

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	September 5, 2018
Time of Incident:	10:30 p.m.
Location of Incident:	[REDACTED] [REDACTED]
Date of COPA Notification:	September 6, 2018
Time of COPA Notification:	1:01 p.m.

This complaint was initiated by [REDACTED] who alleged that on September 5, 2018, multiple Chicago Police Department (CPD) members illegally entered and searched her apartment located at [REDACTED], within the [REDACTED]. Although she was not present, her brother [REDACTED] related to her that officers arrived at the residence in search of murder suspect [REDACTED]. Further investigation revealed that an investigative alert¹ with probable cause to arrest was issued for [REDACTED] earlier that day. Body Worn Camera revealed that Officer [REDACTED] # [REDACTED] Field Training Officer [REDACTED] # [REDACTED] and other CPD members ultimately entered the residence after an exchange of words with [REDACTED] and [REDACTED] girlfriend, [REDACTED]. COPA investigated the entrance to the residence, the search of [REDACTED] and the officers' body worn camera usage. COPA made the findings discussed below.

II. INVOLVED PARTIES

Involved Member #1	[REDACTED] Star# [REDACTED] Employee# [REDACTED] Date of Appointment: [REDACTED] 2012 Police Officer, Unit of Assignment [REDACTED] DOB: [REDACTED] 1979, M/W
Involved Member #2	[REDACTED] Star# [REDACTED] Employee# [REDACTED] Date of Appointment: [REDACTED] 2013 Field Training Officer, Unit of Assignment [REDACTED] DOB: [REDACTED] 1981, M/H
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1980, F/B
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1986 M/B

¹ Att. 15- Investigative Alert # [REDACTED]

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
[REDACTED]	1. It is alleged that on September 5, 2018, the accused entered the residence of [REDACTED] without justification at [REDACTED]	NOT SUSTAINED
[REDACTED]	2. It is alleged on September 5, 2018 the accused searched [REDACTED] without justification at the location of [REDACTED] Chicago IL.	NOT SUSTAINED
[REDACTED]	3. It is alleged on September 5, 2018 the accused failed to activate his body worn camera in a timely manner.	SUSTAINED / Written Reprimand
[REDACTED]	1. It is alleged that on September 5, 2018, the accused entered the residence of [REDACTED] without justification at [REDACTED]	NOT SUSTAINED
[REDACTED]	2. It is alleged that on or about September 5, 2018 the accused failed to capture his response to an incident with his body worn camera device in its entirety.	SUSTAINED/ Written Reprimand

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2- Any action or conduct which impeded the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 3- Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

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

Special/General Order

Special Order 03-14- Body Worn Camera

Special Order 04-19-01- Consent to Search Incidents

General Order 02-02- The First Amendment and Police Action

Federal Laws

United States Constitution: Amendment IV.

V. INVESTIGATION

a. Interviews

In a statement conducted by COPA on September 18, 2018, complainant ██████ reported that on September 5, 2018 at approximately 10:30 p.m., while at work, she received a telephone call from her brother, ██████ informed her that multiple CPD officers entered and searched her residence at ██████ Avenue. ██████ further related the officers were in search of murder suspect ██████ A.K.A ██████” ██████ told her that after opening the door, he was confronted by a male CPD officer stating that they were given permission by CHA to search the residence.³ Once the officers entered the residence, her two sons (18 and 17 years old), daughter (7 years old), and ██████ (34 years old) were detained. ██████ was also told that during their detainment, the officers conducted a search under the beds, inside the closets, and inside the crawl space. She later learned one of her sons, who recently arrived home, was presumed to be ██████⁴ In addition, ██████ related that she had issue with the detainment of her children because they did not pose a threat. Although ██████ stated she had no personal relationship or contact with ██████ she asserted that she and the entire neighborhood knew of him. She also added that ██████ was rumored to have been involved in several shootings in the area.⁵

On September 18, 2018 COPA conducted the statement of witness ██████⁶ He related that while visiting his sister ██████ residence on September 5, 2018, he was inside the residence with his girlfriend, two nephews, and niece. ██████ stated he received a telephone call from a neighbor informing him that multiple CHA officers were surrounding the apartment. After taking a glimpse through the window, he observed CHA patrol officers surrounding the perimeter of the residence.⁷ Shortly thereafter, there was a knock at the door at which time his girlfriend, ██████⁸ opened the door.⁹ ██████ who was nearby, heard one of the

² Att. 10

³ Id. at 4:20, 16:00

⁴ Id. at 15:35

⁵ Id. at 14:35

⁶ Att. 14

⁷ Id. at 25:25

⁸ Attempts to contact Ms. ██████ for a statement were unsuccessful. See Case Log Att. 41.

