



Involved Sergeant #1	Rhonda Anderson, Star No. 1376, Employee ID No. [REDACTED], Date of Appointment: February 28, 2000, Sergeant, Unit of Assignment 007, DOB: [REDACTED], 1973, Female White
Involved Individual #1	[REDACTED], DOB: [REDACTED], 1993, Male, Black
Involved Individual #2	[REDACTED], DOB: [REDACTED], 1983, Male, Black

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Robert E. Cummings	1. It is alleged that on or about August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Officer Robert E. Cummings, Star #17841, committed misconduct through the following actions: Entering the private residence located on the first floor of [REDACTED] without justification.	Sustained / 15-day Suspension and training
	2. It is alleged that on or about August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Officer Robert E. Cummings, Star #17841, committed misconduct through the following actions: Failing to timely activate his body worn camera.	Sustained / Violation Noted
Sergeant Rhonda Anderson	1. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star # 1376 committed misconduct through the following actions: Entering the private residence located on the first floor of [REDACTED] without justification.	Exonerated
	2. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star # 1376 committed misconduct through the following actions: Searching the residence located on the first floor of [REDACTED] without justification.	Exonerated

<p>3. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star # 1376 committed misconduct through the following actions: Failing to properly supervise officers under her command when they searched the premises.</p>	<p>Exonerated</p>
<p>4. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star # 1376 committed misconduct through the following actions: Failing to direct officers under her command to stop searching the premises.</p>	<p>Exonerated</p>

**IV. APPLICABLE RULES AND LAWS**

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Rules

1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. Rule 5: Failure to perform any duty.
4. Rule 6: Disobedience of an order or directive, whether written or oral.

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General Orders

1. G01-01 Mission Statement and Core Values (effective March 1, 2011- May 20, 2019)

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Special Orders

1. S03-14 Body Worn Cameras (effective June 9, 2017- October 17, 2017)
2. S0-4-13-09 Investigatory Stop System (effective July 10, 2017)

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Federal Laws

1. U.S. Constitution, Amendment II
2. U.S. Constitution, Amendment IV

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**State Laws**

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**1. Illinois Constitution, Article 1, Section 6. Searches, Seizures, Privacy and Interceptions****V. INVESTIGATION<sup>3</sup>****a. Interviews**

**Witness Officer James Foy<sup>4</sup>** gave a digitally recorded interview to COPA on October 23, 2019. Prior to giving his statement, Officer Foy reviewed the Arrest Report for ██████████. Officer Foy stated that he has discussed the incident on previous occasions because the matter has been adjudicated in court. He specified, however, that he did not provide testimony in court. Officer Foy also stated that he has reviewed audio and visual footage of the incident in question. The following is a summary of his statement.

At the time of the incident, Officer Foy was assigned to the 7<sup>th</sup> District and was on patrol with his partners Officer Cummings and Officer Tyler Berecz (“Officer Berecz”). Officer Foy and his partners were patrolling in an unmarked car. He was wearing civilian dress. Officer Foy was seated in the back seat of the patrol car, with Officer Berecz driving and Officer Cummings seated in the front passenger seat. The officers arrived at ██████████ after receiving an OEMC<sup>5</sup> call regarding a man with a gun. Officer Foy recalled that the man with the gun was described in the OEMC call and that the description was very specific. Officer Foy also stated that a specific location was provided in the OEMC call. Officer Foy identified the person, now known as ██████████, as matching the OEMC description based on ██████████’s proximity to the address, that ██████████ physically matched the description, and that ██████████ was wearing clothing identical to the description. It took Officer Foy less than a minute to get to the location stated in the OEMC call and Officer Foy saw only ██████████ on the entire block. Officer Foy stated that ██████████ was not carrying anything in his hands.

Officer Foy recalled that the first time he saw ██████████, he was standing in front of a wrought-iron gate. Officer Foy observed ██████████ from the back seat of the squad car, without obstruction, from about four-house lengths away. Officer Foy observed ██████████ for between 10 to 15 seconds. While observing ██████████, Officer Foy first noticed how ██████████’s clothes matched the description of the call. Officer Foy next noticed ██████████’s reaction when ██████████ saw the officers. When ██████████ saw the officers, ██████████ immediately perked up and turned away. When ██████████ saw their police car accelerate toward him, he grabbed his front right waist band in an exaggerated motion and began running south bound. Officer Foy said that at no point did he see ██████████ with a gun.

Officer Foy recalled that Officer Cummings was the first one out of the patrol car and that Officer Cummings chased ██████████ and announced his office. At the same time, one of the officers

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<sup>3</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>4</sup> Atts. 18 and 19.

<sup>5</sup> Office of Emergency Management and Communications.

radioed dispatch to indicate that [REDACTED] was running but Officer Foy could not remember who called. Officer Foy stated that [REDACTED] then ran up a staircase and into a residence at [REDACTED]. Officer Foy stated that the door was not open when [REDACTED] approached, and he was not sure how [REDACTED] got in the apartment. The door was open when Officer Foy entered.

Officer Foy entered the house behind [REDACTED] and Officer Cummings with Officer Berez following behind him. Officer Foy stated that the nature of the OEMC call, the description given in the call, the short time between the call and arriving at the location, and [REDACTED]'s behaviors and mannerisms were things that, based on Officer Foy's training and experience, led Officer Foy to believe that [REDACTED] had a gun and was trying to get away from the police because he was not supposed to have a gun. Officer Foy explained that there were several safety issues raised because his partner was following close behind [REDACTED] as well as safety concerns for the homeowner as he did not know whose home [REDACTED] was entering. Officer Foy stated that the homeowners could have been in jeopardy or Officer Cummings could have been in jeopardy.

Officer Foy stated that when he entered the house, he saw a wall on one side and a living room area to the left. Officer Foy recalled hearing a lot of chaos with dogs barking, people yelling, furniture moving, and doors opening. Officer Foy then saw Officer Cummings retreating and that there were dogs charging at Officer Cummings. Officer Foy saw Officer Cummings discharge two rounds at the dogs who were less than a foot from Officer Cummings. Officer Foy then discharged his weapon and the dog that was nearest to him retreated to the kitchen. Officer Foy stated that at that time, [REDACTED] was barricaded in the bedroom and he and his partners were able to exit out of the front door. They then radioed for more assistance.

