

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 25, 2019
Time of Incident:	1:55 a.m.
Location of Incident:	██████████ Chicago, IL
Date of COPA Notification:	July 31, 2019
Time of COPA Notification:	5:09 p.m.

At about 1:55 a.m. on the morning of July 25, 2019, tenants in the basement of ██████████ saw someone shining a flashlight into the window of the downstairs door. They discovered there were police officers on the property and spoke to the officers. The officers were looking for an elderly person with dementia who had been reported missing. A doorbell camera at the front door captured one of the officers climbing over a fence to gain access to the property, which is secured all the way around by a locked fence.

II. INVOLVED PARTIES

Involved Officer #1: Zachary Richardson	Zachary Richardson, Star# 9523, Employee ID# ██████████ Date of Appointment: August 28, 2017, Police Officer, District 10, Birthdate: ██████████ 1989, White Male.
Involved Officer #2: Todd Trowbridge	Todd Trowbridge, Star# 14668, Employee ID# ██████████, Date of Appointment: August 28, 2017, Police Officer, District 10, Birthdate: ██████████, 1987, White Male.
Involved Individual #1: ██████████	██████████ Birthdate: ██████████ 1983, Hispanic Female.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Zachary Richardson	1. It is alleged that on or about July 25, 2019 at or near ██████████ at approximately 1:55 a.m., Officer Zachery Richardson unlawfully entered the premises of ██████████ ██████████ residence in violation of the Fourth Amendment to the United States Constitution.	SUSTAINED / Violation Noted

	2. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55 a.m., Officer Zachery Richardson failed to activate his body-worn camera.	SUSTAINED / Violation Noted
Officer Todd Trowbridge	1. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55 a.m., Officer Todd Trowbridge unlawfully entered the premises of [REDACTED] residence in violation of the Fourth Amendment to the United States Constitution. 2. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55 a.m., Officer Todd Trowbridge failed to activate his body-worn camera.	SUSTAINED / Violation Noted SUSTAINED/ Violation

IV. APPLICABLE RULES AND LAWS

Rules of Conduct

1. **Rule 01:** Prohibits violation of any law or ordinance.
2. **Rule 02:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
3. **Rule 03:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
4. **Rule 05:** Failure to perform any duty.
5. **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.

General Orders

1. G02-01: Human Rights and Human Resources
2. G02-02: The First Amendment and Police Actions

Special Orders

S03-14: Body Worn Cameras

Federal Laws

Fourth Amendment to the United States Constitution

V. INVESTIGATION

The Civilian Officer of Police Accountability (COPA) investigated this incident. The following is a summary of the most relevant evidence, including interviews of the complainant, involved officers, documentary evidence, and video evidence gathered and relied upon in our analysis.

b. Interviews

The Complainant, [REDACTED] was interviewed by COPA investigators on August 1, 2019. In her statement, Ms. [REDACTED] said she was out of town in the early morning hours of July 25, 2019 but received a notification that the doorbell camera at her home in Chicago had been activated at about 2:00am. Ms. [REDACTED] checked the notification and viewed camera footage that showed two Chicago Police Officers on her doorstep. One Officer was seen climbing over the neighbor's fence to gain entry onto her front porch. Ms. [REDACTED] called her roommate to ask what happened, and the roommate said she spoke to two police officers who were looking for a former resident who had dementia and was reported missing. The roommate said what alerted her to the police being on the property was that she saw lights being flashed into the window of the basement door.

Ms. [REDACTED] said her property is secured with a fence around the front and back of the house. There is five-foot iron fence in the front and a six-foot wooden fence in back, both fences have locks.¹

Accused Officer Zachary Richardson was interviewed by COPA investigators on November 22, 2019. In his statement, Officer Richardson said he was on duty July 25, 2019 at the time of the incident and was working with his partner Officer Todd Trowbridge. Officer Richardson recalled that he and his partner were looking for a missing elderly person who was reported to have dementia. One of the addresses provided to Officer Richardson and his partner was Ms. [REDACTED] address. Officer Richardson said there was a gate around the property and he and his partner would have gotten into the yard either through the gate, if it was unlocked, or by jumping over the gate. Officer Richardson said they spoke to a female and a male at the address and did not locate the missing individual. Officer Richardson said he was assigned a body-worn camera that day and that to his knowledge, the body-worn camera was functional. He said he didn't turn his body-worn camera on for this event because he didn't think it necessary since they were not investigating a crime.²

Accused Officer Todd Trowbridge was interviewed by COPA investigators on December 9, 2019. In his statement, Officer Trowbridge said he was on duty July 25, 2019 at the time of the incident. Officer Trowbridge said his typical partner is Officer Richardson and would have been his partner on the date in question. Officer Trowbridge said he didn't have any independent recollection of the incident in question, but that from reviewing the event query and speaking with his partner about the incident, he knows they were dispatched to look for a missing person.

¹ Attachment 1.

² Attachment 17.

