statements regarding the Warrant's execution were accurate, he failed to fully disclose his supervisory role in the Warrant's acquisition. COPA investigators found Sergeant Wolinski lacking in candor during portions of his interviews.

F. LEGAL ANALYSIS

ALLEGATIONS PERTAINING TO WARRANT ACQUISITION

1. Officer Aporongao's investigation failed to satisfy standards of due diligence and violated Departmental policy.

COPA alleged that Officer Aporongao's efforts to verify the information he relied on in support of his search warrant application did not satisfy normal standards of due diligence. Departmental policy provides that, when an officer relies on an unregistered, confidential informant in a search warrant application, he must conduct an investigation to verify whatever information the informant provides.⁴⁴ According to Officer Aporongao's own version of events, he failed to take several reasonable steps to

⁴² Department policy requires that required the search warrant information be shared with Chicago High Intensity Drug Trafficking Area (HIDTA), so that the Target and warrant information can be cross-referenced across other law enforcement agencies, to ensure there is not a conflict. Upon completion of the that process, the requesting CPD officer receives a HIDTA deconfliction number.

⁴³ E-mail from Sgt. Alex Wolinski to Sgt. Cory Petracco, Lieutenant Eddie Winters, and Lieutenant Gilberto Calderon (Feb. 20, 2019, 11:55 p.m.). Att. 224.

⁴⁴ See Special Order S04-19, part (IV)(A)(1)(C). Att. 88.

investigate the most material piece of information Doe provided, which was the target's connection to [REDACTED].

Specifically, Officer Aporongao:

1. Ignored a discrepancy between the Target's address in police records and the address he received from Doe;⁴⁵
2. Failed to use Accurint, which is an investigative tool used by law enforcement to search a comprehensive database of public records, thus expediting the identification of individuals, addresses, relatives, business associates, etc.;
3. Failed to acquire the address where the Target had been ordered to serve home confinement from the Cook County Sheriff's Office, which was a matter of public record;⁴⁶ and,
4. Chose not to conduct surveillance of his intended search site.⁴⁷

In his statement to COPA, Officer Aporongao attempted to excuse many of the deficiencies in his investigation: *e.g.*, he argued the discrepancy in the addresses was not concerning because, based on Google Earth, he believed the address listed in the police records referred to a housing complex while the address provided by Doe referred to a unit within that the complex.⁴⁸ He also added that most

⁴⁵ See att. 97, Aporongao Statement at 71:4–73:2.

⁴⁶ See *id.* at 19:1–22:2; compare Investigative Case Note from February 11, 2021 and att. 184.

⁴⁷ See *id.* at 84:4–12.

⁴⁸ According to Officer Aporongao, Doe said that the target lived at [REDACTED], and the apartment had a red door and was the second door on [REDACTED] coming from [REDACTED] Street. Before driving to the target location, Officer Aporongao showed Doe a printout from Google Maps, and Doe identified the red door of the apartment at [REDACTED] as the target's residence. When Officer Aporongao drove with Doe to that location, Doe identified the red door in person, and it was the second door on the west side of [REDACTED] south of [REDACTED] Street. There is a Google Street View image of [REDACTED] included in Officer Aporongao's search warrant file, and it was signed by Judge [REDACTED] when he approved the search warrant on February 21, 2019. (Att. 206.) GPS records do *not* show any 11th District patrol vehicles driving past the target residence on the evening of February 20, 2019. However, COPA confirmed that 3 vehicles in frequent use by the 11th District tactical team in the month of February 2019 did not have functioning GPS. (Att. 91). Given that all the participants (Doe, Officer Aporongao, and Officer Pufpaf) agree that they drove past the target residence at some point, this more likely than not occurred. Also, given what we know about the three tactical-team vehicles without functioning GPS, it is plausible that the officers used one of those vehicles. COPA does note that Officer Aporongao's assigned vehicle for his scheduled daytime shift on the February 20, 2019, *was* equipped with functioning GPS, but that vehicle was re-assigned to other officers on the afternoon shift. It is plausible that Officer Aporongao took another vehicle when he drove with Doe and Officer Pufpaf past the target residence in the evening. Officer Aporongao told COPA investigators that he looked on Google Maps and saw that [REDACTED] Street was the address for the entire complex on the west side of [REDACTED] off [REDACTED] leading him to believe that [REDACTED] was one specific apartment within the [REDACTED] complex. COPA confirmed that Google Maps, at least as of March 2021, does *incorrectly* show [REDACTED] Street as a building on the west side of [REDACTED] south of [REDACTED] sharing a parking lot with [REDACTED]. However, zooming in on the Google map also *correctly* shows the number "1759" overlaid on an individual rowhouse apartment on the east side of [REDACTED] south of [REDACTED] (Att. 147.) In the real world, as opposed to Google Maps, the numbers "1759" are prominently displayed adjacent to the back patio door of the rowhouse, facing [REDACTED] across the street from Ms. [REDACTED] apartment at [REDACTED]. (Att. 148, Photographs of [REDACTED] St., Jan. 15, 2021.) Further, CPD's mapping resource, Caboodle, shows "1757" [REDACTED] as a rowhouse building on the east side of [REDACTED] south of [REDACTED] (Att. 147.) Officer Aporongao was overly reliant on Google Maps and failed to search Caboodle and failed to personally look in the neighborhood for the 1759 address. COPA also notes that

offenders “don’t have a stable place to go” and change residences frequently.⁴⁹ This is unconvincing: first, Officer Aporongao did not have a reasonable basis to conclude the address in police records referred to the complex. That information should have been verified in person or through legal records, not Google Earth. Perhaps the most compelling law enforcement record Officer Aporongao had and ignored, was the target’s arrest report from December 2018, which clearly created a connection between the target and [REDACTED], not [REDACTED].

Regarding Officer Aporongao’s failure to obtain the target’s electronic monitoring information, he stated that his contact at CCSO informed him there was a policy against releasing the address of a person on electronic monitoring in the absence of an active arrest warrant.⁵⁰ While COPA cannot definitively state that Officer Aporongao did not receive information about such a policy, COPA *can* say that is inconsistent with the information provided from the CCSO during our investigation. CCSO indicated to COPA that this address information is a matter of public record and therefore something that could be disclosed.⁵¹ Since Officer Aporongao did not document his communication with CCSO, it is impossible to determine precisely what information he received. However, this information was a matter of public record and was available in the target’s court file. With any additional effort, either via CCSO or the Cook County Clerk of Court, he would have been able to acquire the location of the target’s home detention, which was [REDACTED], not [REDACTED].

John Doe claims to have specifically identified the rowhouse at [REDACTED] to the police as the target’s residence.

⁴⁹ See att. 97, Aporongao Statement at 72:18–19.

⁵⁰ Officer Aporongao verified that the target was on electronic monitoring (“EM”) by checking the Cook County Clerk of Court criminal docket and seeing that an order placing the target on EM had been entered by the judge in a current criminal case against the target. There is a printout from the docket in Officer Aporongao’s copy of the search warrant package showing that the target was placed on EM on January 4, 2019. (Att. 206.) However, Officer Aporongao only printed the docket from the First Municipal District, even though the case against the target had already been transferred to the County Department, Criminal Division. (Att. 60, 175.) It was possible that the EM order could have already been cancelled by the Criminal Division judge, and Officer Aporongao would not have realized if this had happened. As it turned out, the EM order remained in place as of February 21, 2019, but Officer Aporongao never attempted to speak with the assigned Assistant State’s Attorney (“ASA”) or to look at the target’s court file for himself. The court file is a public record and can be examined, in person, at the Clerk’s office at 2650 South California Avenue. Had Officer Aporongao accessed the court file, either in person or through the auspices of an ASA, he would have discovered that the target was *not* on EM at [REDACTED]. Rather, the copy of the EM order in the court file incorrectly listed the EM address as “160 North Armitage,” an address that does not exist. Further investigation would have revealed that the Sherriff’s Office had discovered this mistake and corrected the address to “[REDACTED]” the address *next door* to [REDACTED]’s apartment. (Att. 62.) Officer Aporongao claims to have called the Sherriff’s Office seeking the target’s EM address. The person answering the phone, per Officer Aporongao, refused to provide this information, citing a policy that allowed the address to be released only if police had an active *arrest* warrant for the target. Officer Aporongao admits that he obtained the telephone number for the Sherriff’s Office by searching on Google, rather than relying on CPD resources. Officer Aporongao made no contemporaneous notes of the conversation and does not know what telephone number he called. The Sherriff’s Office has denied having the policy described by Officer Aporongao, and they contend that their staff would have provided the address if asked. Officer Aporongao also failed to avail himself of other resources that could have verified the target’s address, such as the Accurant database. Officer Aporongao could have accessed Accurant through the Department’s Crime Prevention Information Center (“CPIC”). In fact, the search warrant training that Officer Aporongao (and other members of his team) attended in 2018 specifically instructed officers on how to contact CPIC for this very purpose. (Att. 127, 133, 294.)

⁵¹ Investigative Case Notes from February 11, 2021 and March 24, 2021.

Officer Aporongao also attempted to justify his failure to undertake surveillance of the apartment Doe had identified as the target's residence. The officer noted that because the target was subject to electronic monitoring, he was unlikely to come outside, making surveillance pointless in the officer's view. This explanation misses the point: in this context, the purpose of surveillance is not necessarily to make a positive observation of the target at his suspected location. An observation which negated the officer's impression would have been just as valuable: *i.e.*, the officer might have observed individuals (such as [REDACTED]) enter the premises who were unaffiliated with the target. These types of observations could have helped Officer Aporongao conclude he had received incorrect information from Doe.

Finally, COPA notes that in addition to Officer Aporongao's failure to investigate the address history of the target, the officer also neglected to investigate Doe's history as an informant. Officer Aporongao stated he asked Doe if he had ever served as a "J. Doe" in a warrant application before, and Doe responded yes. However, the officer admitted he never attempted to determine if the information Doe provided on previous occasions was reliable.⁵² According to Officer Aporongao, whether Doe had proven reliable in the past was not relevant to the officer's attempts to verify and corroborate Does' information for *this* search warrant. This justification is insufficient. Clearly, Doe's prior reliability (or lack thereof) in providing information to the police could have assisted Officer Aporongao in evaluating Doe's credibility with respect to this warrant application.

In sum, Officer Aporongao's attempt at an investigation fell short of the standards set forth in the Department's *Search Warrants* directive. There were ample opportunities for the officer to discover that Doe's information was not reliable. Officer Aporongao's failure to pursue these opportunities was the direct cause of the intrusion of Ms. [REDACTED] home and person. This conduct violates Rules 3, 6, 10, and 11. For these reasons, Allegation #5 against Officer Aporongao is SUSTAINED.

2. There is insufficient evidence to prove that Officer Aporongao lied to COPA about the thoroughness of his investigation and the acquisition of the warrant.

COPA alleged that Officer Aporongao made willful misrepresentations of material facts to COPA investigators about actions he took during his investigation. Specifically, Officer Aporongao claimed that, prior to submitting his warrant application, he directed his colleagues to escort Doe to the address he had provided and confirm that it was indeed the residence of the target.⁵³ This assertion is not

⁵² See att. 97, Aporongao Statement at 110:1-111:1.

⁵³ See *id.* at 114:25-116:8. Officer Aporongao recalled asking other officers to take Doe on a drive past the target residence a second time on the evening of February 20, 2019, to confirm that Doe would identify the same red door. Per Officer Aporongao, those officers did as they were asked, and Doe did identify the door again. Doe told COPA investigators that he only drove with the police once past the target residence, and that this occurred on the morning of February 21, 2019. COPA could not locate GPS records to corroborate this trip on either the 20th or the 21st. COPA did confirm that at least three officers on Officer Aporongao's team (Officer Pufpaf, Officer Bishop, and Officer Mordan) worked overtime on the evening February 20, each extending their scheduled tour by four hours, from 6:30 p.m. to 10:30 p.m. (Att. 163, 166, 169.) Officer Pufpaf was likely working with Officer Aporongao on the investigation leading to the issuance of the search warrant, based on his own account of his actions and based on his documented search for the black Cadillac's license plate. (Att. 122, 129, 154.) Officers Bishop and Mordan were assigned to a vehicle with functioning GPS during their overtime assignment, and that vehicle did not drive near [REDACTED] and [REDACTED]. However, there is some time at both the beginning and end of their overtime assignment where their vehicle was parked at the 11th District station, leaving open the possibility they could have driven with Doe in a different vehicle to the target location. (Att. 146.) Also,

supported by any other evidence. Apart from Officer Pufpaf (who accompanied Officer Aporongao and Doe on their initial visit to the North [REDACTED] apartment), no officers acknowledged they escorted Doe to the residence. There is also no GPS data that shows any police vehicles assigned to Officer Aporongao's tactical team drove through the area around the North [REDACTED] residence on the date Officer Aporongao submitted the warrant application.⁵⁴ However, the GPS data appears to be unreliable and/or incomplete, because it never shows any police vehicle driving by [REDACTED] until the warrant is executed on the evening of February 21, 2019. We know that is inaccurate because Officer Aporongao, Officer Pufpaf, and Doe all recall driving by that location in a police vehicle at least once.