Once he turned on his body worn camera, Officer Foy told everyone on the scene to turn on their cameras too. Officer Foy did not recall who was the first supervisor on the scene. He also stated that the apartment was searched after [REDACTED] was taken into custody but that he was not in the apartment at the time. Officer Foy did not know who supervised the search.

**Accused Officer Robert Cummings**<sup>6</sup> gave a digitally recorded interview to COPA on March 5, 2020. Prior to giving his statement, Officer Cummings reviewed the Original Case Incident Report, a Supplemental Report and the Arrest Report for [REDACTED]. The following is a summary of his statement.

On the day of the incident, Officer Cummings was on patrol in the 7<sup>th</sup> District with two partners, Officer James Foy and Officer Tyler Berez. The officers were in an unmarked vehicle. Officer Cummings was sitting in the passenger seat, Officer Berez was driving and Officer Foy was in the backseat. The officers received an anonymous call over the radio of a man with a gun, wearing a white T-shirt, black pants and black shoes on the 6600 block of South Paulina Street. Officer Cummings stated that there was no indication in the call that a crime occurred in connection to this man, that the gun had been fired by the man or that the man threatened anyone with the gun.

Upon receiving the call, Officer Cummings and his partners drove to [REDACTED] in an unmarked vehicle. Located at the address is a residential two-flat building. Officer Cummings estimated that it took less than a minute to arrive at the address. From about a half block away,

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<sup>6</sup>Att. 36.

Officer Cummings observed that [REDACTED], who was standing in the middle of the block, matched the description he received from dispatch. The officers pulled up to [REDACTED] and stopped their vehicle in front of [REDACTED]. Officer Cummings stated that there was approximately 15 feet between where their vehicle stopped and where Officer Cummings observed [REDACTED] standing in front of [REDACTED]. There was nothing obstructing his view of [REDACTED]. Officer Cummings observed [REDACTED] from the car for a few seconds and stated that [REDACTED] was alone.

When the officers pulled up, [REDACTED] began to walk away. Officer Cummings then exited the vehicle to conduct a field interview. Officer Cummings asked [REDACTED] if Officer Cummings could speak with him. [REDACTED] did not reply. Instead, [REDACTED] “gripped his waistband as if was trying to conceal a weapon and ran in the house, and I ran right behind him.”<sup>7</sup> Officer Foy came in right behind Officer Cummings. When [REDACTED] and Officer Cummings were inside the house, Officer Cummings observed a small, black handgun in [REDACTED]’s right hand while [REDACTED] was in a running motion. Officer Cummings stated that [REDACTED] ran through the dining room area of the house into the kitchen at which time three pit-bull dogs rushed at Officer Cummings. Officer Cummings and Officer Foy fired at the dogs and the dogs retreated. Officer Cummings then called for back up and went outside to the back of the building to make sure that [REDACTED] did not exit out of the back. Officer Cummings re-entered the building seconds later and observed several officers inside. The officers called out to [REDACTED] who then came from behind the kitchen door and was taken into custody.

Officers on scene began searching for [REDACTED]’s gun but Officer Cummings is not sure if he participated in the search. Officer Cummings stated that the officers knew to search for a gun because the nature of his call for assistance was “man with a gun” and Officer Cummings also said he saw a gun in [REDACTED]’s hand. A gun was recovered from a bedroom that was near the kitchen. Officer Cummings stated that the gun that was recovered from the bedroom was the same gun that he saw [REDACTED] holding.

Officer Cummings did not recall speaking to any of the residents of [REDACTED] during the incident and did not recall any of the residents speaking to him. Officer Cummings stated that he did not obtain permission to enter the apartment on the 1<sup>st</sup> floor of [REDACTED] from any of its residents. He also stated that he did not have a search warrant to enter the residence. Officer Cummings understood that officers may enter a private residence when an officer was in hot pursuit of someone. Officer Cummings believed that he was authorized to enter because he was trying to preserve human life because he believed [REDACTED] had a gun and he was not sure if [REDACTED] lived in the residence he was entering. Based on Officer Cummings’ training and experience, he believed that [REDACTED] was trying to conceal a weapon. Officer Cummings stated that he did not see [REDACTED] with the gun before Officer Cummings entered the residence.

Officer Cummings stated that prior to pursuing [REDACTED], he was unable to turn on his body worn camera because at the time of the incident, body worn cameras were new to the officers and things happened fast. Officer Cummings activated his camera when Officer Foy reminded him after Officer Cummings ran out of the building and toward the back of the house. Officer Cummings believed that he met the requirements of the Department’s directive relating to body

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<sup>7</sup> Att. 36 at 12 minutes and 17 seconds.

worn cameras because he had just seconds to act and as a matter of safety there was not enough time to turn on his body worn camera.

**Sergeant Rhonda Anderson**<sup>8</sup> gave a digitally recorded interview to COPA on September 24, 2020. In preparation for her statement, Sergeant Anderson looked over the Original Case Incident Report and the Arrest Report related to the case. Sergeant Anderson declined to review her BWC immediately prior to the interview but stated that she had reviewed her BWC shortly after being first served with allegations by COPA on December 1, 2019. She has not given any testimony in the trial relating to the incident. The following is a summary of Sergeant Anderson's statement.

Sergeant Anderson was promoted to Sergeant in July 2016. She is currently a Patrol Supervisor in the 7<sup>th</sup> District. At the time of the incident, Sergeant Anderson was assigned to the 7<sup>th</sup> District Tactical Team. As a Tactical Team Sergeant, Sergeant Anderson was responsible for a specific team and for assisting in the 7<sup>th</sup> District.

The day of the incident, Sergeant Anderson was in the tactical office<sup>9</sup> and heard over the radio that there were shots fired by the police. She stopped what she was doing and rushed over to the scene, arriving in a few minutes. When she arrived, there were several officers from outside units and the 7<sup>th</sup> District already on the scene. Sergeant Anderson recalled trying to get information about what was happening but does not recall who she asked for information. Sergeant Anderson recalls speaking with the officers who made the initial entry but does not recall the extent of the conversation.

Sergeant Anderson understood at the time of the incident that there was a call of a man with a gun and that officers pulled up and saw a man (now known to be ██████████) matching the description of the person with the gun. She further understood that the officer (now known to Officer Cummings) saw a gun on ██████████ and when ██████████ ran into the house, Officer Cummings followed him into the house. Shots were then fired because dogs ran at Officer Cummings when he entered the house.