Officer Trowbridge said he and his partner frequently get calls regarding missing persons. Officer Trowbridge further stated that if he and his partner were performing a residence check and encountered a locked gate, they would find a way to enter the yard another way, depending on the circumstances of the missing person. He said they might climb over a fence or access the front porch by entering a neighbor's yard, then the target residence.

Officer Trowbridge said as far as he knew, his bodycam was functioning for his duty shift on the date in question. Officer Trowbridge stated there wasn't a reason to activate his body-worn camera because it was discretionary, and they were merely looking for a missing person as opposed to investigating a crime.³

c. Digital Evidence⁴

Black and white video footage from Ms. [REDACTED]ring.com doorbell camera shows Officer 1, now known to be Officer Richardson, standing at the front door of the residence while Officer 2, now known to be Officer Trowbridge, climbs over a fence to the right of the front-door landing.⁵ Officer Richardson can be seen shining a flashlight at the front of the residence and around the yard. He can also be seen checking the front gate, which appears locked and doesn't open.⁶

d. Documentary Evidence

The OEMC Event Query for this event documents that beat 1022R (Officers Richardson and Trowbridge) spoke to a resident of [REDACTED] at approximately 2:07 a.m. on July 25, 2019. The officers relayed that there was no one by the name of the person they were looking for there.⁷

V. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

³ Attachment 19.

⁴ COPA searched for the involved officers' bodycam footage and found none.

⁵ Attachment 11.

⁶ Attachments 10 and 12.

⁷ Attachment 6.

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing is defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VI. ANALYSIS

A. The Officers Engaged in a Search of Ms. ██████████ Property Which was Unreasonable Under the Community Caretaking Exception to the Fourth Amendment's Warrant Requirement.

1. The Officers engaged in a search by climbing Ms. ██████████ locked gate and looking through her windows.

The Supreme Court has established two tests for when a "search" occurs under the Fourth Amendment. First, a search occurs when government actors "physically occup[y] private property for the purpose of obtaining information." *United States v. Jones*, 565 U.S. 400, 404 (2012). And second, even absent a physical trespass, a search occurs when "an expectation of privacy that society is prepared to recognize as reasonable is infringed." *United States v. Jacobsen*, 466 U.S. 109, 113 (1984) (citing *Katz v. United States*, 389 U.S. 347 (1967)). The Court has further ruled that the Fourth Amendment protects the "land immediately surrounding and associated" with homes, known as curtilage, from unreasonable government intrusions. *Oliver v. United States*, 466 U.S. 170, 180 (1984).⁸ Whether an area is curtilage depends on four factors: the proximity of the area claimed to be curtilage to the home, whether the area is included within an enclosure surrounding the home, the nature of the uses to which the area is put, and the steps taken by the resident to protect the area from observation by people passing. *United States v. Dunn*, 480 U.S. 294, 301 (1987).

In this case, there is camera footage from Ms. ██████████ doorbell camera showing Officer Trowbridge climbing a fence to get into the yard and Officer Richardson admitted in his statement to COPA that he and his partner occasionally jump or climb over fences to get into yards in similar

⁸ *See also, People v. Burns*, 2016 IL 118973, ¶ 95 ("This right would be of little practical value if the State's agents could stand in a home's porch or side garden and trawl for evidence with impunity; the right to retreat would be significantly diminished if the police could enter a man's property to observe his repose from just outside the front window.") (quoting *Florida v. Jardines*, 569 U.S. 1, 6 (2013)).

situations, and therefore he may have done so in this case. Officer Richardson is seen standing on the porch and later checking the gate, which appears locked. Officer Trowbridge shines his light on and into the windows of the home.

Pursuant to the *Dunn* factors, this is clearly a search of the home: (1) the officers are on the front porch immediately adjacent to the home; (2) they have disregarded the locked fence to enter the yard; (3) the locked gate indicates that the porch is not intended for public use; and (4) Ms. [REDACTED] has locked the gate in an attempt to protect this area from outside observation. Therefore, COPA finds that the two officers engaged in a search of Ms. [REDACTED] property.

2. The Manner in Which the Officers Carried out the Search Was not Reasonable Under the Community Caretaking Exception to the Warrant Requirement.

The officers failed to reasonably comply with an exception to the warrant requirement. Under the Fourth Amendment, officers may only search a home, or as in this case the curtilage, if they have a warrant or fall into one of the exceptions to the warrant requirement. *People v. McDonough*, 239 Ill.2d 260, 269 (2010). One such exception is the community caretaking exception, which allows officers to engage in searches, where the purpose is to perform some task unrelated to the investigation of a crime. *Id.* This exception can apply to officers who are searching for a missing person. *People v. Bondi*, 130 Ill. App. 3d 536, 539-40 (5th Dist. 1984). However, exigent circumstances, including the community caretaking function, must be carefully circumscribed so as to not overwhelm the warrant requirement. *United States v. Bell*, 357 F. Supp. 2d 1065, 1074 (N.D. Ill. 2005) (“...the fact that [the victim] was reasonably believed to be in danger of physical harm would not have given the police the authority to enter homes and conduct searches at will.”). Thus officers may search where: (1) there are reasonable grounds to believe that an emergency is at hand and that there is an immediate need for assistance for the protection of life or property; (2) the search is not motivated primarily by the intent to arrest a suspect or seize evidence; and (3) there is a reasonable basis, approximating probable cause, to associate the emergency with the area searched. *People v. Lewis*, 363 Ill. App. 3d 516, 522 (2d Dist. 2006), *see also Bondi*, 130 Ill. App. 536, 539 (5th Dist. 1984).