Officer Aporongao also relied on Doe's identification of a black Cadillac as a vehicle that belonged to the target's girlfriend, which he claimed was always parked outside of the residence. In order to verify Doe's information, Officer Aporongao told COPA that he ran that vehicle's license plate twice, once on February 20, 2019 via his police data terminal (PDT) and once on February 21, 2019 from the computer at the station. Officer Aporongao's computer records do not reflect him running a search on February 20, 2019. Subsequent investigation revealed that Officer Aporongao did not run the search on February 20, 2019, but that Officer Pufpaf, who accompanied Officer Aporongao and Doe when they drove past [REDACTED], did the search.⁵⁵

Chicago Police Department Rule 14 prohibits officers from "making a false report, written or oral." To sustain such an allegation, a preponderance of the evidence must demonstrate that "(1) the officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation."⁵⁶ As an initial matter, Officer Aporongao's statements are material, as they speak directly to the allegation that the officer failed to conduct a proper investigation. However, COPA cannot determine by a preponderance of the evidence that these statements were willfully false. For these reasons, Allegation #9 against Officer Aporongao is NOT SUSTAINED.

although none of the involved officers have acknowledged as such, COPA discovered records documenting the availability of a covert vehicle to the 11th District tactical team during the relevant time. (Att. 233.) Covert vehicles are not equipped with GPS.

⁵⁴ See att. 91, GPS data.

⁵⁵ Officer Aporongao told COPA investigators that he observed the black Cadillac identified by Doe when the drove past the target residence on the evening of February 20, 2019, and that he ran the Cadillac's license plate through the Police Data Terminal ("PDT") in his unmarked patrol vehicle. Officer Aporongao remembered the Cadillac being registered to a woman (per the results of his PDT search), and when he told Doe the woman's name, Doe confirmed that she was the target's girlfriend. CPD records show that Officer Aporongao did not search the Cadillac's license plate through the PDT on the evening of February 20, 2019. (Att. 111, 136.) Rather, Officer Pufpaf searched for the license plate through a different computer-based application: Hot Desk. (Att. 154.) Officer Pufpaf's search happened at 6:58 p.m. on the 20th. The next day – February 21, 2019 – just before leaving the 11th District station to execute the search warrant, Officer Aporongao searched for the license plate on Hot Desk. (Att. 154.) COPA also notes that the registered address for the Cadillac was on the south side of the city, miles away from [REDACTED]. Again, even with the registration information in hand, Officer Aporongao was entirely reliant on John Doe's assertion that the vehicle was both associated with the target and with the [REDACTED] address.

⁵⁶ Agreement between the City of Chicago and the Fraternal Order of Police Lodge No. 7, July 1, 2012 - June 30, 2017, Section 6.1M. This agreement was still in effect on the date of the incident, as a new contract was not yet ratified.

- 3. There is clear and convincing evidence to demonstrate that Officer Aporongao did not make false statements regarding his interactions with Doe and the information Doe provided.**

\COPA also raised allegations that Officer Aporongao made willful misrepresentations of material facts about the information he received from Doe and an impromptu interaction he had with Doe in October 2020. As detailed above, there are numerous discrepancies between the statements Doe gave to COPA and Officer Aporongao's account of events. Many of these discrepancies were ultimately resolved through additional investigation. The two most critical discrepancies were whether Doe identified the target residence for Officer Aporongao before or after the search warrant was signed and the location where Doe and Aporongao met with the judge who signed the search warrant.⁵⁷ Subsequent interviews with Judge [REDACTED], review of the Cook County Circuit Court docket for Branch 43 for February 21, 2019, and other court records established that Doe's recollection of the events was likely impossible due to time constraints.⁵⁸ Therefore, COPA finds by clear and convincing evidence that these statements were not willfully false and Allegation #8 against Officer Aporongao is UNFOUNDED.

- 4. There is insufficient evidence to establish that Officer Aporongao made false or misleading statements about encountering J. Doe again after the search warrant execution.**

In his statements to COPA, J. Doe stated that he saw Officer Aporongao again in October 2020, shortly after his arrest, which took place in the 11th District. Doe explained that while he was in the back of the police vehicle, Officer Aporongao and a Latina female partner pulled up next to him and Officer Aporongao said words to the effect of "you gave me bad information." Officer Aporongao denied encountering Doe again after the search warrant execution. Department GPS records indicate that a CPD vehicle assigned to Officer Aporongao and Officer Taylor Golden, a Latina female, pulled up next to the vehicle that Doe was being transported in during his arrest. However, subsequent investigation revealed that Officer Aporongao and Officer Golden were not in that vehicle, despite it being assigned to them later that day. While Officer Aporongao and Officer Golden were together in the 11th District on that day and may well have encountered Doe, there are too many inconsistencies in Doe's version of events.⁵⁹ Accordingly, Allegation #10 against Officer Aporongao is NOT SUSTAINED.

⁵⁷ Doe also told COPA investigators that the police officer who arrested him originally broached the topic of [REDACTED] the eventual target of the warrant, and asked Doe if he knew [REDACTED] Doe also claimed that the officer showed him a photograph of [REDACTED] before Doe had acknowledged knowing [REDACTED] COPA did not find any evidence that Officer Aporongao or his teammates were investigating [REDACTED] before Doe's arrest; rather Officer Aporongao first searched for information about [REDACTED] after Doe was arrested and transported to the 11th District police station. *See* att. 109–11, 131, 136–38, 140–41, 154–58.

⁵⁸ Att. 115, 186. Specifically, court records reflect a full court call, complete with a bench trial occurred in Br. 43 on February 21, 2019. Given that the warrant was signed at approximately 10:15 am and court began shortly after 9:00 am that day, it is more likely that the presentation of J. Doe and the application for search warrant occurred in the courthouse. It is unlikely that there would have been sufficient time for this meeting to have occurred off site as described by J. Doe.

⁵⁹ Additional investigation revealed that a different Department member was using the vehicle at the time of Doe's arrest, but this was not properly documented in Department records.

- 5. There is sufficient evidence to establish that Officer Aporongao failed to cooperate in an ongoing investigation by refusing to identify department members that assisted him in the search warrant investigation and/or approval on February 20, 2019 and February 21, 2019.**

Officer Aporongao was able to provide a detailed and vivid account of his many interactions with Doe and the various ways in which he sought to independently verify the information Doe was providing. Many of statements and recollections were ultimately proven to be true. However, despite his clear recollection of all the events surrounding this search warrant, Officer Aporongao consistently claimed a lack of memory as to the identity of his fellow officers that assisted him. Officer Aporongao was able to recall who his partner was on February 20, 2019, that the 11th District Tactical Unit was shorthanded that day, and all of the details about his interactions with Doe, including things that were not documented in any reports. However, Officer Aporongao repeatedly claimed to not remember who was with him for essential steps in this process. Specifically, Officer Aporongao claimed he couldn't remember who accompanied him to drive Doe to [REDACTED], who accompanied him to have Lieutenant Bruno review the search warrant, or who accompanied him to seek judicial approval of the search warrant.⁶⁰ When contrasted with the detailed information Officer Aporongao was able to provide with respect to other questions, it strains credulity to believe that he did not remember which of his fellow officers assisted him with these activities. It's more likely that Officer Aporongao did not want to further implicate or involve any other officers in this misconduct investigation. COPA's investigation was able to discover the answer to those questions, but Officer Aporongao's failure to provide those names demonstrated a lack of candor and perpetuates the public perception of a 'code of silence' within the Chicago Police Department. Rule 51 required Officer Aporongao to participate fully in this investigation. General Order G08-01 also required Officer Aporongao to cooperate in this investigation. He failed to do so by refusing to provide the identify of officers that assisted him. This conduct also violates Rules 2, 3, and 6. Accordingly, Allegation #11 against Officer Aporongao is SUSTAINED.

- 6. The level of supervision over Officer Aporongao's investigation was deficient and violated Departmental policy.**

The Department's special order pertaining to search warrants is devoid of a meaningful role for the supervising sergeant regarding an affiant officer's investigation and other activities. COPA has taken several opportunities to address this deficiency with the Department, which is discussed more fully in the recommendations section below. However, the Department's Rules and Regulations and the Bureau of Patrol's orders regarding tactical units both provide specific expectations for the nature and scope of the supervisory role. Those directives are applicable to both Sergeant Petracco and Sergeant Wolinski's actions relative to this incident.

COPA alleged that Sergeant Petracco failed to properly supervise Officer Aporongao's investigation. The sergeant denied having any involvement in the search warrant investigation. It is undisputed that Sergeant Petracco was on duty for at least the first four hours of Officer Aporongao's investigation. The very essence of Sergeant Petracco's duties are to supervise the activities of his direct reports, which would include Officer Aporongao. It is also undisputed that during the last several hours of Sergeant Petracco's shift, Officer Aporongao was actively working a J. Doe investigation to obtain a search

⁶⁰ In contrast, Officer Pufpaf described assisting Officer Aporongao by interviewing Doe, at Officer Aporongao's request, to verify that Doe's story remained consistent. Officer Pufpaf also accompanied Officer Aporongao and Doe to identify the target residence.

warrant. Furthermore, Sergeant Petracco admitted he may have obtained the deconfliction number for this warrant, an act confirmed following COPA's review of requested email records. Sergeant Petracco's assertion that the act of procuring a deconfliction number for this warrant did not constitute a meaningful investigatory role in the investigation is simply unpersuasive. As Officer Aporongao's immediate supervisor, Sergeant Petracco had a vested interest and a duty to ensure that the facts of his team's investigation were sufficient to merit obtaining a deconfliction number and seeking an approved search warrant. Additionally, although Sergeant Petracco had ended his shift for the night on February 20, 2018, Sergeant Wolinski sent him an email around midnight, which provided an update on getting the search warrant signed by a judge. Additionally, although Sergeant Petracco was on vacation the night of the actual raid, another Department member, Lieutenant Edward Panosh, contacted him about the incident shortly after the warrant's execution. It seems illogical that Sergeant Wolinski would provide Sgt. Petracco with an update regarding a search he claims to have been uninvolved with. Additionally, Lieutenant Bruno's recollection of approving a search warrant for Officer Aporongao and Sergeant Petracco⁶¹, certainly imputes at least some responsibility to Sergeant Petracco. Even Sergeant Petracco admitted that he may have accompanied Officer Aporongao to see Lieutenant Bruno, but that he did not recall doing so.

As a supervisor, Sergeant Petracco had a duty to ensure Officer Aporongao acted in conformity with Departmental policies and expectations. Department Rules state that supervisors have the "responsibility for the performance of all subordinates placed under them and while they can delegate authority and functions to subordinates, they cannot delegate responsibility. They remain answerable and accountable for failures or inadequacies on the part of their subordinates."⁶² The sergeant was also aware that the Department relies on senior officers to provide more junior officers with informal guidance in navigating the search warrant process. Officer Aporongao's deficient investigation is a direct result of Sergeant Petracco failure to fulfill his supervisory responsibilities. This conduct also violates Rules 3, 6, 10, and 11. For this reason, Allegation #1 against Sergeant Petracco is SUSTAINED.

COPA also alleged that Sergeant Wolinski failed to supervise Officer Aporongao with respect to his actions on February 20, 2019. Initially Sergeant Wolinski denied having any supervisory responsibility over Officer Aporongao on February 20, 2019. However, COPA obtained an email sent by Sergeant Wolinski just before midnight on February 20, 2019 which discussed the steps that had been taken that night and the plan to have Officer Aporongao and Officer Lisciandrello obtain judicial approval of the search warrant the following morning. Additionally, Sergeant Wolinski was responsible for signing Officer Aporongao's overtime slip for the night of February 20, 2019, when he stayed beyond his regular shift to continue preparing the search warrant. By virtue of his role as a sergeant and the documentary evidence that he was aware of Officer Aporongao's investigation into Doe's information, Sergeant Wolinski was required to provide Officer Aporongao with appropriate supervision and guidance, which he failed to do. Sergeant Wolinski was held to the supervisory standards discussed

⁶¹ Lieutenant Bruno had a specific recollection of approving a search warrant for Officer Aporongao and Sergeant Petracco, which occurred in his office at the 11th District. However, Lieutenant Bruno could not recall the specifics of the search warrant itself or the date he approved it for Officer Aporongao and Sergeant Petracco. Therefore, Lieutenant Bruno could not be certain whether the search warrant in question was in fact the one he remembered Sergeant Petracco being involved with. COPA reviewed relevant time-keeping records and approved search warrants and was able to determine that the search warrant in question was in fact the only search warrant approved by Lieutenant Bruno for Officer Aporongao on a date when Sergeant Petracco was working. Att. 118, 133, 151, 305.