⁹ Id. at 3:20

officers ask [REDACTED] if [REDACTED] resided there. At that time, he approached the door, interjected, and stated, “No.” [REDACTED] related that the officers stated they would be back with a warrant, so he began to close the door. The officer placed his foot in the door and looked behind him. The officer then related that they were coming in to search the residence. [REDACTED] told the officer that he could search the residence after returning with a warrant and tried to close the door again. The officer told him not to close the door or they would have to break the door down and his sister would be kicked out of the home, so [REDACTED] let them in.¹⁰ Four officers then entered the residence with their guns drawn but not pointed at them. The officers then asked if they could search the house. [REDACTED] expressed confusion at the statements made by the officers, stating that the officers were in the residence and said they had probable cause to search, but initially the officers said they needed a warrant. However, later the officers expressed that they didn’t need a warrant because CHA was allowing them on the property.

[REDACTED] related that the officers began to search the residence. As CPD searched the residence, he and all the other parties in the residence were detained. During this time, both nephews were forced to keep their hands in the air. Additionally, he relayed that CHA security personnel were standing outside the door during the search. [REDACTED] reiterated that he was informed prior to their entry to the residence that CPD had received a tip from CHA that a murder suspect, [REDACTED] was seen at their residence.¹¹ He also observed a CHA patrol officer standing outside speaking to CPD stating, “I thought I saw him come in this house right here.”¹² At the conclusion of the search, one of the officers produced a photo of the suspect and placed it by the side of one of his nephews. After determining that [REDACTED] was not inside the residence, the officer apologized, and everyone left. It should be noted that throughout [REDACTED] interview, he denied that he or his family members had any affiliation with [REDACTED].¹³

On January 23, 2019, COPA conducted a statement with **CHA Lieutenant [REDACTED]**¹⁴ Lt. [REDACTED] is employed with [REDACTED], which provides security services for the Chicago Housing Authority, [REDACTED]. Although not present during the incident, Lt. [REDACTED] provided COPA with firsthand knowledge regarding the circumstances leading to the incident. Lt. [REDACTED] stated earlier that day he was at CPD’s [REDACTED] [REDACTED] discussing unrelated CHA/CPD law enforcement topics and their partnership as it related to those topics. During those discussions, he was informed that an investigative alert¹⁵ was issued for murder suspect [REDACTED] a.k.a. [REDACTED].¹⁶ At that time he was instructed by CPD to contact them and/or detain [REDACTED] if he was seen in the area. After leaving the [REDACTED] [REDACTED], CHA Lt. [REDACTED] relayed the information to his staff. By the completion of his shift at 7:00 p.m., he had not encountered [REDACTED]. However, during the next shift (7 p.m.- 3 a.m.), he received a phone call from an ABG Officer [REDACTED] who reported that he observed [REDACTED] enter [REDACTED]. At that time, he instructed [REDACTED] to make notification to CPD.¹⁷

¹⁰ Id. at 3:50

¹¹ Att. 14 at 6:50

¹² Id. at 8:55

¹³ Id. at 19:00

¹⁴ Att. 22

¹⁵ Att. 15

¹⁶ Att. 22 at 8:00- It should be noted, Lt. [REDACTED] referred to [REDACTED] as [REDACTED] throughout the interview.

¹⁷ Id. at 5:55, Att. 17

When asked if there was an established link between [REDACTED] and [REDACTED]” CHA Lt. [REDACTED] stated [REDACTED] was known to frequent the [REDACTED] throughout the day. Specifically, [REDACTED] was previously observed visiting the residence of [REDACTED] occupied by [REDACTED] and driving her vehicle.¹⁸ He added that sometime in late June 2018, CHA consulted with CPD regarding alleged crimes where [REDACTED] was suspected to be involved. These crimes comprised of multiple shootings, including a homicide. In his own words, he related that [REDACTED] had been terrorizing the neighborhood.¹⁹ In addition, he recalled two prior incidents where CPD was called regarding a man with a gun at or near the [REDACTED] residence. On both occasions, [REDACTED] was observed by CHA security inside the residence.²⁰ When asked about other occupants of the residents at [REDACTED] CHA Lt. [REDACTED] stated [REDACTED] has two sons between the ages of 18-20 years old. He added that at least one of her sons resembles [REDACTED] in complexion, height, and body build.²¹