In this case, the officers were engaging in a community caretaking function. The OEMC event query indicates that they were dispatched as an assisting unit regarding a call of a missing person. They told COPA they frequently got calls about missing persons, and when they encountered a locked fence on such calls, they would typically jump the fence to knock on the door. The fact that they were doing so in this case is supported by Ms. [REDACTED] statement that her roommate relayed to her that the officers said they were looking for a missing former resident.

However, COPA finds that they did not reasonably engage in this community caretaking function. There was no reasonable basis to associate the missing person with the home such that it required climbing the fence and peering through the windows. At most, the missing individual could have wandered to the home, especially since he was apparently not located at his then current home. However, it was not reasonable to believe that at 2:00 in the morning, he would be inside a home without the current residents having called the police. The likelihood of finding him inside

the home, was not nearly significant enough to outweigh the invasion of privacy to the current residents from climbing into their yard in the middle of the night.

Therefore, COPA finds that the preponderance of the evidence demonstrates that the officers unreasonably searched the premises in violation of the Fourth Amendment.

B. The Preponderance of the Evidence Does not Demonstrate that the Officers were Required to Activate their Body Worn Cameras.

CPD Special Order 03-14 states in relevant part:

1. The decision to electronically record a law-enforcement-related encounter is mandatory, not discretionary, except where specifically indicated.
2. The Department member will activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities... Law-enforcement-related activities include but are not limited to... searches, including searches of people, items, vehicles, buildings and places.

However, the Policy further states that:

A Department member may utilize discretion to activate the BWC for non-law-enforcement-related activities in the following circumstances:

...when the member is engaged in community caretaking functions, unless the member has reason to believe that the person on whose behalf the member is performing a community caretaking function has committed or is in the process of committing a crime.

“Community Caretaking Function” is defined in S03-14 as:

A task undertaken by a law enforcement officer in which the officer is performing an articulable act unrelated to the investigation of a crime. "Community caretaking function" includes, but is not limited to, participating in town halls or other community outreach, helping a child find his or her parents, providing death notifications, and performing in-home or hospital well-being checks on the sick, elderly, or persons presumed missing.

In their statements, both officers informed COPA that they did not believe they needed to activate their cameras because they were not investigating a crime. As explained above, COPA finds that the preponderance of the evidence shows that the officers were searching for a missing person and attempting to comply with the community caretaking function. Thus, COPA finds that the officers had the discretion to activate their body worn camera. However, due to the fact that the incident also included a search, and the fact that officers carried out that search unreasonably, there is not clear and convincing evidence that the officers were not required to use their body worn camera.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Zachary Richardson

Officer Richardson’s training, complimentary and disciplinary histories were considered when recommending discipline in this case. Officer Richardson does not have a history of discipline. COPA sustained the allegation that Officer Richardson entered the premises of [REDACTED] residence in violation of the Fourth Amendment and failed to activate his body-worn camera. COPA recommends Officer Richardson receive training on the Fourth Amendment, Body-Worn Camera and receive a violation noted for these allegations.

b. Officer Todd Trowbridge

Officer Trowbridge’s training, complimentary and disciplinary histories were considered when recommending discipline in this case. Officer Trowbridge does not have a history of discipline. COPA sustained the allegation that Officer Trowbridge entered the premises of [REDACTED] residence in violation of the Fourth Amendment and failed to activate his body-worn camera. COPA recommends Officer Trowbridge receive training on the Fourth Amendment, Body-Worn Camera and receive a violation noted for these allegations.

CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Zachary Richardson	1. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55 a.m., Officer Zachary Richardson unlawfully entered the premises of [REDACTED] residence in violation of the Fourth Amendment to the United States Constitution.	SUSTAINED / Violation Noted
	2. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55 a.m., Officer Zachary Richardson failed to activate his body-worn camera.	SUSTAINED / Violation Noted
Officer Todd Trowbridge	1. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55 a.m., Officer Todd Trowbridge unlawfully entered the premises of [REDACTED] residence in violation of the Fourth Amendment to the United States Constitution.	SUSTAINED / Violation Noted
	2. It is alleged that on or about July 25, 2019 at or near [REDACTED] at approximately 1:55	SUSTAINED / Violation Noted

a.m., Officer Todd Trowbridge failed to activate his
body-worn camera.

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

8-31-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	06
Investigator:	Linda Wyant
Supervising Investigator:	Elaine Tarver
Deputy Chief Administrator:	Angela-Hearts-Glass