⁶² Rules and Regulations of the Chicago Police Department, Article IV.B.

above. This conduct also violates Rules 3, 6, 10, and 11. Accordingly, this Allegation #11 against Sergeant Wolinski is SUSTAINED.

7. There is insufficient evidence to prove that Sergeant Petracco failed to ensure that all reports detailing the activity of tactical team personnel are accurately completed and appropriately submitted.

COPA's investigation revealed evidence that Officer Aporongao's complaint for search warrant and supporting documentation contained deficiencies and inaccuracies. As Officer Aporongao's supervisor, Sergeant Petracco was responsible for the accuracy and completeness of such documentation. However, further investigation, as discussed above, revealed that it is more likely true that Officer Aporongao's written documentation was largely accurate. Accordingly, Allegation #2 against Sergeant Petracco is UNFOUNDED.

8. Sergeant Petracco failed to complete a supervisory log for February 20, 2019.

Department directives require supervising sergeants to complete a Supervisor's Management Log for each tour of duty. COPA alleged that Sergeant Petracco failed to complete his supervisory log for February 20, 2019. The sergeant insisted he completed one, but CPD was unable to produce the document despite numerous searches and requests from COPA. Sergeant Petracco stated that he always completed his supervisory logs and could offer no explanation for why this one was missing. However, also Sergeant Petracco had no independent memory of completing this particular log. Furthermore, CPD was able to produce other supervisor logs completed for February 20, 2019. Accordingly, it is more likely that he failed to submit one for February 20, 2019. This conduct violated Special Order S03-03-06, Bureau of Patrol Special Order 14-06, and Rules 3, 6, and 10. For this reason, Allegation #3 against Sergeant Petracco is SUSTAINED.

9. Sergeant Petracco likely provided misleading or inaccurate information about accompanying Officer Aporongao to present his warrant application to Lieutenant Bruno, but there is insufficient evidence to establish he did so willfully.

COPA alleged that Sergeant Petracco made a willful misrepresentation of material fact to COPA investigators when he stated he did not recall being present for Officer Aporongao's presentation of the warrant application to Lieutenant Bruno. Moreover, Sergeant Petracco denied having any meaningful role in this process. Officer Aporongao stated that he could not remember who accompanied him. Lieutenant Bruno made statements indicating that Officer Aporongao and Sergeant Petracco previously presented him with a search warrant for approval, but he could not be certain exactly when that occurred or whether it was this particular warrant. COPA found Lieutenant Bruno to be credible and forthcoming in his interview, however, his recollection of this interaction was not specific. Based on Department time and attendance records and a review of other approved search warrants, it appears that the search warrant Lieutenant Bruno recalled approving for Sergeant Petracco and Officer Aporongao was in fact this search warrant. In denying his involvement in this process, Sergeant Petracco relied heavily on the fact that his shift ended hours before Lieutenant Bruno's began. However, Sergeant Petracco's own emails indicate that he worked beyond his shift on this case. Specifically, he didn't even request the deconfliction number until 7:00pm and didn't receive the

number until 7:30pm, which was an hour after his shift ended.⁶³ Additionally, email records from February 20, 2019 demonstrate that Sergeant Petracco was involved in this process. Lieutenant Bruno's recollection, email evidence, and other Department records are sufficient to establish that it is more likely true that Sergeant Petracco did in fact accompany Officer Aporongao to present the search warrant to Lieutenant Bruno. However, given the amount of time that has passed and the lack of documentation regarding these events, there is insufficient evidence to establish that Sergeant Petracco willfully lied about his involvement. For these reasons, Allegation #4 against Sergeant Petracco is NOT SUSTAINED.

10. There is insufficient evidence to establish that Sergeant Wolinski willfully lied about his role in the acquisition of the search warrant.

In his first statement to COPA, Sergeant Wolinski made it clear that he had some awareness that Officer Aporongao was working on a search warrant on the evening of February 20, 2019, but Sergeant Wolinski claimed that he was not directly involved in those activities. However, the email messages and overtime slips that COPA subsequently obtained during its investigation clearly establish that Sergeant Wolinski was overseeing Officer Aporongao's activities in furtherance of obtaining the search warrant. When confronted with this additional evidence in his second statement to COPA, Sergeant Wolinski did not recall sending the email or participating in the process. In his explanation, Sergeant Wolinski discussed preparing for his COPA interviews and trying to remember the full details of his involvement. Given the amount of time that passed and Sergeant Wolinski's explanation as the steps he took to try and provide as complete and accurate of a statement as possible, it is difficult to establish that he intended to minimize his role. While a preponderance of the evidence demonstrates the information Sergeant Wolinski provided was misleading and/or inaccurate, there is insufficient evidence to establish that he willfully provided misleading and/or inaccurate information to COPA. Therefore Allegation #12 against Sergeant Wolinski is NOT SUSTAINED.

11. There is insufficient evidence to establish that Officer Lisciandrello willfully lied about accompanying Officer Aporongao to present the search warrant for judicial approval.

In his first statement to COPA, Officer Lisciandrello denied participating in seeking judicial approval for the search warrant. However, COPA's subsequent investigation revealed an email from Sergeant Wolinski which indicated that Officer Lisciandrello was to accompany Officer Aporongao to see a judge about the warrant on the morning of February 21, 2019. Specifically, the email indicated the plan was for Officer Lisciandrello and Officer Aporongao to come in early in order to accomplish that task. Timekeeping records confirm that both Officer Aporongao and Officer Lisciandrello started work early on February 21, 2019, in accordance with the plan that Sergeant Wolinski communicated in his email. Therefore, it is more likely true that Officer Lisciandrello did in fact accompany Officer Aporongao to seek judicial approval for the search warrant. However, when confronted with this information, Officer Lisciandrello vehemently denied intentionally providing false information in his COPA statement. Instead, Officer Lisciandrello acknowledged that while he may not remember accompanying Officer Aporongao, it is possible that he did. Officer Lisciandrello commented on the routine nature of such an activity to explain why it would be hard to remember something of this nature. That fact, plus his overall lack of independent recollection of any of these events, makes it hard to

⁶³ In February 2019, CPD's time-keeping policy only required officers to swipe-in at their start of shift. There was no requirement to swipe-out. Therefore, there is no electronic or written record of what time Sergeant Petracco left the 11th District on February 20, 2019.

establish he intended to mislead COPA investigators. Accordingly, there is insufficient evidence to prove that Officer Lisciandrello willfully made false or misleading statements. Allegation #6 against Officer Lisciandrello is NOT SUSTAINED.

ALLEGATIONS PERTAINING TO WARRANT EXECUTION

A. PREPARATION FOR SEARCH WARRANT EXECUTION

The failure of the search team supervisor to consult with the SWAT team violated Departmental policy.

COPA alleged that Sergeant Wolinski failed to consult the Department's Special Weapons and Tactics team ("SWAT team") while his tactical team planned for the search warrant's execution, as required by the search warrant special order. Departmental policy requires that the search team supervisor consult the SWAT team supervisor when planning the execution of a search warrant against a target who has a history of possessing firearms.⁶⁴ In his statement to COPA, Sergeant Wolinski admitted he did not consult the SWAT team and acknowledged that, in this case, his "oversight" constituted a violation of the applicable directives.⁶⁵ This conduct also violates Rules 3, 6, and 10. Accordingly, based on the voluntary admission of the accused, COPA finds Allegation #5 against Sergeant Wolinski is SUSTAINED.

B. BREACH, ENTRY, AND SEARCH OF MS. YOUNG'S RESIDENCE

1. The delay of only five seconds between the officers knocking and announcing their office and the first swing of the battering ram was unlawful and violated Departmental policy.

COPA alleged that Officers Acevedo and Cruz failed to allow a reasonable period for Ms. [REDACTED] to answer the door before using a battering ram to make forcible entry into her apartment; COPA also raised a related allegation that Sergeant Wolinski failed to ensure his subordinate officers breached the residence in a manner that complied with the knock-and-announce rule.

Video footage from the officers' body-worn cameras establishes the sequence of events: at approximately 7:56:10 p.m. on the date of the incident, the tactical team arrived at the scene, located Ms. [REDACTED] apartment, and approached her front door.⁶⁶ At 7:56:20 p.m., Officers Aporongao and Lisciandrello knocked on the door and announced the presence of the Chicago Police Department.⁶⁷ Five seconds later, at 7:56:25 p.m.—in full view of Sergeant Wolinski— Officer Cruz used a battering ram to strike the door.⁶⁸ Over the next fourteen seconds, he made six additional strikes and became

⁶⁴ See Special Order S04-19, part VIII(A)(4)(c). Att. 88.

⁶⁵ See att. 96, Wolinski Statement at 77:18–24, 114:11–14.

⁶⁶ See att. 7, Aporongao BWC at 00:38; att. 11, Wolinski BWC at 00:29; att. 13, Cruz BWC at 00:55; att. 15, Acevedo BWC at 00:27.

⁶⁷ See att. 7, Aporongao BWC at 00:48; att. 8, Lisciandrello BWC at 01:05.

⁶⁸ See att. 13, Cruz BWC at 01:09; att. 11, Wolinski BWC at 00:44.

exhausted.⁶⁹ At 7:56:40 p.m., Officer Acevedo relieved him and used the ram to strike the door twice.⁷⁰ The door gave way at the second blow, and the officers stormed Ms. [REDACTED] apartment.⁷¹

Departmental policy sets forth an explicit requirement for officers to observe the knock-and-announce rule when executing search warrants (except when courts have granted exceptional no-knock warrants under 725 ILCS 5/108-8(b)(1)).⁷² The knock-and-announce rule emanates from the Fourth Amendment jurisprudence of the U.S. Supreme Court and provides that, before police officers use force to enter private residences, they must first knock, identify themselves, and provide occupants a reasonable opportunity to answer.⁷³ The rule is no mere formality: it protects substantive human interests by giving individuals “the opportunity to comply with the law and to avoid the destruction of property occasioned by a forcible entry.”⁷⁴ The rule also advances interests in privacy and dignity: indeed, “the brief interlude between announcement and entry with a warrant may be the opportunity that an individual has to pull on clothes or get out of bed.”⁷⁵

In determining precisely how long the interlude should last, courts have been especially generous to officers, and in some cases have held the period may be as brief as fifteen seconds.⁷⁶ Shorter intervals, however, have often failed to withstand judicial scrutiny.⁷⁷ Here, only five seconds passed between the initial knock and the first swing of the battering ram. This amount of time falls short of what is required to satisfy the knock-and-announce rule. And the harrowing episode that followed the officers’ impermissibly rapid entry speaks precisely to the human interests the rule is meant to protect. Had officers waited only a few additional seconds, Ms. [REDACTED] might have had the chance to cover herself and open the door on her own, avoiding her indignity and property damage.

Furthermore, the officers were unable to point to any special factors that might have justified an expedited breach: *i.e.*, the officers were not searching for anything that a person can quickly destroy, and they did not have a reasonable basis to conclude the occupants were awake and ready to flee. Concerns about officer safety are also unpersuasive in this context: Officer Aporongao received information that the target had a history of possessing illegal weapons *before* he applied for the search warrant. If he had bona fide fears the target was likely to become violent, he should have requested a no-knock warrant under 725 ILCS 5/108-8(b)(1).

⁶⁹ See att. 35, Cruz Statement at 45:2.

⁷⁰ See att. 15, Acevedo BWC at 00:55.

⁷¹ See *id.* at 00:59.

⁷² See Special Order S04-19, part VIII(D)(1)(b). Att. 88.

⁷³ *Hudson v. Michigan*, 547 U.S. 586, 589-90 (2006); see also *People v. Glorioso*, 924 NE 2d 1153 (2010) (holding that the standards for evaluating knock-and-announce violations under the Illinois Constitution are in “lockstep” with federal jurisprudence).

⁷⁴ *Hudson*, 547 U.S. at 594 (quoting *Richards v. Wisconsin*, 520 U. S. at 393, n. 5 (1997)).

⁷⁵ *Id.*

⁷⁶ *Id.* at 590.

⁷⁷ See *United States v. Vazquez*, No. 3:15-cr-00119 (MPS), doc. 69 at 24 (D. Conn. 2006) (holding that, during the execution of an arrest warrant, it was unreasonable for officers to breach the door less than ten seconds after knocking).

This conduct violates Rules 3, 6, 8, 10, and 11. For these reasons, COPA finds Allegation #5 against Officer Cruz and Allegation #7 against Sergeant Wolinski are SUSTAINED.⁷⁸ Allegation #3 against Officer Acevedo is UNFOUNDED because the video evidence makes clear that, unlike Officer Cruz, Officer Acevedo did not swing the ram until nineteen seconds had passed from the moment of the officers' first knock.⁷⁹

2. With the exception of Officer Aporongao, the search team's entry into and search of Ms. [REDACTED] apartment was within Departmental policy.