When asked about protocols regarding entering a CHA residence, Lt. [REDACTED] related it was his belief that since ABG Security staff are agents of CHA, they are not required to obtain a warrant for entry to a CHA unit. Moreover, there were instances where the security staff entered a residence to apprehend an offender by way of forced entry or with a key to avoid damage. In those cases, after placing offender into custody, they detain the offender and notify CPD.²² In conclusion, CHA Lt. [REDACTED] stated that [REDACTED] was not apprehended on the date of incident, but he was ultimately arrested a short time later.

In a statement to COPA on October 8, 2019, **Officer [REDACTED] # [REDACTED]** reported that on September 5, 2018 at the beginning of [REDACTED] Watch roll-call, he was made aware of an investigative alert with probable cause to arrest issued for homicide suspect [REDACTED].²⁴ [REDACTED] was known to frequent the [REDACTED]. During his shift, Officer [REDACTED] responded to a possible sighting of [REDACTED] at the address of [REDACTED] Chicago, IL. Upon arrival, he and other responding officers were greeted by CHA security personnel who reported that [REDACTED] was observed entering the residence. Officer [REDACTED] proceeded to knock on the door and was greeted by a woman.²⁵ He stated that the woman gave the police consent to enter the residence and conduct a search for [REDACTED]. However, almost simultaneously, [REDACTED] who was also inside, approached the front door. At that time, Officer [REDACTED] lifted Mr. [REDACTED] shirt to check for weapons and proceeded into the residence. Upon further entry into the residence, Officer [REDACTED] observed two additional men and later learned a minor girl was upstairs. At that time, Officer [REDACTED] and several officers conducted a search for [REDACTED] throughout the closets, crawlspace, and other open spaces within the residence. The individuals remained downstairs detained at the kitchen table. Although one of the men in the residence resembled [REDACTED] the

¹⁸ Att. 22 at 3:55-5:25

¹⁹ Id. at 9:10-11:25

²⁰ Att. 22 at 23:10-25:00

²¹ Id. at 13:20-16:25

²² Id. at 17:30-20:25

²³ Att. 33

²⁴ Att. 15

²⁵ As per [REDACTED] testimony, the woman in question is believed to be Ms. [REDACTED]. COPA was unable to contact her for a statement.

search revealed that [REDACTED] was not inside the residence. Officer [REDACTED] stated he explained the situation to the individuals in the residence and left without further incident.

In conclusion, Officer [REDACTED] related that based on his personal experiences and working with CHA personnel, it is his understanding that if CHA is on scene, they have the authority to enter a CHA residence if the leaseholder is not home. However, he asserted this was not an issue because he was granted permission to enter the residence.²⁶ He reported that he has not received any official training by CPD as it relates to conducting searches of CHA residences.

In a statement to COPA on February 28, 2020, **Field Training Officer [REDACTED]** # [REDACTED] reported on September 5, 2018 he was partnered with fellow tactical Officer [REDACTED]. He was unable to recall the details surrounding how he and his partner were alerted to the [REDACTED] in search of a wanted homicide suspect, [REDACTED]. Upon their arrival, they were informed by CHA security staff that suspect [REDACTED] was observed entering the apartment. Again, he was unable to recall specific details of the conversation.

FTO [REDACTED] recalled entering the residence of [REDACTED] after being granted permission by a woman, who opened the door. He further explained he served as a guard officer while Officer [REDACTED] led the interaction with the occupants of the apartment. He stated that he would not have entered the residence without permission and to his knowledge a refusal would have required a warrant. However, in this case a warrant was not necessary since they were granted permission by the woman who opened the door. During discussions regarding CPD policies as they relate to entry or required permissions to enter CHA residences, FTO [REDACTED] stated he had no knowledge of any specific policies related to CHA property nor had he training related to the topic. Additionally, he expressed limited personal experiences when dealing with CHA staff and had no understanding of their policies and procedures.²⁸