At the scene, upon learning that a suspect was inside the building, Sergeant Anderson went to the rear of the building in order to make sure that the rear of the house was secure. Sergeant Anderson described the building as a two-flat building. She does not recall entering the second-floor unit. Inside of the house, Sergeant Anderson recalled that the offender had barricaded himself at the rear of the house and that officers were trying to persuade him to come out. The offender eventually surrendered without incident. Sergeant Anderson recalled other supervisors on scene with whom she spoke. The officers involved in the incident were removed from the area because a shooting scene was involved.

Sergeant Anderson stated that one of the dogs was possibly shot so Animal Control was called to render it aid. She also recalled that a resident in the unit, now known to be ██████████ ("████████?"), had a conversation with officers stating that ██████████ is his cousin, that he did not know

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<sup>8</sup>Att. 52, Statement of Sergeant Rhonda Anderson (Audio).

<sup>9</sup> The 7<sup>th</sup> District is located at 1438 W. 63<sup>rd</sup> Street.

that [REDACTED] had guns in the house and that [REDACTED] did not have permission to have guns in the house. Sergeant Anderson said that [REDACTED] helped corral the dogs.

Sergeant Anderson stated that the decision to search for the gun was made by consensus of the supervisors on scene. She confirmed that she participated in the search for the gun. She stated that the team with which she was searching was the team of a different supervisor, Sergeant Nicholas Cortesi ("Sergeant Cortesi"), and that she was present in a supporting role. At some point it was decided that Sergeant Cortesi would conduct a part of the investigation and that Sergeant Anderson would be in the house assisting with the search of the gun. Sergeant Anderson stated that an officer recovered a gun from the bedroom, but she does not know if she inspected it.

Sergeant Anderson said there was concern because there was blood on the floor, and she wanted to make sure no one else was injured. [REDACTED] made a comment about children being present and that there was not supposed to be a gun in the home. Sergeant Anderson stated that she believed at some point [REDACTED] had given consent for the search. She also stated that for liability reasons, the police wanted to make sure not to leave a gun in the house with children to avoid tragic consequences.

Sergeant Anderson and other officers searched the house in the area under [REDACTED]'s immediate control. This included searching in the area where [REDACTED] was sequestered and anywhere [REDACTED] could have tossed the gun. Sergeant Anderson explained that [REDACTED] went through the house and then hid himself behind the kitchen door, therefore the path he travelled from front door to kitchen was also searched. Sergeant Anderson searched the kitchen and other officers searched a back bedroom and the pantry. Sergeant Anderson stated that she was told that the owner of the unit stated [REDACTED] was not supposed to have a gun in the house because there were children and he wanted it out. One gun was recovered during the search. After the gun was recovered, officers continued to search the area for other guns. Sergeant Anderson explained that based on her training, if one gun is found there are probably others and it was her job as a supervisor to be sure everyone is safe. She stated that if there was another gun and there are children around the last thing you wanted was for someone to say the police searched my house and a gun was found and something tragic happened.

When Sergeant Anderson entered the home, she believed that she was authorized to enter the residence because there was an active investigation going on. Also, because the officers had fired their weapons inside the house, the area was a crime scene. Further, Sergeant Anderson believed entry was justified because there was a person involved who may or may not be injured who was also a wanted person. Entry in the home was also justified to secure the safety of the people upstairs. Sergeant Anderson stated that she wanted to make sure to make everything as safe as possible.

Sergeant Anderson did not know if there was a warrant for [REDACTED]. She also did not recall going up to the second-floor unit. Sergeant Anderson had previously conducted searches in private residences under what she considered exigent circumstances. Sergeant Anderson believed that she was justified in searching the area on the 1<sup>st</sup> floor that was searched due to safety reasons and exigent circumstances. She described the exigent circumstances in this incident to be that there was a gun on the street, officers observed the firearm, officers followed the offender inside, and

shots were fired. In addition, she did not know if anyone was injured in the back of the unit and did not know the status of the dogs. Sergeant Anderson stated that she wanted to preserve life, and to make sure everyone was ok.

Sergeant Anderson stated she was not the most senior officer on scene. There was at least one lieutenant on scene, but Sergeant Anderson did not know when he arrived. Her captain was also on scene and she believes a captain from another district was on scene as well.

## b. Digital Evidence

**Body Worn Camera** (“BWC”)<sup>10</sup> footage captures the incident. Officer Cummings and his partners Officer Foy and Officer Berez were each equipped with BWC. Officer Cummings appears to activate his BWC when reminded to do so by his partner after his interaction with [REDACTED]. Officer Foy’s BWC, however, captured Officer Cummings run up the front porch stairs in pursuit of [REDACTED], who is wearing a white shirt and black pants, and enters the front door of the building.<sup>11</sup> Officer Cummings follows [REDACTED] into the residence with Foy and Berez following close behind.<sup>12</sup> Officer Cummings BWC begins when he is already inside the residence and dogs began running towards him.<sup>13</sup> Officer Cummings shoots at the dogs, runs out of the front door and toward the back of the house. Several other officers arrive and position themselves around the perimeter of the building. [REDACTED] is shown standing handcuffed on the porch. He asks the officers nearby if he can get his dogs. He also states to Officer Cummings, “Are y’all serious? My son was in there when they started shooting.”<sup>14</sup> The residents of the second floor, including [REDACTED], can be seen and heard on an external staircase inside the building expressing concern and displeasure about the shooting in the residence.

Several officers are shown inside the living room area of the first floor. [REDACTED] surrenders, comes out of the back area of the house and is taken into custody.<sup>15</sup> After [REDACTED] is taken into custody, Department members, including Sergeant Anderson, stay in the residence waiting to clear the back area in and around the kitchen. Sergeant Cortesi finds [REDACTED], who had been relocated from the porch to a squad car. [REDACTED] agrees to help move the dogs and tells Sergeant Cortesi that the officers, “can do whatever else y’all need to do.”<sup>16</sup> [REDACTED] is brought in the room and relocates three dogs from the kitchen area to another room.