COPA alleged that twelve officers entered and searched Ms. [REDACTED] apartment without justification; COPA also raised related allegations that, in permitting the officers to enter and search the residence, Sergeant Wolinski failed to properly supervise his subordinates.

The evidence establishes that, with the exception of Officers Acevedo and Maloney (who remained outside to provide security),⁸⁰ all of these accused members entered Ms. [REDACTED] apartment.⁸¹ The officers acknowledged as much but stated their actions were justified, arguing they were acting under the authority of a search warrant and had no reason to doubt either its accuracy or legitimacy. A copy of the search warrant confirms that, at 10:15 a.m. on the date of the incident, the Cook County Circuit Court commanded officers to search the first-floor apartment of [REDACTED]—Ms. [REDACTED] address.⁸² That the affiant officer procured the warrant based on bad information is immaterial: The warrant was valid at the time of its execution, and the officers were within the scope of their authority to enter and search the residence.

For these reasons, Allegations #3 and #4 against Officers Bieniasz, Cruz, Donnelley, French, Jimenez, Lisciandrello, Mordan, Orta, Saric, and Villa are EXONERATED. For the same reasons, Allegations #3, #4, #8, and #9 against Sergeant Wolinski are EXONERATED. Additionally, Allegation #4 against Officer Acevedo and Allegations #3 and #4 against Officer Maloney are UNFOUNDED because the evidence establishes, they never actually entered Ms. [REDACTED] apartment.

Officer Aporongao's entry into and search of Ms. [REDACTED] apartment is another matter. As the affiant officer, he had intimate knowledge of the many deficiencies in the investigation he had conducted in support of the search warrant application. Despite this knowledge, he submitted a warrant application that included an affidavit in which he attested that he had conducted an investigation to substantiate

⁷⁸ As the supervisor of the search team, Sergeant Wolinski had a duty to "ensure the Department members executing the search warrant adhere to the [knock-and-announce rule] and... provide the residents a reasonable opportunity to allow entry." Special Order S04-19, part VIII(D)(1)(b). (Att. 88.) Yet, Officer Cruz committed a clear violation of the knock-and-announce rule while Sergeant Wolinski looked on and took no action to correct him. Thus, the sergeant failed to adequately supervise his subordinate officers, and the allegation against him is sustained.

⁷⁹ COPA notes that, although Officer Acevedo's actions fell within the range of what is constitutionally permissible, he failed to recognize that a knock-and-announce violation had occurred in his statements to investigators. As a result, COPA believes Officer Acevedo's innocence with respect to this allegation has more to do with luck than any conscious effort on the officer's part to comply with Departmental policy.

⁸⁰ See att. 31, Acevedo Statement at 72:16; att. 37, Maloney Statement at 31:14–23.

⁸¹ See att. 6, Bieniasz BWC at 01:14; att. 7, Aporongao BWC at 01:20; att. 8, Lisciandrello BWC at 01:33; att. 9, Jimenez BWC at 01:07; att. 10, Orta BWC at 01:12; att. 11, Wolinski BWC at 01:14; att. 12, French BWC at 04:30; att. 13, Cruz BWC at 01:34; att. 19, Saric BWC at 03:11; att. 39, Villa Statement at 49:7–8.

⁸² See att. 47, Search Warrant Package at pg. 3.

Doe's claims that he saw the target brandish a firearm at [REDACTED]. As the events of February 21, 2019 established, Doe's statements were false: he did not, in fact, observe any firearm at [REDACTED]. To be sure, it does not appear Officer Aporongao acted with an *intent* to mislead the court on this point. In *Franks v. Delaware*,⁸³ the Supreme Court held that evidence seized by police during the execution of a facially valid search warrant could, nonetheless, be excluded from trial based on false statements made either deliberately or with reckless disregard for the truth by the affiant. In cases where the police have merely been negligent in checking or recording facts relevant to the magistrate's probable-cause determination, the exclusionary rule does not apply.⁸⁴ As the *Franks* doctrine has evolved, courts have also accepted the principle that an affiant's deliberate or reckless omissions can also be grounds to exclude evidence, if those omissions undermine the magistrate's role in determining that probable cause exists to issue the warrant.⁸⁵ In the civil context, The Supreme Court has applied these same standards to determine if a police officer can be held liable for damages resulting from the execution of an improperly obtained search warrant. "[A]n officer who relies on a subsequently invalidated warrant may be liable for . . . damages only if the warrant application was 'so lacking in indicia of probable cause as to render official belief in its existence unreasonable.'"⁸⁶

The fact that an officer failed to fully verify information provided by an anonymous informant, in and of itself, does not definitively establish that the officer's belief was unreasonable. In *Edwards v. Joliff-Blake*,⁸⁷ the court examined an incident where police executed a search warrant at the residence of an innocent family after their house was mis-identified by a John Doe informant. The court acknowledged, "To be sure, the [plaintiffs] are right to observe that the officers largely took Doe at his word without independently corroborating much of his account. While the officers took steps to have Doe confirm the identity of the house and [the target], they did not seek corroboration outside of Doe himself. . . . Put differently, the steps the police took gave them some additional information, but did not 'directly bolster' Doe's account that [the target] was dealing heroin at the [target residence]."⁸⁸ Despite these failings, the court affirmed a grant of summary judgment in favor of the officers, crediting the detailed information provided to the police by Doe, the recency of Doe's purported observations, Doe's positive identification of the target and the target residence, and the fact that Doe appeared in person before a judge and submitted to questioning before the judge authorized the search.⁸⁹

Officer Aporongao's reliance on the John Doe in this case is strikingly like the officers' reliance on their Doe in the *Edwards* case. Even if Officer Aporongao's account is credited in its entirety, each step he took to identify the target and the target residence depended on John Doe. Doe identified the target, Doe knew that the target had recently been arrested and had been released on electronic monitoring, Doe identified the target residence,⁹⁰ and Doe provided an uncorroborated account of the

⁸³ 438 U.S. 154, 171 (1978).

⁸⁴ *Id.* at 170.

⁸⁵ See *United States v. Glover*, 755 F.3d 811, 820–21 (7th Cir. 2014).

⁸⁶ *Junkert v. Massey*, 610 F.3d 364, 369 (7th Cir. 2010) (quoting *Malley v. Briggs*, 475 U.S. 335, 345 (1986)).

⁸⁷ 907 F.3d 1052 (7th Cir. 2018).

⁸⁸ *Id.* at 1058 (quoting *United States v. Dismuke*, 593 F.3d 582, 588 (7th Cir. 2010), abrogated on other grounds, as recognized in *United States v. Miller*, 721 F.3d 435, 438–39 (7th Cir. 2013)).

⁸⁹ *Id.* See also *Walker v. Weatherspoon*, 900 F.3d 354, 358 (7th Cir. 2018) ("The reports of known, accountable persons who claim to be victims of or participants in crime (Doe was both) may establish probable cause without corroboration; the police may leave to the judicial process the sorting of truth from fiction.").

⁹⁰ See *supra* note 48.

goings-on within the target residence. Doe also identified a car parked on the street on the 100 block of North [REDACTED] and told Officer Aporongao that it belonged to the target's girlfriend.⁹¹ Officer Aporongao's attempts to verify and corroborate the information provided by Doe included showing photographs of the target and the target residence to Doe, verifying that the target was on electronic monitoring, driving Doe past the target residence in person, and having a second set of officers drive Doe past the target residence again.⁹² Of course, the information gleaned during these steps depended entirely on Doe. But like the Doe in *Edwards*, the Doe in this case did appear in person before the judge who issued the search warrant, and this Doe attested to observing the target in the target residence with a handgun within the past 48 hours. Based on Officer Aporongao's affidavit and the testimony of Doe, Judge [REDACTED] authorized the search. Based on these facts, it is entirely plausible that a court could find Officer Aporongao, and those who assisted and supervised him, immune from civil damages.

Officer Aporongao did take other steps to verify and corroborate the information provided by Doe, but none of those efforts produced any evidence tying the target to the target residence at [REDACTED]. Officer Aporongao examined the target's arrest history, but nothing in that history tied the target to [REDACTED]. In fact, the target's most recent arrest had occurred at the front door to [REDACTED]. Officer Aporongao admits he almost certainly saw the "160" address in the target's arrest history, but he maintains it did not raise a "red flag" that would prompt him to investigate further because, in his experience, offenders frequently attempt to enter other people's homes to make their escape from approaching police officers.

Officer Aporongao also knew that the target had consistently told police his home address was [REDACTED] Street (an address within one block of the target residence), but again, Officer Aporongao discounted this discrepancy.⁹³ Officer Aporongao attempted to learn the address where the target had been placed on electronic monitoring, but he was unable to ascertain the address.⁹⁴ Officer Aporongao asked Doe to sketch the interior layout of the target residence, but he had nothing to compare Doe's sketch against, and he discarded the sketch and thus COPA was not able to confirm Doe provided a sketch or that the sketch was accurate to Ms. [REDACTED] home. Additionally, Officer Aporongao learned that his Doe had served as a "J Doe" for other officers on previous occasions but failed – did nothing – to ascertain if Doe's information had proven reliable – or unreliable – on those prior occasions.

Critically, COPA can find that police officers should face disciplinary action in the absence of civil liability. First, the simple fact that Officer Aporongao applied for a search warrant and allowed a judge to make an independent determination of probable cause does not excuse Officer Aporongao from blame for mistakes or omissions he made while investigating and documenting the information provided by Doe. As the Supreme Court recognized in *Malley v. Briggs*:

It is true that in an ideal system an unreasonable request for a warrant would be harmless, because no judge would approve it. But ours is not an ideal system, and it is possible that a magistrate, working under docket pressures, will fail to perform as a

⁹¹ See supra note 55.

⁹² See supra note 53.

⁹³ See supra note 48.

⁹⁴ See supra notes 20, 50.

magistrate should. We find it reasonable to require the officer applying for the warrant to minimize this danger by exercising reasonable professional judgment.⁹⁵

Further, since the inception of the *Franks* doctrine, the Court has acknowledged that police officer may face internal discipline for lapses in their investigations, regardless of whether those lapses rise to a level that would invalidate a search warrant and lead to the suppression of evidence.⁹⁶ Further, by promulgating Special Order SO4-19⁹⁷, with its requirement that affiant officers verify and corroborate information provided by John Doe informants before attempting to obtain a search warrant, the Department put Officer Aporongao, his fellow officers, and his supervisors on notice that they would be held to a higher standard than the bare minimum that could possibly allow a judge to make a probable cause determination.

Here, Officer Aporongao's affidavit and his own account of his investigative actions shows that he failed to verify and corroborate the specific information provided by Doe through an independent investigation. Given the totality of the circumstances, he should have recognized that he had an obligation to do more to ensure that Doe's claims were valid. The forcible entry and search of a private residence is among the most serious intrusions against constitutionally protected privacy interests that a court can authorize. The officer's request to take such an extraordinary action at an address that he had not taken reasonable steps to verify as the target's residence did not meet the standard established by Special Order SO4-19. This conduct also violates Rules 2, 3, 6, 8, 10, and 11. For these reasons, Allegations #3 and #4 against Officer Aporongao are SUSTAINED.

3. The firearm pointing incident was within Departmental policy.

COPA alleged that, during the breach, Officer Lisciandrello pointed his weapon at Ms. [REDACTED] without justification. Video evidence shows the officer entered Ms. [REDACTED] apartment and pointed his weapon at her for approximately seven seconds.⁹⁸ The footage also reveals the lights were off when Officer Lisciandrello entered Ms. [REDACTED] unit, increasing the level of risk for the breaching officers and making it more difficult to ascertain the identities of any individuals in the residence.⁹⁹ Additionally, in his statement to COPA, Officer Lisciandrello explained that he was unable to see Ms. [REDACTED] hands when he initially encountered her.¹⁰⁰ He added that, at such an early point in the execution of the search warrant, he did not yet appreciate that Ms. [REDACTED] was wholly unconnected to the target. As soon as Officer Lisciandrello recognized Ms. [REDACTED] was not a threat, he "reoriented" himself to focus on other areas of the apartment.¹⁰¹

Police may reasonably point their guns at the occupants of a residence when serving a search warrant related to a violent crime, a person with a history of violence, or for deadly weapons.¹⁰² However, police may not *continue* pointing their guns at a resident after realizing the resident is not their desired

⁹⁵ 475 U.S. 335, 345–46 (1986).

⁹⁶ See *Franks*, 438 U.S. at 166, 169.

⁹⁷ Special Order S04-19 is the Department directive pertaining to search warrants. Att. 88.

⁹⁸ See att. 8, Lisciandrello BWC at 01:35–01:43.

⁹⁹ See *id.*

¹⁰⁰ See att. 27, Lisciandrello Statement at 96:22–97:23.

¹⁰¹ *Id.* at 97:19–20.