As it relates to his familiarity with CPD's BWC protocols, FTO [REDACTED] related he was aware of such policies and procedures. However, he stated his district was one of the last to implement the BWC program, and therefore, at the time of this incident, he was still adjusting to the device. He explained that this was the reason for his delay in activating the device, though he expressed that he believed he turned it on at the proper time. He further related that on one occasion, he deactivated his device during his search for [REDACTED] because he was using the restroom.²⁹

b. Digital Evidence

Body Worn Camera (BWC) footage of Officers [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED])³⁰ essentially depicted a portion of the encounter as described by [REDACTED]. However, due to the timing of the BWC activation, there is no sound capturing the initial encounter between Officer [REDACTED] and [REDACTED]. The BWC shows Officer [REDACTED] speaking with a black

²⁶ Att. 33 at 19:05-20:40

²⁷ Att. 40

²⁸ Att.-- @ 30:37

²⁹ Att. 26

³⁰ Att. 26

woman (now known as ██████████) who is inside the door to the residence with the door open but blocking their entry. The officers are outside. ██████ moves aside, and the officers enter the residence. Officer ██████ lifts ██████ shirt, and two younger men (now known as Mr. ██████ nephews) can be seen with their arms in the air. After the audio begins to work, Officer ██████ can be heard stating, “There’s a sergeant on scene and CHA has authority and they let us in.”³¹

Multiple uniformed officers appear on scene accompanied by a Sergeant and CHA security staff. Upon entry to the residence, the search appeared to focus on closets throughout the residence and a crawl space. ██████ was not found in the residence. At the end of the search, the BWC footage of Officer ██████ depicts him updating CHA Officer ██████ of the results of the search. During the conversation, the CHA officer appeared certain that he observed ██████ enter the residence and stated that one of the men inside the home resembled him. In conclusion, it was determined that ██████ was not in the residence, and the officers left without further incident.

It should be noted that COPA received three body worn camera videos belonging to FTO ██████. The first video³² captures his interaction with an unknown black man and appears to be unrelated to this incident. The second video³³ captures the officers entering the residence and beginning the search. The audio is delayed and the conversation between Officer ██████ and ██████ cannot be heard. The video is approximately three and a half minutes long and is turned off in the restroom at the ██████ residence. The third video³⁴ is approximately 12 minutes long and captures the officers’ continued search of the residence.

c. Documentary Evidence

In response to a **CHA subpoena request**, COPA retrieved records related to the residence of ██████³⁵ According to CHA, ██████ is the leaseholder of the residence located at ██████. It was also discovered that several alerts, special attention and/or internal investigations had been placed on the residence. Based on other occurrences at or near the ██████ address, CHA affiliated murder suspect ██████ aka ██████” with ██████ and her residence. In fact, in an incident report dated July 23, 2018, CHA security staff observed ██████ enter ██████ after he was alleged to have fled into the residence with a gun.

Investigative alert # ██████³⁶ revealed that ██████ was wanted for murder related to a homicide documented under ██████.³⁷

The **Office of Emergency Management Communications (OEMC) Event number** ██████³⁸ documents a call initiated by an ██████ dispatcher notifying CPD of a sighting of murder suspect, ██████ at the location of ██████

³¹ Id. at ██████ at 00:38.

³² Id. at ██████ BWC ██████.

³³ Id. at ██████ BWC ██████.

³⁴ Id. at ██████ BWC ██████.

³⁵ Att. 24

³⁶ Att. 15

³⁷ Att. 16

³⁸ Att. 17 and Att. 25

c. Additional Evidence

A **911 Audio recording** retrieved from OEMC memorializes a call initiated by the reporting [REDACTED] dispatcher. During the call, the agent referred to Investigative Alert [REDACTED] and informed CPD that there had been a sighting of wanted murder suspect, [REDACTED] entering the residence of [REDACTED]³⁹

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

VII. ANALYSIS

³⁹ Att. 25

COPA recommend a finding of **NOT SUSTAINED** for **Allegation #1** against **Officer ██████ and FTO ██████** for entering the residence of ██████ without justification. The evidence is clear that there was not a search warrant, which would have given the officers authority to enter the ██████ residence. A warrantless search of a home by police is presumed to be unconstitutional, absent consent to search or both probable cause to search and exigent circumstances requiring the search.⁴⁰ CPD has not claimed that an exigent circumstance existed to search the residence; only that the officers were given consent to search. Therefore, the issues in this case are (1) who had the authority to give the officers consent to enter the residence and (2) whether the officers were actually given consent to enter the residence by such a party.