BWC footage from Officer Berez, Sergeant Anderson and other officer’s BWC captures the search of the 1<sup>st</sup> floor residence on [REDACTED]. Sergeant Anderson is recorded participating in the search of the kitchen area of the residence as well directing officers who are searching other areas that were in the back of the unit near where [REDACTED] had been sequestered.<sup>17</sup> A gun is discovered

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<sup>10</sup>This section will provide a summarized narrative of what the body worn cameras collectively captured at the time of the incident.

<sup>11</sup> Att. 17, “Foy BWC” at T00:10:11Z.

<sup>12</sup> Att. 17, “Foy BWC” at T00:10:13Z.

<sup>13</sup> Att. 8, “1086501 -Officer Cummings BWC” at T00:10:20Z.

<sup>14</sup> Att. 8, “1086501 -Officer Cummings BWC” at T00:12:30Z.

<sup>15</sup> Att. 53, “BANNING Jason\_AXON\_Body\_2\_Video\_2017-08-27\_1910-2” at T00:12:10Z.

<sup>16</sup> Att. 53, “CORTESI Nicholas\_AXON\_Body\_2\_Video\_2017-08-27\_1914-2” at T00:19:30Z.

<sup>17</sup> Att. 24, “AXON\_Body\_2\_Video\_2017-08-27\_1921Anderson” at T00:24:37Z-T00:31:08Z.

in a back bedroom near the kitchen.<sup>18</sup> After the gun is discovered, Sergeant Anderson states, “Always assume there’s another one, guys. Don’t stop,”<sup>19</sup> and officers continue to search the area for any additional guns. After the search is complete, [REDACTED] is sitting handcuffed on a couch talking to officers. He states that he came out of his room when he saw [REDACTED] run past, because his son was in the house. [REDACTED] also states that he understands why the police are there.<sup>20</sup> Moments later, the handcuffs are removed from [REDACTED], who states that he is going up to the second-floor unit.

BWC footage of other responding officers shows officers entering and clearing the second-floor unit of Henry. The officers announce themselves as they approach the door and a woman is recorded stating to the officers, “Come on.”<sup>21</sup> and “Come in. Y’all can look.”<sup>22</sup> The woman also tells the officers to put their guns away and that she is afraid of guns. The BWC shows a woman, a man, a boy and [REDACTED] present in the unit. Officer Omar Moreno (“Officer Moreno”) directs all occupants to an area and tells them to have a seat. [REDACTED] requests to go to his room to get his phone so that he could record the interaction and Officer Moreno allows him to do so. [REDACTED] is recorded going into a room to get a phone and telling an officer to “Look around.”<sup>23</sup> [REDACTED] also states that he is going to sue the police. Officer Moreno asks who else is in the house and [REDACTED] tells him that no one else is in the house. The officers appear to make a cursory search for other offenders in the home and leave after determining there are no offenders in any of the rooms.<sup>24</sup>

**OEMC 911 audio** of two anonymous 911 calls, record reports of a person with the gun. In the first call,<sup>25</sup> the caller states that a young black man in his 20’s, 5’9”-5’10”, thin, wearing a white polo shirt and black pants, is standing on the west side of 66<sup>th</sup> and Paulina Street with a gun in his hand. In the second call,<sup>26</sup> the caller states that a boy wearing a white shirt, black pants and black shoes is standing in the middle of the block on 66<sup>th</sup> and Paulina with a gun.

A third 911 call<sup>27</sup> was received the day of the incident from a caller who identified himself as [REDACTED] at [REDACTED]. [REDACTED] states that he wished to report that the police harassed him. [REDACTED] tells the dispatcher that the police ran through his brother’s apartment shooting and that there were children present. He stated that the police told his mother to open the door of her upstairs apartment and ran through the apartment with guns drawn while children were present. The dispatcher tells [REDACTED] that he needs to make a report with IPRA and attempts to transfer the call.

**OEMC Dispatch audio**<sup>28</sup> records an OEMC dispatcher stating, “Ticket of person with a gun, 6600 S. Paulina, 6-6-0-0 S. Paulina. Male, black standing in front of the middle of the block

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<sup>18</sup> Att. 53, “HUELS Terence\_AXON\_Body\_2\_Video\_2017-08-27\_1913-2” at T00:26:59Z.

<sup>19</sup> Att. 24, “AXON\_Body\_2\_Video\_2017-08-27\_1921Anderson” at T00:27:11Z

<sup>20</sup> Att. 53, “HUELS Terence\_AXON\_Body\_2\_Video\_2017-08-27\_1913-2” at T00:31:30Z.

<sup>21</sup> Att. 54, “MORENO Omar\_AXON\_Body\_2\_Video\_2017-08-27\_1911-3” at T00:11:32Z.

<sup>22</sup> Att. 54, “MORENO Omar\_AXON\_Body\_2\_Video\_2017-08-27\_1911-3” at T00:11:43Z.

<sup>23</sup> Att. 54, “MORENO Omar\_AXON\_Body\_2\_Video\_2017-08-27\_1911-3” at T:00:12:07Z.

<sup>24</sup> Att. 54, “PIELL Daniel\_AXON\_Body\_2\_Video\_2017-08-27\_1910-12” at T00:12:09Z.

<sup>25</sup> Att. 44, Event [REDACTED] redacted-MP3, 19:05:15.

<sup>26</sup> Att. 43, Event [REDACTED].MP3, 19:05:26.

<sup>27</sup> Att. 45, Event [REDACTED]-a.MP3, 19:17:46.

<sup>28</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3.

with a white shirt, black pants, black shoes, with a gun. All I have.”<sup>29</sup> Several officers respond, including Officer Cummings.<sup>30</sup> A moment later, an officer alerts dispatch there is “running in the house.”<sup>31</sup> Seconds later, an officer transmits, “shots fired by police,”<sup>32</sup> and Officer Cummings transmits that “we had to shoot a dog.”<sup>33</sup> Shortly thereafter it is transmitted that [REDACTED] is in custody.<sup>34</sup> Unit 734 radios that “upstairs is clear.”<sup>35</sup> An officer then transmits that there are three pit bulls in the house.<sup>36</sup> Sgt. Anderson inquires whether Animal Control is on route.<sup>37</sup> Later, Sgt. Anderson transmits that the backroom where the pit bulls were had not yet been cleared and there may be a person hiding in that room.<sup>38</sup> Moments later, an officer transmits that the room where the dogs were was being cleared and that officers will be making entry in a few minutes.<sup>39</sup> An officer also states that the offender is in custody and that officers are not looking for anyone else.<sup>40</sup> The officer instructs any member who is outside of the area of the shooting to turn their cameras off.