¹⁰² *Baird v. Renbarger*, 576 F.3d 340, 345–46 (7th Cir. 2009).

suspect and does not pose a threat to the officers.¹⁰³ When Officer Lisciandrello first entered Ms. [REDACTED] apartment, he pointed his rifle at her momentarily, but lowered it within seconds when he saw that she was unclothed and unarmed. Because Officer Lisciandrello was executing a search warrant targeting a known violent felon, and because the object of the search warrant was a handgun, it was reasonable for him to momentarily point his rifle at the first person he saw when he entered the apartment. And because he lowered the rifle immediately after realizing Ms. [REDACTED] posed no threat, his actions remained reasonable in the context of what Officer Lisciandrello believed about the search warrant.

The display of a Department member's firearm must be reasonable and proportional. In this situation, Officer Lisciandrello's actions were objectively reasonable under the circumstances: the officer believed he was executing a search warrant at the residence of a target whose criminal history included the possession of illegal weapons. Ultimately, this search warrant should never have been sought for Ms. [REDACTED] apartment, but Officer Lisciandrello was not responsible for obtaining the warrant and had limited knowledge of Officer Aporongao's investigation prior to February 21, 2019. Therefore, COPA finds that at the time Officer Lisciandrello entered Ms. [REDACTED] residence, he had a reasonable belief that someone inside was armed and dangerous. For these reasons, COPA finds Allegation #5 against Officer Lisciandrello is EXONERATED.

4. The initial decision to place Ms. [REDACTED] in handcuffs was lawful and within Departmental policy.

COPA raised allegations that Officers Orta and French handcuffed Ms. [REDACTED] without justification. Both officers acknowledged that they placed Ms. [REDACTED] in handcuffs during the execution of the warrant. Officer Orta applied handcuffs approximately twelve seconds after the search team breached the apartment.¹⁰⁴ Officer French, who uncuffed Ms. [REDACTED] so she could dress herself, re-cuffed Ms. [REDACTED] after she was dressed and escorted her back to Sgt. Wolinski.¹⁰⁵ Officer Orta stated his actions were justified because of safety concerns (*i.e.*, the team was executing a search warrant against a target with prior weapons-related offenses).¹⁰⁶ Officer French maintained her actions were justified because she perceived Ms. [REDACTED] to be in a highly volatile emotional state and believed that, as an assisting officer whose role in the incident was limited, she was not in a position to alter the conditions of Ms. [REDACTED] detention.¹⁰⁷ Moreover, COPA notes that Officer French was the only female officer and the only probationary officer present, making her the least experienced member of the search warrant team. Despite this, she still asked Sergeant Wolinski for permission to uncuff Ms. [REDACTED]

The standard that governs the application of handcuffs is reasonableness. Courts have made clear that "governmental interests in not only detaining, but using handcuffs, are at their maximum when . . . a warrant authorizes a search for weapons" and a violent offender is believed to "reside[] on the premises."¹⁰⁸ Here, the officers believed they were executing a search warrant for an illegal firearm at

¹⁰³ *Id.* (citing *Jacobs v. City of Chicago*, 215 F.3d 758, 773 00 74 (7th Cir. 2000)).

¹⁰⁴ See att. 10, Orta BWC at 01:12–01:42.

¹⁰⁵ See att. 29, French Statement at 43:3–14.

¹⁰⁶ See att. 92, Orta Statement at 43:12–24.

¹⁰⁷ See att. 29, French Statement at 43:4–6.

¹⁰⁸ *Muehler v. Mena*, 544 U.S. 93, 100 (2005). The Supreme Court has found that it was reasonable for police to hold two naked residents at gunpoint for approximately two minutes while executing a search warrant. See *L.A.*

the residence of a target with a known history of weapons-related offenses. The indisputable fact of Ms. [REDACTED] innocence does not taint the decision to apply handcuffs in this case: that information was available to the officers only in hindsight, and the lawfulness of their actions must be evaluated in light of the limited information that was available to them at the time. The length of time Ms. [REDACTED] remained handcuffed is a separate matter and addressed in the allegations of her maltreatment. For these reasons, Allegation #5 against Officers Orta and French is EXONERATED.

5. The delay in presenting Ms. [REDACTED] with a copy of the search warrant violated Departmental policy.

COPA alleged that Officer Aporongao and Sergeant Wolinski failed to promptly present the search warrant to Ms. [REDACTED]. Both Officer Aporongao and Sergeant Wolinski had copies of the search warrant on their persons.¹⁰⁹ Video evidence establishes that, although Ms. [REDACTED] asked to see “paperwork” approximately two minutes after the officers entered her apartment,¹¹⁰ Sergeant Wolinski did not present the document to her until officers were in her home for nearly fifteen minutes.¹¹¹ Instead, the sergeant gave directions to subordinate officers about taking photographs of the apartment, asked Ms. [REDACTED] questions about her son, stood silently, and, at one point, even left the apartment with Officer Aporongao to have a discreet conversation.¹¹²

Departmental policy requires that officers “promptly” present a copy of the search warrant to the occupants of the premises that are the target of the search.¹¹³ The applicable directive does not provide a definition for the word “promptly,” but, in their statements to COPA, the accused members offered their own definitions. According to Officer Aporongao, “promptly” means “when I have the opportunity to—when the house is secure and everybody is not detained, that’s when we present the search warrant.”¹¹⁴ Similarly, Sergeant Wolinski stated that promptly means “as soon as it’s feasible.”¹¹⁵

Applying the officers’ own definitions to this incident, it is clear the quarter-hour delay in presenting Ms. [REDACTED] with a copy of the search warrant was inexcusable. If it was feasible for Sergeant Wolinski and Officer Aporongao to temporarily depart the residence, then it was feasible for them to present its sole occupant with a copy of the one-page warrant. Ms. [REDACTED] highly emotional state does not excuse the officers’ delay; on the contrary, Ms. [REDACTED] asked to see the paperwork as soon as the scene was secure and responding to her request more expeditiously may have tempered her confusion and fear.

Cnty. V. Rettele, 550 U.S. 609 (2007). In *Rettele*, the police obtained a search warrant for the residence of several African American men, one of whom was believed to be armed with a handgun. Before seeking the warrant, the officers failed to discover that their targets had sold the residence three months prior, and an unrelated family had moved in. When the officers entered the target residence, they discovered two Caucasian adults naked in bed. The couple was ordered out of the bed and handcuffed naked for approximately two minutes before the officers realized their mistake and allowed them to get dressed. Because the officers prevented the couple from dressing for only long enough to ascertain that no immediate threat was present, the officers’ actions were reasonable. *Id.* at 613–14.

¹⁰⁹ See att. 97, Aporongao Statement at 91:4; att. 13, Wolinski BWC at 06:30.

¹¹⁰ See att. 13, Cruz BWC at 04:30.

¹¹¹ See att. 17, Wolinski BWC at 00:40.

¹¹² See att. 13, Cruz BWC at 02:00–15:07.

¹¹³ Special Order S04-19, part VIII(D)(2). Att. 88.

¹¹⁴ See att. 97, Aporongao Statement at 33:17–24.

¹¹⁵ See att. 96, Wolinski Statement at 36:09–17.

This conduct also violated Rules 3, 5, 6, 8, 10, and 11. For these reasons, Allegation #6 against Officer Aporongao and Allegation #10 against Sergeant Wolinski are SUSTAINED.

C. MALTREATMENT OF MS. YOUNG

1. At least two of the fourteen accused officers failed to intervene in the maltreatment of Ms. [REDACTED]

COPA alleged that Officer Aporongao and Sergeant Wolinski failed to intervene in the maltreatment of Ms. [REDACTED] and failed to exercise appropriate caution with respect to her rights. Both accused members denied that their actions constituted maltreatment and argued they attempted to treat her with respect.¹¹⁶

In the City of Chicago, the conduct of police officers must conform to a higher standard than constitutional minimums: “*in addition to respect[ing]...those human rights prescribed by law,*” members of the Chicago Police Department must “*treat all persons with the courtesy and dignity which is inherently due every person as a human being.*”¹¹⁷ Departmental policy also provides that officers participating in the execution of a search warrant must “*exercise caution with respect to the rights of those involved*” and “*use only the minimum amount [of force] necessary.*”¹¹⁸

In this case, Officer Aporongao and Sergeant Wolinski led a team of fourteen officers to break open Ms. [REDACTED] front door and storm her apartment, mere seconds after arriving at the residence. They allowed their team to detain Ms. [REDACTED] and handcuffed her while she was naked. They waited approximately fifteen (15) minutes to present her with a copy of the warrant. And, despite discovering that they were not at the residence of their intended target, they left Ms. [REDACTED] in handcuffs for nearly twenty (20) minutes. Furthermore, when the stress of the incident caused Ms. [REDACTED] to become upset, the two accused members invoked her emotional state to excuse their procedural deficiencies and to justify Ms. [REDACTED] prolonged handcuffing.

When Officer Aporongao executed the search warrant at Ms. [REDACTED] residence, he realized – almost immediately – that his target did not reside there. In fact, Officer Aporongao and his team never searched Ms. [REDACTED] apartment precisely because Officer Aporongao realized, as soon as they conducted an initial sweep of the apartment and determined no one other than Ms. [REDACTED] was present, that Doe had given him bad information about their target. Yet rather than immediately releasing Ms. [REDACTED] and allowing her to dress, Officer Aporongao and Sgt. Wolinski decided to keep Ms. [REDACTED] handcuffed for more than ten minutes before summoning Officer French to escort Ms. [REDACTED] to a bedroom where she could dress. And even after Ms. [REDACTED] was dressed, she was handcuffed again until Officer French and Officer Cruz asked Sgt. Wolinski’s permission to remove the handcuffs, nearly twenty minutes after the officers first entered the apartment. This was manifestly unreasonable, and the explanations given by Officer Aporongao and Sergeant Wolinski are wholly inadequate. Both Sgt. Wolinski and Officer Aporongao contend that Ms. [REDACTED] remained in handcuffs because she was irate or irrational and that releasing her earlier would have placed Ms. [REDACTED] or officers in danger. This contention is not supported by the BWC video recordings.

¹¹⁶ See att. 96, Wolinski Statement at 117:3–19; att. 97, Aporongao Statement at 94:23–24.

¹¹⁷ General Order G02-01 (emphasis added). Att. 300.

¹¹⁸ Special Order S04-19. Att. 88.

Further, while police officers may generally handcuff anyone present in a residence during the execution of a search warrant,¹¹⁹ “[S]pecial circumstances, or possibly a prolonged detention, might lead to a different conclusion in an unusual case.”¹²⁰ The execution of the search warrant at Ms. ██████ residence was such an unusual case. “When there is no longer probable cause to believe criminal activity is taking place at the location where an individual is found, the mere presence of the individual in that place is no justification for seizing that individual.”¹²¹ Once Officer Aporongao concluded that the target of the search warrant did not reside in Ms. ██████ apartment, he decided, with the apparent support of Sgt. Wolinski, not to search the apartment for the handgun described in the warrant. Officer Aporongao concluded that, despite the facially valid warrant he had obtained, probable cause no longer existed to search Ms. ██████ apartment. As soon as Officer Aporongao concluded that probable cause did not exist, Ms. ██████ handcuffs should have been removed.

In light of the heightened responsibilities Officer Aporongao and Sergeant Wolinski respectively assumed in investigating, planning, and supervising the search warrant in this case, they should have communicated to the team that Ms. ██████ was not the intended target and taken proactive steps to de-escalate the situation. Instead, the two officers in charge treated her with indifference and void of dignity and only after requests from assisting officers did they allow them to intervene and afford Ms. ██████ the decency and humanity warranted. Therefore, based on the totality of the circumstances, COPA finds the inaction of Officer Aporongao and Sergeant Wolinski constituted maltreatment and portrayed the members’ indifference to the rights and dignity of Ms. ██████ This conduct also violated Rules 2, 3, 5, and 8. For these reasons, COPA finds that Allegations #1 and #7 against Officer Aporongao are SUSTAINED; and Allegations #1 and #6 against Sergeant Wolinski are also SUSTAINED.

2. Two of the fourteen officers did not enter Ms. ██████ apartment and had no knowledge of her maltreatment.

COPA also alleged that Officers Acevedo and Maloney failed to intervene in the maltreatment of Ms. ██████ However, the evidence shows this did not occur; as previously discussed, Officers Acevedo and Maloney never actually entered Ms. ██████ apartment subsequent to the breach. The two officers remained outside for the duration of Ms. ██████ detention, and neither officer was aware of the on-goings inside the apartment. In the absence of actual or constructive knowledge that maltreatment was occurring, the officers had no basis to intervene in the actions of their colleagues. For these reasons, COPA finds Allegation #2 against Officers Acevedo and Maloney is UNFOUNDED.

3. Three of the fourteen officers took affirmative steps to intervene in the maltreatment of Ms. ██████

COPA also alleged that Officers Cruz, French, and Orta failed to intervene in the maltreatment of Ms. ██████ However, the evidence establishes that all three officers took affirmative steps to protect Ms. ██████ dignity. Specifically, upon discovering that Ms. ██████ was naked, Officer Orta attempted to cover her with a jacket,¹²² and Officer Cruz attempted to cover her with a blanket.¹²³ Later in the

¹¹⁹ *Michigan v. Summers*, 452 U.S. 692 705 (1981).