First, the occupants of the property, not CHA, had the authority to grant the officers permission to enter the residence.⁴¹ The investigation revealed that on September 5, 2018 an investigatory alert was placed on ██████ for murder with a probable cause to arrest. In turn, CPD was called to the residence by CHA Security after an alleged sighting of ██████ CHA Lt. ██████ related that it was his belief that since ABG Security staff are agents of CHA, they are not required to obtain a warrant for entry to a CHA unit, but Lt. ██████ is incorrect in his belief. Additionally, Officer ██████ related that it is his understanding that if CHA is on scene, CHA has the authority to enter a CHA residence if the leaseholder is not home, though he was clear in his statement that he only entered the residence because ██████ granted them permission to enter. Again, Officer ██████ is incorrect in that CHA cannot grant police consent to a warrantless search of a CHA home. Case law is clear that if the occupants of a CHA property are present, the occupants have the sole authority to allow law enforcement to enter the residence and that authority does not lie with CHA.⁴² ██████ and ██████ children had the authority to grant the officers access to the residence, and CHA did not have that authority. Therefore, if the officers were entering solely based on CHA's authority, their entry would have been unlawful.

Next, COPA finds that there is insufficient evidence to determine if the officers were given permission to enter the residence. During ██████ statement, it was unclear if he or his girlfriend, ██████ gave the officers permission to enter the residence. In fact, ██████ expressed confusion at the officer's authority to enter the residence. According to ██████ the officers initially stated they would be back with a warrant, so he began to close the door. The officer placed his foot in the door and related that they were coming in to search the residence. ██████ told the officer that he could search the residence after returning with a warrant and tried to close the door again. The officer told him not to close the door or they would have to break the door down, and his sister would be kicked out of the home, so ██████ let them in. ██████ related that after the officers entered, they then asked if they could search the house. ██████ expressed confusion at the statements made by the officers, stating that the officers were in the residence and said they had probable cause to search,

⁴⁰ *Peyton v. New York*, 445 U.S. 573, 586-88 (1980) (holding that a warrantless search of a home by police is presumptively unconstitutional under the Fourth Amendment, except where the occupants grant consent to search, or when the police have both probable cause to search that home and exigent circumstances requiring an immediate search).

⁴¹ See e.g. *Pratt v. Chicago Hous. Auth.*, 848 F. Supp. 792 (N.D. Ill. 1990) (holding that CHA cannot order police searches of CHA homes without a warrant, except where police have probable cause and exigency); see also *Gutierrez v. City of East Chicago*, 2016 U.S. Dist. LEXIS 138374 (N.D. Ind. Sept. 6, 2016) (holding that city and state housing authorities cannot require residents of city and/or state-sponsored housing to waive their Fourth Amendment rights as a condition of occupying the home).

⁴² *Gutierrez*, 2016 U.S. Dist. LEXIS 138374 at *38.

but initially the officers said they needed a warrant. However, according to ██████ the officers later expressed that they didn't need a warrant because CHA was allowing them on the property.

On the contrary, Officers ██████ and ██████ maintained throughout their interviews that their conversations were with the woman who opened the door (now known as ██████) and that she gave permission to enter the residence. ██████ further asserted that permission was given by Ms. ██████ prior to his interaction with ██████. In addition, Officer ██████ stated he would not have entered the residence without permission, and had consent not been granted, a warrant would have been required.

COPA was unable to locate additional witnesses to dispute or confirm either account. Additionally, the body worn camera footage did not capture audio of the entire interaction between the involved parties. However, the camera did show an initial conversation with ██████ and a subsequent conversation with ██████. After the audio begins, Officer ██████ can be heard stating, "There's a sergeant on scene and CHA has authority and they let us in." This statement tends to corroborate ██████ claim that the officers related they could enter the property because they had permission from CHA, but it does not refute Officer ██████ statement that ██████ had given consent for the officers to enter. Unfortunately, Ms. ██████ did not cooperate with COPA's investigation.

Based on these facts, there is insufficient evidence to determine whether the officers were, in fact, given permission by ██████ to enter the residence. The little evidence available to make such a determination does not meet the preponderance standard. Therefore, it is COPA's determination that this allegation against Officers ██████ and ██████ is **NOT SUSTAINED**.