An officer requests that Officer Cummings meet him in the alley.<sup>41</sup> Dispatcher confirms that there was a weapon recovered at the scene of the incident.<sup>42</sup>

### c. Physical Evidence

An **Inventory Sheet**, No. [REDACTED]<sup>43</sup> records that a .25 caliber, black Lorcin semi-automatic pistol, serial number [REDACTED] and one magazine were recovered from a bedroom in [REDACTED] by Officer Terence Huels.

### d. Documentary Evidence

An **Original Case Incident Report (“OCIR”)**<sup>44</sup> reported by Officer Huels records the incident as “Weapons Violation – Unlawful Possession – Handgun.” The report lists [REDACTED] as a suspect and [REDACTED] as a witness. The semi-automatic pistol described in the Inventory sheet is listed as a firearm that was found on scene.

Relevant portions of the narrative state that Officers Cummings, Foy and Berecz responded to a call of a person with a gun in the middle of the 6600 block of Peoria [sic], who was wearing a white shirt, black pants, and black shoes. As they pulled onto the block, they observed [REDACTED] wearing clothing that matched the description in the call. [REDACTED] was holding his waistline with his

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<sup>29</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted.MP3, 01:50.

<sup>30</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 02:22.

<sup>31</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 03:20.

<sup>32</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 03:30.

<sup>33</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 03:38.

<sup>34</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 06:21.

<sup>35</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 08:01.

<sup>36</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 08:32.

<sup>37</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 09:18.

<sup>38</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 15:06.

<sup>39</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 16:22.

<sup>40</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 19:14.

<sup>41</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 21:20.

<sup>42</sup> Att. 48, Zone 6 Radio 1907-2007 Hrs. Redacted. MP3, 20:20 and 21:35.

<sup>43</sup> Att. 13, Inventory Sheet No. [REDACTED].

<sup>44</sup> Att. 37, Original Case Incident Report.

right hand and walking away from the officers toward [REDACTED]. The officers approached [REDACTED] for a field interview at which time [REDACTED] ran into the first-floor apartment of [REDACTED], with Officers Cummings, Foy and Berez in pursuit.

Once in the residence, Officer Cummings saw a black, semi-automatic pistol in [REDACTED]'s right hand. As [REDACTED] ran toward the back of the house, three large pit bull dogs charged towards Officer Cummings. Officer Cummings unable to retreat any further fired twice at the dogs. Officer Foy fired twice at a white pit bull. The white pit bull was struck, and the dogs retreated to the kitchen of the apartment behind a closed door to the same area where [REDACTED] was believed to be armed and hiding.

Officer Cummings radioed the zone of "shots fired by the police," and assist units arrived on the scene. The assisting officers opened the door and saw [REDACTED] in the rear of the residence. [REDACTED] was placed into custody. Under the direction of Sergeant Cortesi, the owner of the dogs assisted with corralling the dogs. Officers then began to search the rooms that the offender had control over during his flight from the involved officers. Officer Huels searched a bedroom just off the kitchen and located a handgun under the bed. The handgun was identified by Officer Cummings as the gun that he saw in the offender's right hand.

An **Arrest Report**<sup>45</sup> (RD # [REDACTED]), shows that [REDACTED] was arrested on August 27, 2017, on a felony weapons violation charge. The narrative is consistent with that provided in the OCIR and states that Officer pursued [REDACTED] into the [REDACTED] and then observed a small black handgun in [REDACTED]'s hand. It also states that Officer Cummings positively identified the recovered gun as the gun that [REDACTED] possessed.

**Tactical Response Reports ("TRR")** were submitted by Officer Cummings<sup>46</sup> and Officer Foy.<sup>47</sup> In the TRRs, both officers report that they were pursuing a subject with a gun into the residence when the officers were charged by a pit bull and were forced to discharge their weapons at the dog after their attempts to retreat failed.

#### e. Additional Evidence - Testimony given in *People v.* [REDACTED]

Subsequent to his arrest on August 27, 2017, [REDACTED] was charged in the Circuit Court of Cook County, in Case Number 17 CR-13605 with various firearms-related offenses. The litigation of that criminal case included testimony heard on March 1, 2018, on a hearing on a pretrial motion, and testimony heard on October 29, 2018, during the trial. The following summaries are from the transcripts of those hearings.<sup>48</sup>

At the March 1, 2018 hearing, [REDACTED]<sup>49</sup> testified that at the time of the incident, he lived at [REDACTED], with his cousin, [REDACTED]. Around 7:11 pm on the day of the

<sup>45</sup> Att. 4, Arrest Report for [REDACTED].

<sup>46</sup> Att. 39, Tactical Response Report of Officer Cummings.

<sup>47</sup> Att. 40, Tactical Response Report of Officer Foy.

<sup>48</sup> Transcripts of Pretrial Motion Testimony from March 1, 2018 (Att. 16) and Trial Testimony from October 29, 2018 (Att. 61).

<sup>49</sup> Att. 16, 9:16 – 20:13.

incident, he was outside at the bottom of the stairs of ██████ speaking to someone. As ██████ started to go back into his residence, police officers arrived and began running toward the house. ██████ stated that he heard yelling, but he assumed that the officers were speaking to the person to whom ██████ was speaking earlier. ██████ said that he had not committed any crimes at this time nor was he in possession of a gun when the officers approached him. ██████ further testified that the officers entered his residence behind him without his consent and subsequently handcuffed him and placed him in custody. ██████ also stated that no one in the home provided consent for the officers to enter and that the officers did not inform him that he was the target of any arrest warrant or that ██████ was the target of a search warrant. ██████ confirmed that a gun was subsequently recovered after a police search of the residence but that the gun was not recovered from his person. ██████ further testified that not he, nor anyone else, gave permission for the home to be searched. On cross-examination, ██████ denied holding on to his waistband and instead stated that he was holding his pants up.