¹²⁰ *Id.* n. 21.

¹²¹ *Jacobs v. City of Chicago*, 215 F.3d 758, 772 (7th Cir. 2000) (citing *Florida v. Royer*, 460 U.S. 491, 499 (1983)).

¹²² See att. 10, Orta BWC at 01:40–01:48.

¹²³ See att. 13, Cruz BWC at 02:15–02:30.

incident, both Officers Cruz and French asked Sergeant Wolinski for permission to remove Ms. [REDACTED] handcuffs.¹²⁴ Finally, Officer Cruz asked the sergeant for permission to let Ms. [REDACTED] make a phone call, and he attempted to clean up some of the damage he or other officers caused to Ms. [REDACTED] residence. Although these actions were modest relative to the scale of the intrusion Ms. [REDACTED] suffered, they demonstrate that these three officers maintained an appropriate regard for Ms. [REDACTED] dignity. For these reasons, COPA finds that Allegation #1 against Officers, Cruz, French, Orta, and is UNFOUNDED.

4. There is insufficient evidence to determine whether eight of the accused officers failed to intervene in the maltreatment of Ms. [REDACTED]

COPA also alleged that Officers Bieniasz, Donnelly, Jimenez, Lisciandrello, Mordan, Orta, Saric, and Villa failed to intervene in Ms. [REDACTED] maltreatment. These officers were present on the scene throughout the incident. They entered the apartment and observed how their colleagues treated Ms. [REDACTED]. In light of the limited information that was available to them at the time, the officers believed the incident was progressing in a manner that was consistent with Departmental policy, and they noted that other officers had taken steps to protect Ms. [REDACTED] dignity. However, they took no actions of their own to assist Ms. [REDACTED]. The significant deference these officers showed to their colleagues' borders on the impermissible: they all had an individual duty to protect Ms. [REDACTED] from maltreatment but relied exclusively on the actions of others to ensure her rights were respected. Additionally, there is a troubling contrast between the aggressive efforts many of these officers made in securing the scene and the relative detachment they displayed in addressing the violations of Ms. [REDACTED] dignity. Still, without more, COPA cannot conclude that, on the balance of probabilities, these officers committed misconduct. For these reasons, Allegation #1 against Officers Bieniasz, Donnelly, Jimenez, Lisciandrello, Mordan, Orta, Saric, and Villa is NOT SUSTAINED.

5. Two of the accused officers should have reported their maltreatment of Ms. [REDACTED] but there is insufficient evidence to determine whether other accused officers also had a duty to report the maltreatment of Ms. [REDACTED]

COPA raised allegations that all of the involved officers failed to report the maltreatment of Ms. [REDACTED]. Officers have a duty to report any and all violations of Departmental policies, including the *Human Rights and Human Resources* directive, which requires officers to treat members of the public in a manner that respects their dignity.¹²⁵

Most of the officers on the search team believed that the incident was proceeding in a manner that was within the scope of the warrant and consistent with Departmental policy. The evidence shows their impressions were reasonable based on the limited information that was available to them at the time, given the totality of the circumstances. Accordingly, they had no obligation to make a report of mistreatment.

However, given their outsized role in investigating, planning, and supervising the search warrant in this case, Officer Aporongao and Sergeant Wolinski found themselves in dramatically differently positions from the other members of the search team. These two members had all the necessary to

¹²⁴ See att. 13, Cruz BWC at 19:00–19:45.

¹²⁵ See Rules and Regulations of the Chicago Police Department, Rule 22.

information to determine Ms. [REDACTED] was being maltreated, and, as a result, they had a duty to report that maltreatment. They failed to do so.

This conduct violated Rules 2, 3, and 22. For these reasons, Allegation #2 against Officer Aporongao and Sergeant Wolinski is SUSTAINED; and Allegation #2 against Officers Bieniasz, Donnelly, French, Jimenez, Lisciandrello, Mordan, Orta, Saric, and Villa is NOT SUSTAINED. Additionally, Allegation #2 against Officers Acevedo and Maloney is UNFOUNDED because the officers never entered Ms. [REDACTED] apartment and lacked the necessary information to make any determination about whether she was maltreated.

D. THE DETENTION AND SEARCH OF AN UNKNOWN MALE

1. The detention and pat-down of an unknown male at the rear of the scene was lawful and within Departmental policy.

COPA raised allegations that Officers Donnelly, French, Maloney, and Villa illegally detained an unknown male at the rear of Ms. [REDACTED] residence and subjected him to a pat-down. All four officers acknowledged participating in the man's detention, but they argued their actions were justified because the man was in the parking lot of the targeted apartment complex (in the immediate area of the search), and another officer had warned them over the radio that he had observed an unknown person at the rear of the scene.¹²⁶

It is well established that police authority to detain an individual during the execution of a search warrant extends, *even in the absence of individualized suspicion*, to any person who is within the "immediate vicinity" of the area of the search.¹²⁷ The precise bounds of the "immediate vicinity" depend on multiple factors, including "the lawful limits of the premises, whether the occupant was within the line of sight of his dwelling, [and] the ease of reentry from the occupant's location."¹²⁸ All of these factors weigh in favor of finding that the man the officers detained was within the immediate vicinity of the area of the search warrant: *i.e.*, he was located in the parking lot that is reserved for the occupants of the targeted apartment complex; officers were able to observe him from the rear of the targeted unit in the complex; and, his close proximity to the residence afforded him a clear opportunity to enter the actual area of the search. Because the man was in the immediate vicinity of the search, the officers had authority to detain him.

¹²⁶ See att. 29, French Statement at 26:2–6; att. 37, Maloney Statement at 23:10-24:14; att. 39, Villa Statement at 39:10- 43:24; att. 94, Donnelly Statement at 43:2–45:8.

¹²⁷ See *Bailey v. United States*, 568 U.S. 186, 200–201 (2013); *Michigan v. Summers*, 452 U.S. 692, 706 (1981). Police may briefly detain a person within the security perimeter they establish while executing a search warrant, even if that subject never enters the property being searched, particularly where officers are surprised by the presence of the subject and where officers have an elevated concern for safety due to the nature of the warrant they are executing. *U.S. v. Jennings*, 544 F.3d 815, 818–19 (7th Cir. 2008) (citing *Summers*, 452 U.S. at 702–03 ("[T]he officers' interest in maintaining control inside their security perimeter . . . far outweighed [the plaintiff's] interest in being left alone for the few moments he was detained."). Further, the officers' right to detain someone "necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it," so long as the force used is reasonable under the circumstances. *Jacobs*, 215 F.3d at 773 (quoting *Graham v. Connor*, 490 U.S. 386, 396 (1989)). The court in *Jennings* also upheld a search of the detained subject's vehicle, but only where the officers observed a plastic bag of crack cocaine in plain view through the vehicle's window within seconds of effecting the detention. *Jennings*, 544 F.3d at 819.

¹²⁸ *Bailey*, 568 U.S. at 201.

However, the officers' interaction with the man did not end with his detention. They also subjected the man to a pat-down and attempted to place him in handcuffs. Departmental policy makes clear that a pat-down is a distinct action from a detention, and the lawfulness of one does not necessarily indicate the lawfulness of the other.¹²⁹ To justify a pat-down, officers must have a reasonable articulable suspicion that a suspect is armed.

In this case, there is ample evidence to support such a suspicion. While executing a search warrant for an illegal firearm, the accused officers received an alert to be on the lookout for an unknown man that another officer had observed walking away from the target's apartment complex. When the officers arrived at the rear of the complex, they saw a man walk away from the search area and enter a vehicle. Additionally, in the dark of night, some of the officers believed the man matched the physical description of the target. Based on these factors, it was reasonable for the officers to conduct a pat-down to confirm the man was not carrying the very firearm they had come to the scene to recover. For the same reasons, it was also reasonable to place the man in handcuffs. Therefore, Allegations #5, #6, and #7 against Officer Donnelly, Allegation #6 against Officer French, Allegation #5 against Officer Maloney, and Allegations #4 and #5 against Officer Villa are all EXONERATED.

2. The search of the male's vehicle violated Departmental policy.

COPA alleged that Officer Donnelly searched the vehicle of a man at the rear of the site of the search without justification. Officer Donnelly acknowledged he searched the vehicle but argued his actions were justified because of the possibility there was a firearm on the scene. While it is true that the officers' initial detention of the man was justified, the negative results of the pat-down, as well as the man's age, physical appearance, and compliant demeanor, provided the officers with enough information to determine he was not the target of the search warrant. Yet, Officer Donnelly searched the man's vehicle. His actions lacked justification and unnecessarily prolonged the detention. This conduct violates Rules 1 and 3. For these reasons, Allegation #8 against Officer Donnelly is SUSTAINED.

3. The failure to submit an investigatory stop report (ISR) violated Departmental policy.

COPA alleged that Officers Donnelly, French, Maloney, and Villa failed to submit an ISR. Officer Donnelly admitted he did not submit a report and acknowledged his failure to do so constituted a violation of Departmental policy.¹³⁰ The other three officers argued that they were only minimally involved in the detention and were not required to make a report. Pursuant to Special Order S04-13-09, officers must complete an ISR for any investigatory detention they undertake unless another document memorializes the reason for the detention and other relevant details.¹³¹ The extent of an officer's involvement is not relevant in determining whether he or she must produce an ISR: when an investigatory stop occurs, all of the participating officers share responsibility for ensuring its documentation. This conduct violated Rules 3, 6, and 10. For these reasons, Allegation #9 against Officer Donnelly, Allegation #6 against Officer Maloney, and Allegation #8 against Officers French and Villa are all SUSTAINED.

¹²⁹ See Special Order S04-13-09, part II(C)(2). Att. 302.

¹³⁰ See att. 94, Donnelly Statement at 56:18-57:15.

¹³¹ Special Order S04-13-09, part III(C). Att. 302.

4. The officers' failure to activate their body-worn cameras violated Departmental policy.

COPA alleged that Officers Donnelly, French and Villa failed to timely activate their body-worn cameras during their encounter with the man. The evidence shows the officers did not immediately activate their cameras when they approached the man. Their failure to do so violated Departmental policy. This conduct violated Special Order S03-14 and Rules 3, 6, and 10. For these reasons, Allegation #5 against Officers French and Villa is SUSTAINED.

G. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

- 1) **Officer Aporongao** – COPA has considered Officer Aporongao's complimentary history, his lack of prior disciplinary action, inadequate search warrant training and policies, and his over 8 years of service to the Department in mitigation. However, it is undeniable that Officer Aporongao is the most culpable for the harm that Ms. [REDACTED] experienced. His lack of due diligence during his investigation and his failure to prevent the indignity Ms. [REDACTED] suffered are inexcusable. However, as this investigation makes clear the absence of suitable training, policy and supervision were contributing factors to the misconduct uncovered. Accordingly, COPA recommends a minimum of a 180-day SUSPENSION, up to and including SEPARATION from the Department.
- 2) **Sergeant Wolinski** – COPA has considered Sergeant Wolinski's complimentary history, his lack of prior disciplinary action, inadequate search warrant training and policies, and his over 18 years of service to the Department in mitigation. COPA has also considered Sergeant Wolinski's supervisory rank in aggravation, as he is held out as a leader within the Department. Moreover, the facts of this case make clear that a lack of meaningful and effective supervision contributed to the deficiencies in Officer Aporongao's search warrant preparations. Furthermore, as the sergeant leading the search warrant execution, Sergeant Wolinski bears significant responsibility for the failure to comply with the knock and announce rule, as well as the maltreatment of Ms. [REDACTED] throughout the incident. Accordingly, COPA recommends a minimum of a 365-day SUSPENSION, up to and including SEPARATION from the Department.

Sergeant Petracco – COPA has considered Sergeant Petracco's complimentary history, his lack of prior disciplinary action, inadequate search warrant training and policies, and his over 16 years of service to the Department in mitigation. COPA has also considered Sergeant Petracco's supervisory rank in aggravation, as he is held out as a leader within the Department. While Sergeant Petracco was not present during the execution of the search warrant, he was Officer Aporongao's direct supervisor on the day he met J. Doe and began working up the search warrant. Sergeant Petracco failed to take responsibility for his role in the supervision of Officer Aporongao's efforts and in fact made attempts to minimize his involvement. While there was insufficient evidence to establish that Sergeant Petracco willfully lied about his involvement, his lack of personal accountability, particularly as supervisor, is deeply troubling. Accordingly, COPA recommends a

minimum of a 365-day SUSPENSION, up to and including SEPARATION from the Department.