████████<sup>50</sup> testified on October 29, 2018, that on the date and time of the incident, he was living at ██████ ██████ ██████. He also confirmed that ██████ was his cousin and at the time of the incident ██████ had been staying with him for about 3 weeks to a month. ██████ further testified that at the time of the incident, he was in his room, which was located toward the back of the house, playing a video game. ██████ saw his cousin run past him and ██████'s dogs run toward the front of the house. ██████ stated that he did not see where ██████ went after he ran past him, but that he was headed toward the back-porch area where ██████ slept. ██████ then heard voices and gun shots. ██████ testified that he was not near ██████ after the shots were fired and that he never saw ██████ with a gun. After the shots, ██████'s dogs came back, and ██████ hid behind a door. He later came out of hiding because he remembered that his son had been in the front room shortly before. When ██████ reached the front room, an officer at the outside door told ██████ to come outside and ██████ was held there. Later, ██████ moved the dogs from the back of the unit to a front room for the police. ██████ testified that he did not own any guns and that he had no guns in the residence at the time of the incident. ██████ did not know where the gun the officers recovered was found. ██████ stated that one of his dogs, Zeus, was shot and that the city paid for his medical care.

**Officer Cummings** provided testimony both on March 1, 2018,<sup>51</sup> and on October 29, 2018.<sup>52</sup> His testimony in court was similar to the statement he made to COPA.

**Officer Michael Conroy (“Officer Conroy”)**<sup>53</sup> testified during the trial proceedings on October 29, 2018, about the incident. Officer Conroy stated that he heard a call over the radio of a man with a gun and arrived on scene in about a minute. When Officer Conroy arrived on scene, he saw Officer Cummings and two other officers chase ██████ into ██████. Officer Conroy exited the vehicle to assist the officers when he heard three to four gunshots and saw Officer Foy and Officer Cummings exiting the residence. When Officer Conroy asked the officers what happened, they told him to hold the perimeter. Based on the radio call and his observations on scene, Officer Conroy believed that someone had barricaded themselves in the residence. Officer Conroy then went to the rear of the building to make sure no one got out. Officer Conroy entered

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<sup>50</sup> Att. 61, 3:13 – 19:11.

<sup>51</sup> Att. 16, 21:6 – 39:17.

<sup>52</sup> Att. 61, 19:21 – 47:12.

<sup>53</sup> Att. 61, 48:4 – 62:12.

the residence a few minutes later and assisted with clearing the first floor. He testified that another officer kicked open the door at the rear of the residence and Officer Conroy observed [REDACTED] and the pit bulls. While placing [REDACTED] in custody, Officer Conroy searched [REDACTED] and did not recall recovering anything from his person.

**Officer Terrence Huels (“Officer Huels”)**<sup>54</sup> also testified during the proceedings on October 30, 2018. He came to the scene of the incident after receiving a radio call and arrived in approximately one minute. Officer Huels stated that when he arrived, there were at least six officers on scene. Officer Huels spoke with the officers to learn what happened. Prior to entering the residence, Officer Huels testified that he was told by Officer Cummings and other officers that he was looking for a weapon. Officer Huels entered [REDACTED] and searched a bedroom in the rear of the residence. In the bedroom, he recovered a black semi-automatic handgun from under the bed against a far wall. Officer Huels testified that he kept the gun in his care for a minute or so until he gave it to Officer Cummings to inventory.

## VI. LEGAL STANDARD

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

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

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

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a “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.

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<sup>54</sup> Att. 61, 65:5 – 76:4.

## VII. ANALYSIS

### Officer Robert Cummings

#### a. Officer Cummings entry into the first-floor apartment unit at [REDACTED] in pursuit of [REDACTED] was without justification.

“The physical entry of the home is the chief evil against which the wording of the fourth amendment is directed. [citations omitted]. The fourth amendment guarantees: ‘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.’ U.S. Const., amend. IV; accord Ill. Const.1970, art. I, § 6. It is a basic principle of the fourth amendment that searches and seizures inside a home without a warrant are presumptively unreasonable. *People v. Wear*, 229 Ill. 2d 545, 893 N.E.2d 631, 641-42 (2008). One exception to the warrant requirement is when police officers enter a residence when engaged in “hot pursuit” of a fleeing suspect. *United States v. Santana*, 427 U.S. 38, 42-43 (1976).

The first question in determining if a warrantless entry into someone’s home is excused by an officer’s hot pursuit, is whether probable cause to arrest existed while the subject was outside of the residence. *Wear*, 893 N.E.2d at 642. If the entry was based only evidence sufficient to conduct an investigatory *Terry*<sup>55</sup> stop, then that entry would be in violation of the fourth amendment. *Id.*, at 644. If probable cause existed prior to the subject entering the residence, the analysis then turns to whether hot pursuit will excuse the warrantless entry. *Id.*

Probable cause, as defined in Department policy, is “where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it. This differs from Reasonable Articulate Suspicion in that the facts supporting RAS do not need to meet probable cause requirements, but they must justify more than a mere hunch. The facts should not be viewed with analytical hindsight but instead should be considered from the perspective of a reasonable officer at the time that situation confronted him or her.”<sup>56</sup>

When encountering a subject armed with a firearm, “‘a mere possibility of unlawful use’ of a gun is not sufficient to establish reasonable suspicion. It must instead be ‘sufficiently probable that the observed conduct suggests unlawful activity.’”<sup>57</sup> In accordance with law, the Illinois First District Appellate Court has stated:

We wish to emphasize that under the current legal landscape, police cannot simply assume a person who possesses a firearm outside the home is involved in criminal activity. Likewise, they cannot use a firearm in partial view, such as a semi-exposed gun protruding from the pant pocket of a person on a public street, alone as probable cause to arrest an individual for illegal possession without first identifying whether the

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<sup>55</sup> *Terry v. Ohio*, 392 U.S. 1 (1968).

<sup>56</sup> S04-13-09(II)(D).

<sup>57</sup> *United States v. Watson*, 900 F.3d 892, 896 (7th Cir. 2018)(internal citations omitted)(applying Fourth Amendment to Indiana law which allows firearms in public with a proper license); *See also Horton* (finding no probable cause where officer did not articulate any bases for believing the firearm was possessed unlawfully).

individual has a FOID card. We thus caution against an "arrest first, determine licensure later" method of police patrol.<sup>58</sup>

The Illinois Supreme Court ruled in 2013 that an outright ban on handguns is unconstitutional under the Second Amendment.<sup>59</sup> Subsequently, possession of a firearm, even in public, is not necessarily unlawful, and individuals do not commit a crime if they carry a concealed firearm while properly licensed under the Concealed Carry Act, 430 ILCS 66/10.<sup>60</sup> A firearm is concealed within the definition of Illinois law, even if there is some notice of its presence; the requirement is that it be concealed from ordinary observation.<sup>61</sup>

The Concealed Carry Act sets forth the procedure which concealed carry license holders must adhere to during an investigative stop:

If an officer of a law enforcement agency initiates an investigative stop . . . of a licensee . . . upon the request of the officer the licensee . . . shall disclose to the officer that he or she is in possession of a concealed firearm under this Act, or present the license upon the request of the officer if he or she is a licensee . . . . The disclosure requirement under this subsection (h) is satisfied if the licensee presents his or her license to the officer . . . Upon the request of the officer, the licensee . . . shall also identify the location of the concealed firearm and permit the officer to safely secure the firearm for the duration of the investigative stop.<sup>62</sup>

Department policy sets forth procedure consistent with the Act by instructing Officers that **“upon the request of the officer”** licensees must disclose that they are in possession of a concealed firearm either verbally or by presenting a concealed carry license card; identify the location of the concealed firearm; and permit the officer to safely secure the firearm for the duration of the stop.<sup>63</sup>

Officer Cummings admitted that when he pursued █████ into the unit, he had not obtained permission to enter the unit from any resident and he did not have a warrant for █████’s arrest. Officer Cummings asserted that his entry into the unit was nevertheless permissible because he was in “hot pursuit” of █████, an exigent circumstance. Where there is probable cause for an arrest, a search warrant is not required to enter private property when entry and search related to that arrest are caused by exigent circumstances.<sup>64</sup> Officer Cummings stated that he believed that entry into the unit was justified because he was trying to preserve life in that he believed █████ to have a gun and did not know whether █████ lived in the residence.

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<sup>58</sup> *People v. Thomas*, 2019 IL App (1st) 170474 ¶36.

<sup>59</sup> *People v. Aguilar*, 2013 IL 112116 (citing *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010)).

<sup>60</sup> See, *People v. Spain*, 2019 IL App (1st) 163184 ¶ 28, 37 (holding that carrying a firearm in public is not necessarily unlawful and that officers must have cause to believe that the gun is possessed unlawfully).

<sup>61</sup> *People v. Zazzetti*, 6 Ill. 3d. 858, 862 (1st Dist. 1972)

<sup>62</sup> 430 ILCS 66/10 (h).

<sup>63</sup> S06-05-02 (II)(E) (bold in original).

<sup>64</sup> See *People v. Wear*, 229 Ill. 2d 545, 562-563 (2008) (citing *Brigham City v. Stuart*, 547 U.S. 398 (2006)) (internal citations omitted). See also, *People v. Foskey*, 136 Ill. 2d 66, 75, 554 N.E.2d 192, 143 Ill. Dec. 257 (1990) (requiring probable cause and exigent circumstances before an officer may make a warrantless arrest inside a home).

As previously mentioned, after *People v. Aguilar*, the possible observation of a handgun without any other evidence of a crime is insufficient to provide an officer with probable cause for arrest. Here, information given in the 911 call was provided anonymously and did not indicate that a crime occurred, that the gun had been fired by the man, or that the man threatened anyone with the gun. Further, Officer Cummings has admitted that he did not see [REDACTED] with a gun until *after* he had entered the residence at [REDACTED]. Therefore, by itself, the dispatch message regarding a man with a gun that Officer Cummings and his partners heard, was insufficient to provide Officer Cummings probable cause for arrest and warrantless entry into the residence. So even if mere possession of a firearm outside one's own residence amounted to probable cause, Officer Cummings' rational would still fail as there lacked probable cause that [REDACTED] had a gun. Moreover, by Officer Cummings's own admission, his original intention upon noting that [REDACTED] matched the description of the OEMC message was to conduct a field interview of [REDACTED], not an arrest. This fact indicates an awareness by Officer Cummings that matching the dispatch description alone did not create probable cause to arrest [REDACTED]. Based on the verifiable evidence, as well as Officer Cummings's statement to COPA and the statements he provided in *People v. [REDACTED]*, probable cause for the arrest of [REDACTED] did not exist at the time Officer Cummings decided to chase [REDACTED] into the home. Thus, the exigent circumstance exception is inapplicable and Officer Cummings's entrance into the unit was in violation of the 4<sup>th</sup> Amendment. Officer Cummings's entrance also violated Rule 2 and Rule 6 in that Officer Cummings was directed under G0-01 to uphold the law. COPA finds this allegation against Officer Cummings to be **sustained**.

**b. Officer Cummings committed misconduct by failing to activate his body worn camera in a timely manner.**

Department Special Order S03-14 mandates that law-enforcement-related activities be electronically recorded.<sup>65</sup> Calls for service and conducting a field interview, as Officer Cummings said was his intention, are law enforcement related activities that would require Officer Cummings to activate his BWC *at the beginning of an incident*.<sup>66</sup> Members are not to unreasonably endanger themselves or another person in order to conform to this directive. Officer Cummings asserted that in the interest of safety, there was no time for him to activate his BWC in this case. However, Officer Cummings should have and could have activated his camera when he and his partners first responded to this call, or certainly when he tried to engage in conversation with [REDACTED]. Because no exigent circumstances exist that justify Officer Cummings's chasing [REDACTED] into the residence, his failure to activate his camera is also not justified as an attempt to avoid unreasonably endangering himself or others. Officer Cummings's failure to activate his BWC in a timely manner is a violation of S03-14 and Rule 6. COPA finds this allegation against Officer Cummings **sustained**.

**Sergeant Rhonda Anderson**

**a. Sergeant Anderson's entry into the first-floor residence was justified.**

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<sup>65</sup> S03-14 (II)(A).

<sup>66</sup> *Id.*

Unlike the case with Officer Cummings, clear and convincing evidence supports that Sergeant Anderson's warrantless entry into the first-floor residence was permissible. OEMC dispatch recordings provide verifiable evidence that OEMC transmitted a message that an officer was chasing a suspect into a house followed shortly by a message that shots were fired by police. Sergeant Anderson, and several other officers, heard the messages over dispatch and immediately raced to the scene. Sergeant Anderson did not initially know whether anyone was injured or the extent of the danger that would cause an officer to discharge his weapon. Further, by firing his gun into the first-floor unit while chasing █████ and then striking a dog, Officer Cummings made the area an active crime scene that necessitated police presence and investigation.<sup>67</sup> COPA finds Sergeant Anderson to be **exonerated** with respect to this allegation.