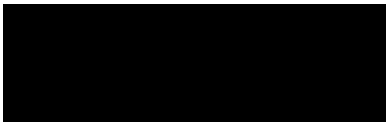
- 3) **Officer Cruz** – COPA has considered Officer Cruz’s complimentary history, his lack of prior disciplinary action, and his over 7 years of service to the Department in mitigation. Officer Cruz also took several affirmative steps to lessen the harm to Ms. [REDACTED] during and immediately after the search warrant execution. However, his failure to abide by the knock and announce rule denied Ms. [REDACTED] the opportunity to clothe herself, which ultimately led to her suffering the indignity of being handcuffed while naked as officers raided her home. Accordingly, COPA recommends a 60-day SUSPENSION.
- 4) **Officer Donnelly** – COPA has considered Officer Donnelly’s complimentary history, his lack of prior disciplinary history, and his over 7 years of service to the Department in mitigation. Officer Donnelly’s improper search of the male’s vehicle, his failure to document this encounter in an Investigatory Stop Report, and his failure to timely activate his body-worn camera are serious in nature and all serve to undermine public trust and confidence in the Department. Accordingly, COPA recommends a 15-day SUSPENSION.
- 5) **Officer Maloney** - COPA has considered Officer Maloney’s complimentary history, his lack of prior disciplinary history, and his over 6 years of service to the Department in mitigation. Officer Maloney failed to document the detention and search of the male and his vehicle in the parking lot in an Investigatory Stop Report. COPA recommends a 1-day SUSPENSION.
- 6) **Officer Villa** – COPA has considered Officer Villa’s complimentary history, his lack of prior disciplinary history, and his over 15 years of service to the Department in mitigation. Officer Villa failed to timely activate his body-worn camera and failed to document the detention and search of the male and his vehicle in an Investigatory Stop Report. Accordingly, COPA recommends a 5-day SUSPENSION.
- 7) **Officer French** – COPA has considered Officer French’s complimentary history, her lack of prior disciplinary history, and her over 3 years of service to the Department, and her status as PPO at the time of the incident in mitigation. Officer French failed to timely activate her body-worn camera and failed to document the detention and search of the male and his vehicle in an Investigatory Stop Report. Accordingly, COPA recommends a 3-day SUSPENSION.

H. RECOMMENDATIONS TO DEPARTMENT

The egregious outcome that occurred in this case must be understood in the broader context that the accused officers were acting without the benefit of rigorous training or clear and precise directives. The absence of these guardrails enabled mistakes to be made which ultimately caused emotional harm and degradation to Ms. [REDACTED]. In addition to its duty to make findings and recommendations regarding individual officers, COPA is also mandated to address Departmental responsibility to resolve these deficits to ensure that such events do not reoccur. Accordingly, COPA provided the Department specific and practical recommendations regarding the revision of its search warrant policy. These

recommendations were detailed in letters to the Superintendent dated February 26, 2021 and March 24, 2021, following the Department's public release of its revised policy. Additionally, last fall the Department asked COPA to provide feedback regarding its Fourth Amendment training. In COPA's October 1, 2020 response, COPA addressed the need to improve departmental training regarding both warrant acquisition and execution (copies of these correspondences are attached hereto as Appendix B). COPA implores the Department to consider and incorporate these recommendations. Even the most thoughtful and comprehensive policies and training cannot prevent all adverse outcomes. However, they can significantly lessen the likelihood of mistakes and errors like those that occurred in this case. Officers must be fully prepared and carefully supervised in the performance of their duties. Moreover, the residents of Chicago deserve a police department that establishes and adheres to recognized best practices regarding search warrants.

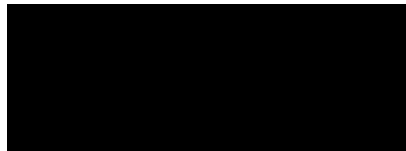
Approved:



Andrea Kersten
Chief of Investigative Operations

April 27, 2021

Date



Sydney R. Roberts
Chief Administrator

April 27, 2021

Date

Appendix A

Assigned Investigative Staff

Squad #s:	Two and Six
Investigators / Major Case Specialists:	Inv. David Barr, MCS Greg Masters, Inv. Joshua Hock, MCS Elizabeth Brett, Inv. Lakeisha Davis
Supervising Investigators:	Robert Coleman, Steffany Hreno, and Sharday Jackson
Deputy Chief Administrators:	Matthew Hayman and Jay Westensee
Chief of Investigative Operations:	Andrea Kersten

Appendix BCOPA Search Warrant Policy Letters and Training Recommendations

1. COPA's Review of CPD 4th Amendment Training: Letter from COPA Chief of Investigative Operations Andrea Kersten to Sergeant Timothy P. Finley, CPD Training Division (Oct. 1, 2020)
2. Chicago Police Department's Search Warrant Community Working Group: Letter from COPA Chief Administrator Sydney R. Roberts to CPD Superintendent David O. Brown (Feb. 26, 2021)
3. Revised Search Warrant Special Order S04-19: Letter from COPA Chief Administrator Sydney R. Roberts to CPD Superintendent David O. Brown (Mar. 24, 2021)



October 1, 2020

Sergeant Timothy P. Finley, #2224
Training Division
Chicago Police Department
Timothy.finley@chicagopolice.org

Re: COPA's Review of CPD 4th Amendment Training

Sgt. Finley:

Thank you for the opportunity to review the Department's proposed 4th Amendment Training. This subject matter is critically important to ensure the Department's ability to deliver equitable and constitutional policing to all Chicagoans. Nearly all encounters between citizens and law enforcement are impacted by the 4th Amendment. Accordingly, officers require a robust understanding of and respect for the law that governs these interactions. COPA recognizes the considerable effort that has already gone into the development of these training materials. We sought to provide high level feedback in the areas of structure, content, and tone in order to further enhance the Department's efforts. COPA's internal subject matter experts in our Investigations, Legal, and Training Units have reviewed these materials and have provided the following feedback:

Structure

- *Time* - As an overall matter, COPA notes that these materials are voluminous. We recommend the Department consider allotting more time to the subject matter presented.
- *Objectives* – Each module would benefit from having a separate title and set objectives to guide both the trainer and the class as they approach each new topic.
- *Testing* – Development of objective test questions could provide an effective metric for measuring pre and post training knowledge.

Content

- *Concealed Carry* – COPA has previously informed the Department of the need to develop enhanced training surrounding issues pertaining to *Terry* stops in the context of Illinois concealed carry law. While the subject is broached in the materials, COPA would recommend expanded discussion and increased scenario-based instruction surrounding this issue.



- *Search Warrants* – COPA notes that the topic of search warrants is discussed but the content focuses only on execution of valid search warrants. COPA recommends adding materials to address the nature and sufficiency of evidence required to obtain a search warrant. COPA also notes that a considerable amount of misconduct investigations involving the improper execution of search warrants arise each year and expanded discussion on best practices for ensuring safety of civilians and officers is warranted. (*i.e.*, training on how an officer asked to assist in a SW execution can evaluate the sufficiency of information contained in the affidavit and warrant, in order to ensure proper and safe execution)
- *Seizures* - The act of intentionally pointing a firearm at a civilian is a serious use of force which can constitute a “seizure.” COPA recommends that the issue be addressed in the context of the Department’s 4th Amendment Training to ensure that decisions to exercise this level of force are properly evaluated under the law.

Tone

- *General* – The Department is directly responsible for projecting the message of reform to its officers and training is an integral building block in that effort. Trainers need to deliver all content, particularly content as seminal to reform as the 4th Amendment, with intentionality of message. These draft materials would be exponentially improved were the Department to overtly project that it welcomes and finds value in its obligations under the Consent Decree and embraces the need to continue to improve and evolve to better serve all Chicagoans. While this may seem inconsequential, it could not be more essential to achieving true reform.
- *Discussion Topics* – COPA recommends that the Department avoid using gendered questions/scenarios such as the questions regarding spouses/partners and why they are attractive. While the intent may be to encourage participation and dialogue, examples that touch on issues like this may be sensitive for participants and could create uncomfortable situations.
- *Law Enforcement Objectives Under the 4th Amendment* – The tone of these materials appears to be aimed at what an officer can do under the 4th Amendment, as opposed to focusing on just and equitable outcomes under the 4th Amendment.
- *Practical Application* – These materials are largely presented in an academic manner, with heavy emphasis on caselaw. COPA recommends utilizing a more practical framework that approaches this material from the perspective of both an officer and a citizen. The inclusion of closed COPA cases may be an effective way to further illustrate some of these concepts.

As previously noted, this course material is exceptionally rigorous and our comments and feedback remained high level in the interest of expediency. Should the Department be interested in further dialogue regarding these suggestions, Senior Litigation Counsel, Cynthia Erno, Director



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of Training and Professional Development, Shon Barnes, and I would be all available to participate in future conversations. Thank you again for the opportunity to review these materials.

Sincerely,



Andrea Kersten
Chief of Investigative Operations



February 26, 2021

Superintendent David O. Brown
Chicago Police Department
3510 S. Michigan Ave
Chicago, Illinois 60653

Re: Chicago Police Department's Search Warrant Community Working Group

Superintendent Brown:

The recent public scrutiny surrounding both the acquisition and execution of search warrants by members of the Chicago Police Department (CPD) has brought to light many of the challenges our oversight system encounters. One such challenge is most certainly our information sharing and communication surrounding common issues. Our respective agencies are often singularly focused on the task at hand and have at times missed opportunities to collaborate. CPD's recently announced intent to publish another revised Special Order pertaining to the acquisition and execution of search warrants, as well as the announcement of City Council's proposed [REDACTED] Ordinance, (O2021-764), compels COPA to offer some additional insights that may further these conversations.

Given COPA's mandate to investigate complaints of improper search and seizure, we are responsible for conducting disciplinary investigations of allegations of misconduct involving search warrants. COPA is therefore uniquely situated to provide valuable insight into the complex interplay between law enforcement's exercise of authority in the acquisition and execution of search warrants and its impact of officers' conduct in the community. When it began operations in late 2017, COPA was charged with investigating complaints of misconduct related to improper searches and seizures. Our work since then has informed COPA's perspective on these issues.

As a threshold matter, COPA recognizes that: a) search warrants are a necessary and valid law enforcement tool that can be critical in maintaining public safety; and, b) CPD certainly has the capacity and internal expertise to lawfully and appropriately utilize this tool. However, after reviewing CPD's most recent training on search warrants, the 2020 revision to CPD search warrant policies, speaking to command staff, and interviewing a multitude of officers in disciplinary investigations, COPA has identified certain critical policy gaps for your review and consideration.

Qualifications of Affiant Officers

Currently, CPD has no criteria establishing authorities or prohibitions regarding who can serve as an affiant officer for a search warrant. Many of COPA's search warrant – related misconduct investigations involve officers assigned to Tactical Teams that operate in various Districts. Given the nature of their assignment, Tactical Team officers may have many encounters with residents that can lead to information regarding criminal activity suitable to support search warrant acquisition. However, Tactical Teams are ill-equipped and inadequately trained to perform much of the investigative work necessary to independently corroborate information provided by a "John Doe" informant. Specifically, they are not well-situated or trained to conduct covert surveillance or work up investigative leads. They also lack direct access to or familiarity with additional investigative tools such as Thompson's Rueters and LexisNexis databases. Furthermore, many Tactical Team officers

have limited years of service and therefore lack the requisite experience to serve as an affiant for the acquisition of a search warrant. CPD members assigned to the Bureaus of Detectives and Organized Crime as well as other specialized units are typically more experienced, have the benefit of additional training, and are far better equipped to conduct investigations to independently corroborate underlying information. CPD should consider identifying and strictly regulating which units and officers may serve as affiants for search warrants. Alternatively, CPD could require a certification process comprised of training, years of experience, and other suitable performance metrics, by which an officer can be qualified to serve as an affiant.

Evaluating the Law Enforcement Interest

The execution of a search warrant involving the entry into a residence involves an inherent amount of risk, both to civilians and officers involved. Additionally, such warrants require the allocation of considerable resources in terms of the number of officers and hours involved in execution. COPA's review of many complaints for the issuance of search warrants demonstrates that the type and/or amount of contraband sought is often relatively minor (small amount of narcotics, etc). COPA recognizes that when an individual target is a significant threat to his/her community, it may be worth acquiring and executing a search warrant for even a small amount of contraband. However, CPD must affirmatively evaluate the legitimacy of any law enforcement interest and weigh the risk of harm to all parties involved in determining whether a search warrant is necessary and/or the most appropriate tactic. This evaluation should be performed by a supervisor and the basis for any decision should be documented in an official CPD report.