**b. Sergeant Anderson's search of the first-floor residence was justified.**

Where officers are conducting an arrest within a home, they are permitted to search the immediate area of an arrestee for weapons or contraband<sup>68</sup>, and they may conduct a quick and limited protective sweep of the premises to protect officers from anyone who may be hidden in the home.<sup>69</sup> Clear and convincing verifiable evidence also shows that Sergeant Anderson searched the immediate area of the residence that █████ came from when he was arrested, and the search was for the gun that Officer Cummings stated █████ was holding. Furthermore, Sergeant Anderson stated that she believed consent had been given to the officers to search the home. As seen and heard on BWC, █████, who resided in the 1<sup>st</sup>-floor apartment and was present, did tell Sergeant Cortesi that the police "can do whatever y'all need to do." BWC footage shows the sequence of events that created an active crime scene. Once the residence became an active crime scene, Sergeant Anderson and the other officers had additional responsibilities to search for evidence relating to the incident to ensure that it was not destroyed. In this case, that evidence included the gun Officer Cummings stated he saw █████ holding a gun. COPA finds Sergeant Anderson to be **exonerated** with respect to this allegation.

**c. Sergeant Anderson properly supervised the officers conducting the search of the residence.**

Sergeant Anderson was one of several supervisors at the residence during the search. Other supervisory personnel included Sergeant Cortesi, who was the supervisor of the officers who actually conducted the search. In that Sergeant Anderson's search of the for the gun was justified, allowing lower ranking officers to conduct that search was also permitted. There is no indication in the record that the area of the search was too broad or otherwise improper. Clear and convincing verifiable BWC evidence supports Sergeant Anderson's statement that the search for the gun was limited to the areas that would have been in the immediate control of █████ when he ran into the

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<sup>67</sup> The active crime scene also necessitated a sweep of the entire building to ensure that the building was clear of other offenders. Verifiable BWC evidence shows that a resident of the second-floor unit invited officers into the unit and that the officer's presence in the unit was limited to ensuring the area was clear. For these reasons, no allegations were served relating to police presence in the second-floor unit.

<sup>68</sup> *Chimel v. California*, 395 U.S. 752, 768 (1969).

<sup>69</sup> *Maryland v. Bouie*, 494 U.S. 325, 335-36 (1990).

unit and sequestered himself in the back of the unit. COPA finds Sergeant Anderson to be **exonerated** with respect to this allegation.

**d. Sergeant Anderson was justified in not stopping lower-ranked officers from searching.**

Based on the clear and convincing evidence recording the events that resulted in the active crime scene (the chase of █████, the dogs coming after Officer Cummings and Officer Cummings's discharge of his weapon), Sergeant Anderson did not have a responsibility to prevent lower-ranked officers from conducting a search of the area that was within █████'s immediate control. The gun was evidence that was part of an active crime scene and recovering it was a necessary step to ensure it was not lost or destroyed.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Robert E. Cummings**

**i. Complimentary and Disciplinary History**

Officer Cummings has been a member of the Chicago Police Department since September 26, 2005. Since that time, he has received: one Life Saving Award; 10 Department Commendations; one Military Service Award; two Problem Solving Awards; two Honorable Mention Ribbon Awards; 139 Honorable Mentions; six Complimentary Letters; one Unit Meritorious Performance Award; one Traffic Stop of the Month Award; four Attendance Recognition Awards; two Crime Reduction Awards (2009 and 2019); one NATO Summit Service Award; one Presidential Election Deployment Award (2008); and 13 Emblems of Recognition – Physical Fitness. Officer Cummings was disciplined in January 2018 for a 02G Category violation (Impairment .04-.079 (Off-Duty)) occurring on June 16, 2017, for which he received a 15-day Suspension.

**ii. Recommended Penalty**

COPA recommends that Officer Cummings receive a 15-day Suspension, and 4<sup>th</sup> Amendment / Search and Seizure training. COPA has considered Officer Cummings significant complimentary history in mitigation, as well as his disciplinary history in aggravation. It is concerning that Officer Cummings provided some of the justification for his entry into the residence as not knowing whether █████ resided at that location, yet no reason to believe or know that █████ did not reside there or was not a lawful guest at that location. That reasoning, if sufficient, could allow the police entry into a residence anytime they observed someone they did not know enter into a home. Officer Cummings should benefit by additional training in this area. COPA takes notice that the 007<sup>th</sup> District officers had been issued body-worn cameras approximately 3 ½ months prior to this incident. While Officer Cummings should (and could) have activated his camera when he first responded to the call, the lack of discipline for this violation and recent issuance of the equipment justifies a disciplinary recommendation of a Violation Noted for this allegation. For the foregoing reasons, COPA recommends 15-day Suspension, and training.

**IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Robert E. Cummings	<p>1. It is alleged that on or about August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Officer Robert E. Cummings, Star #17841 committed misconduct through the following actions: Entering the private residence located on the first floor of [REDACTED] without justification.</p> <p>2. It is alleged that on or about August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Officer Robert E. Cummings, Star #17841 committed misconduct through the following actions: Failing to timely activate his body worn camera.</p>	<p>Sustained / 15-day Suspension and training.</p> <p>Sustained / Violation Noted</p>
Sergeant Rhonda Anderson	<p>1. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star #1376 committed misconduct through the following actions: Entering the private residence located on the first floor of [REDACTED] without justification.</p> <p>2. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star #1376 committed misconduct through the following actions: Searching the residence located on the first floor of [REDACTED] without justification.</p> <p>3. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star #1376 committed misconduct through the following actions: Failing to properly supervise officers under her command when they searched the premises.</p>	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

4. It is alleged that on or about, August 27, 2017, at approximately 7:10 p.m., at or near [REDACTED], Sergeant Rhonda M. Anderson, Star #1376 committed misconduct through the following actions: Failing to direct officers under her command to stop searching the premises.

Exonerated

Approved:

[REDACTED]

3-22-2021

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Angela Hearts-Glass  
*Deputy Chief Investigator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	5
<b>Investigator:</b>	Vanessa McClinton-Jackson
<b>Supervising Investigator:</b>	Loren Seidner
<b>Deputy Chief Investigator:</b>	Angela Hearts-Glass