Documentation of Affiant's Investigation

Each and every action of an affiant officer and every other officer assisting in an investigation to support acquiring a search warrant must be properly documented in an official CPD report. Actions including but not limited to, documenting phone calls and emails, identifying CPD members participating in the approval process, retaining all documents generated during an officer's independent investigation, and retaining all draft versions of the complaint for search warrant supporting affidavit reviewed and revised by an Assistant State's Attorney. CPD must also establish clear guidance regarding the storage and maintenance of such documents.¹

Search Warrant Supervisor Role

Any revised CPD Special Order relative to search warrants must specifically prescribe the role and duties of the search warrant supervisor in all aspects of the search warrant process, including but not limited to the determination that a search warrant is appropriate under the circumstances, the search warrant complaint preparation, and the search warrant approval process. Furthermore, a single search warrant supervisor must supervise the entire process. As currently drafted, the Special Order does not require that the same individual remain the search supervisor throughout the entire search warrant process. The current Special Order thereby invites circumstances in which the search warrant supervisor who leads the execution team has little or no knowledge of or role in the acquisition of that search warrant. This diffusion of responsibility can result in a failure to provide meaningful support and guidance to an affiant officer and constrains the ability to hold officers accountable for misconduct when it occurs.

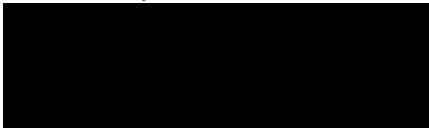
¹ COPA made similar observations and recommendations set forth in the Advisory Letter Regarding SWAT After Action Reviews and Reports, issued January 28, 2021.

Handcuffing During Execution of Search Warrants

COPA recognizes that current law grants law enforcement officers wide latitude regarding their application of handcuffs during the execution of a search warrant inside a home or premises. However, CPD must acknowledge that the low bar of an act's legality should not be the sole criterion in determining whether to take the action. Much like the 2020 Special Order on Search Warrants added a provision requiring officers to exercise due care when minors are present (S04-19(E)(3)), COPA urges CPD to include a requirement that officers evaluate the *necessity* of applying handcuffs, with particular emphasis on the length of time handcuffs remain in place.

As we are all committed to the common goal of strengthening trust between CPD and the people of our City, COPA would welcome the opportunity to further this dialogue and provide more context and information to support these recommendations. Should you have questions or want to discuss this further, please do not hesitate to contact me directly.

Sincerely,



Sydney R. Roberts
Chief Administrator

cc: Eric Carter, First Deputy
Dana O'Malley, General Counsel
Karen Konow, Chief of BIA
Kevin Connor, COPA General Counsel
Andrea Kersten, COPA Chief of Investigative Operations



March 24, 2021

David O. Brown
Superintendent
Chicago Police Department
3510 South Michigan Avenue
Chicago, Illinois 60653

Re: Revised Search Warrant Special Order S04-19

Dear Superintendent Brown:

Following on my February 26, 2021 letter conveying recommendations to address critical policy gaps related to the acquisition and service of search warrants, and in furtherance of COPA's mission to issue meaningful notifications to the Department that advance the culture of policing within the City of Chicago, COPA is offering the following input on the Department's revised Search Warrant Special Order (S04-19).

ABSENCE OF STANDARDS TO GUIDE BEHAVIOR

Clarity. The Department's proposed revisions to its Search Warrants directive are extensive and difficult to comprehend. Department members must be able to rely on the directive as an intelligible guide, and the public should be able to understand expectations surrounding search warrant processes with little difficulty. Instead of working largely from the layout of the current, January 2020, version of S04-19, evaluate options for reorganizing content to improve comprehension. COPA encourages the Department to draw on search warrant policies from other outside sources to glean valuable insight and refine the Department's approach to its own directive. For example, COPA found aspects of the New York City Police Department's policy to be particularly clear and succinct relative to search warrant development.

Efficient Use of Departmental Resources. The proposed revisions to the directive do not speak to the importance of risk assessment in the search warrant context. The service of search warrants is a significantly intrusive event that presents a number of inherent dangers for both Department members and the public. In light of these issues, the Department must significantly enhance its processes for evaluating, balancing, and documenting the probable benefits of service (e.g., the removal contraband or weapons, the arrest of wanted persons, or the recovery of evidence) against its probable costs (e.g., the significant potential for controversy and, with it, the erosion of public trust, the possibility of injury or violence, the risk of legal liability for wrong raids, and the trauma for those involved). While search warrants play an important role in effective policing, the

Department needs to do more to encourage members to draw on alternative tools in their efforts to curb criminal activity in the City. Additionally, the search warrant process requires allocation of considerable resources in terms of the number of members and hours involved and has the potential to take away from other public safety functions and law enforcement activities. Therefore, COPA recommends the Department ensure the directive:

- Introduces a requirement for Department members to make continuing re-assessments of the competing interests at stake in search warrant cases, to determine whether a decision to persist with the search warrant investigation, application, or service properly balances those interests, and to document this evaluation in writing;¹ and
- Requires command staff to review subordinate Department members' written risk assessments in advance of providing their own written approval.

Search Warrant Development. The proposed revisions do not sufficiently convey Department expectations relative to the development of applications for search warrants. Presently, to determine how to proceed in preliminary investigations, it has been COPA's observation that affiant officers and immediate supervisors often rely on their own experience and informal guidance from senior Department members. While the revisions enumerate categories of information that members must verify as part of these investigations, they do not delineate procedural steps for members to follow (i.e., the revisions speak to the "what" but not the "how" of verifying, corroborating, and preserving information used in the development of a search warrant). Therefore, COPA recommends the Department ensure the directive:

- Identifies in explicit terms the methods and resources members should use to verify information they receive from informants, and requires the Department to develop a checklist or guide for members to follow;²
- Establishes minimum steps Department members must take in all cases before they may conclude that requisite information in support of a search warrant application is verified;
- Enhances oversight responsibilities for supervisors whose subordinate members serve as affiants on search warrant applications. This may be accomplished by requiring the immediate supervisor to monitor the affiant officer from the moment the latter determines that probable cause has been established; requiring the immediate supervisor to evaluate the information gathered by the affiant officer as he or she acquires it; requiring the immediate supervisor to participate in any surveillance of the target location; including language that adds accountability to the immediate supervisor for deficiencies in the quality of affiant officer's investigation;³ and
- Stipulates in explicit terms the criteria that supervisors should use in determining whether to approve or reject a search warrant package prepared by subordinates.

¹ See also COPA's 2/26/21 letter to Superintendent Brown addressing *Evaluating the Law Enforcement Interest*.

² See, e.g., *NYPD Patrol Guide*, Procedure No. 212-7 at 5-7 (Jun. 01, 2016).

³ See *id.*

Training. COPA recognizes that policies alone are not sufficient and must be complimented by robust training in order to reform Department practices and member behavior. However, successfully engaging and meaningfully training Department members on the nuance of this directive across the entirety of the Department presents immense, potentially insurmountable, challenges. In order to create the greatest opportunity for consistent comprehension of Department expectations, COPA encourages the Department to consider training to a targeted and manageable group of members (rather than to the masses, Department-wide). Therefore, COPA recommends the Department ensure the directive:

- Establishes reasonable training thresholds which prioritize comprehensive coverage and in-depth treatment of the subject matter over efforts to maximize the number of members who receive the training; and
- Requires relevant training programs to prepare members for the actual experience of the field through the use of case studies and simulations instead of merely regurgitating key provisions within Departmental policies.

Knock-and-Announce. The directive does not sufficiently address standards for “reasonable opportunity” for occupants to allow Department members to enter the target location before making forcible entry. To be sure, deriving a single, clear standard from Fourth Amendment jurisprudence is a challenging endeavor.⁴ However, the standards of the Fourth Amendment are mere minimums, and the Department is empowered to develop its own standard within the bounds of the Fourth Amendment that balances the need for safety, timely forcible entry to prevent destruction of evidence, and privacy interests of occupants. Therefore, COPA recommends the Department ensure the directive:

- Defines in explicit language the minimum amount of time members must wait to satisfy the knock-and-announce rule (provided, of course, that any such time-period exceeds the constitutional minimum); and
- Requires members to document the amount of time they waited (when the knock-and-announce rule is applicable) in written report.

De-Escalation and Situational Awareness. De-escalation is a tool available for use in all law enforcement activities (i.e., not reserved for obviously problematic situations, such as “wrong raids”). COPA is encouraged by revisions to S04-19 that direct Department members to maintain a sensitive approach when children are present, and that all Department members are to treat all persons with courtesy and respect. However, these provisions lack tangibility and do not go far enough to aid Department members in applying these concepts in practice. While the law affords Department members wide latitude in the service of search warrants and related detentions, Department regulations should impose more rigorous standards for its members and require that they evaluate the necessity of a particular police action—even when legally permissible—in light of the totality of the circumstances. Public scrutiny surrounding the necessity and duration of handcuffing occupants within the target location in recent high profile incidents serves as a prime

⁴ See, e.g., *Michigan v. Hudson*, 547 U.S. 586, 590 (2006) (declining *in dicta* to articulate a bright line rule for how much time must pass before officers can use force to enter a residence).

example of member action that has undermined public trust in the Department.⁵ Therefore, COPA recommends the Department ensure the directive:

- Addresses with specificity the proper procedures to be followed when a warrant subject or witness is encountered while in a vulnerable state within the target location, with those who have infirmities, or who are medically required to take prescription medications at specific intervals; and
- Empowers Department members, particularly on-scene supervisors, to make adjustments to standard detention procedures, such as the application of handcuffs, based on factors including the duration of the encounter, location of the detained persons, and other details that a reasonable member might draw upon to conclude a person is not likely to flee or harm themselves, Department members, or the public.⁶

SUFFICIENCY OF END-PROCESS ACCOUNTABILITY AND REVIEW

Recordkeeping. The revised directive does not convey expectations for recordkeeping in key areas. Robust recordkeeping processes are critical to a well-functioning system of oversight and accountability. It is also problematic that, under the proposed changes, the process remains largely paper-driven. Therefore, COPA recommends the Department ensure the directive:

- Requires members to retain draft materials and written feedback during supervisor review process;⁷
- Provides additional guidance on centralized recordkeeping and relaxes obstacles to acquiring records for both internal auditors and external investigators.

Outcomes, After-Action Reviews, and Transparency. The proposed revisions do not establish a clear feedback loop for command staff that initially approve the search warrant package. Additionally, the Department stands to benefit from expanded application of the after-action review process beyond instances of “wrong raids.” After-action review outcomes offer opportunities for enhanced transparency with the public (i.e., incremental improvements in training and policy developed through self-identified successes and failings may be reflected in quarterly and annual reports). Therefore, COPA recommends the Department ensure the directive:

- Provides a feedback loop regarding search warrant outcomes for approving command staff;

⁵ See, e.g., Log # 1089790 (Though handcuffing a 10-year-old detained for suspicion of unlawfully possessing a weapon was initially appropriate, it quickly became apparent that the juvenile was not armed and there existed no clear safety concern to the public or officers involved. Officers failed to re-assess the necessity of restraints and acknowledge the potential for trauma).

⁶ See also COPA’s 2/26/21 letter to Superintendent Brown addressing Handcuffing During Execution of Search Warrants.

⁷ See also COPA’s 2/26/21 letter to Superintendent Brown addressing Documentation of Affiant’s Investigation (i.e., all drafts should be maintained).

- Expands the requirement for after-actions reviews to include *all* search warrant service, not just “wrong raids”;
- Articulates standards for how members should conduct after-action reviews (with an emphasis on identifying opportunities to improve future Departmental actions); and
- Establish requirements to document after-action review outcomes.

DIFFUSE RESPONSIBILITY

Siloing. The revised directive suffers from “siloing” (i.e., processes that operate independently which inhibits sharing and continuity of information). Generally, the directive creates one silo for the search warrant development and approval phase and another for the service and post-service phase. In other words, aside from the affiant officer, the personnel involved in one phase are not necessarily involved in the other phase. Therefore, COPA recommends the Department ensure the directive:

- Tethers at least one supervisor to the affiant officer through all stages of the search warrant process—including the investigation, development of the application, service, and post-service procedures and documentation.⁸

Dedicated Search Warrant Unit. COPA encourages the Department consider further revisions to the directive and operational adjustments that minimize diffuse responsibility among the various involved Department members and approval chains. In short, the model reflected in the revised directive appears cumbersome and susceptible to inconsistency. Formation of a unit dedicated to shepherding affiant officers and their immediate supervisors through the search warrant development, approval, service, and post-service processes would serve to: (1) centralize valuable knowledge and skills related to search warrants;⁹ (2) create consistency in development efforts (i.e., access to and familiarity with relevant databases, as well as liaise with external agencies); (3) create efficiency and continuity in approvals through exempt-level command staff; (4) streamline intra-Department coordination efforts; (5) enable training to a targeted and manageable group of Department members; and (6) reduce the overall number of Department members involved.

COPA would welcome the opportunity to engage in further dialogue and provide more context and information in support of our comments above. Should you have questions or want to discuss this further, please do not hesitate to contact me directly.

Respectfully,



Sydney R. Roberts
Chief Administrator

⁸ See also COPA’s 2/26/21 letter to Superintendent Brown addressing *Search Warrant Supervisor Role*.

⁹ See also COPA’s 2/26/21 letter to Superintendent Brown addressing *Qualifications of Affiant Officers*.

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