COPA also recommends a finding of **NOT SUSTAINED** for **Allegation #2** against **Officer ██████** for searching ██████ without justification. During his interview with COPA, ██████ did not mention that he was searched. However, BWC depicted that Officer ██████ lifted ██████ shirt but did not pat him down or make further contact with his person. 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)). COPA finds that lifting someone's shirt constitutes as a search under the second test. Therefore, the question is whether this search was justified.

In his statement, Officer ██████ asserted that he did not conduct a search and that he merely pulled the front of Mr. ██████ shirt up to check for weapons for officer safety. He related that in his experience, it was typical for a person to hold a weapon in the front of his pants. Officer ██████ further added that ██████ abruptly approached the door while he was in the process of speaking with the woman who answered the door. Per *Special Order 04-19-01 Consent to Search Incidents; Section IV*, "a department member will not unreasonably endanger themselves or another person to conform to the procedures or restrictions of this directive if circumstances exists that might pose an immediate threat or safety concern. Department members will be required to justify any actions taken during a consent to search incident."

Officer [REDACTED] is incorrect in his belief that lifting the shirt of a civilian does not constitute a search. Officers are permitted to do a custodial pat-down of civilians when they have a reasonable suspicion that the civilian is armed and dangerous. However, Officer [REDACTED] did not do a custodial pat-down of [REDACTED] only lifted [REDACTED] shirt to “check for a gun.” Officer [REDACTED] was in search of a wanted homicide offender, which might be sufficient to constitute a reasonable belief that [REDACTED] was armed and dangerous, but Officer [REDACTED] did not indicate in his statement that he actually had any such belief. The evidence available does not meet the preponderance standard required to sustain the allegation, nor does it meet the “clear and convincing” standard necessary to exonerate Officer [REDACTED]. Therefore, COPA finds that the allegation is **NOT SUSTAINED**.

COPA finds **Allegation #3** against **Officer [REDACTED]** for failing to activate his body worn camera (BWC) in a timely manner is **SUSTAINED**. Under Special Order S03-14-III(a)(2), officers are required to activate their BWC at the beginning of an incident, such that the entire incident is recorded, except when such activation is not feasible. In his statement, he admitted that he did not activate his BWC until after he responded to the call and approached the residence, when he began his interaction with the woman at the door. He added that the program was still new and he was not fully used to dealing with the equipment. It is COPA’s understanding that the BWC program in the [REDACTED] [REDACTED] officially began November 20, 2017, approximately ten months prior to this incident. Additionally, this lapse in the activation of the equipment proved to significantly hinder the investigation. There is no question that Officer [REDACTED] failed to timely activate his BWC as required, and as such the evidence meets the preponderance standard. It is therefore COPA’s determination that the allegation is **SUSTAINED**.

COPA finds **Allegation #2** against **FTO [REDACTED]** for his failure to capture his response to an incident with his body worn camera device in its entirety is **SUSTAINED**. During this investigation, COPA retrieved three separate BWC videos for [REDACTED] related to this incident. On at least one instance the video was deactivated due to FTO [REDACTED] using the restroom. However, like Officer [REDACTED] did not operate his camera in a timely manner and thereby deprived this investigation of the audio relevant to the entry into the residence. Additionally, the BWC was turned off while the officers were still inside the residence. [REDACTED] stated his lapse in following protocol due to the newness of the BWC program to his district. As stated previously, this is not a reasonable defense and does not coincide with the expectations of the Department. Again, this lack of following protocol was a hindrance to this investigation. A preponderance of the evidence shows that FTO [REDACTED] failed to timely activate his BWC as required. For the reasons stated above, COPA recommends the allegation be **SUSTAINED**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

i. Complimentary and Disciplinary History

1. **Complimentary:** 2 Attendance Awards, 2 Traffic Stop Awards, 79 Honorable Mentions, 4 Department Commendations, 1 Crime Reduction Award (2019)
2. **Disciplinary:** 1 Court Appearance Violation

ii. Recommended Penalty, by Allegation

1. Allegation No. 3: Written Reprimand

b. Officer [REDACTED]

i. Complimentary and Disciplinary History

1. Complimentary: 4 Physical Fitness Emblems of Recognition, 1 Traffic Stop Award, 50 Honorable Mentions, 1 Complimentary Letter, 1 Crime Reduction Award (2019), 1 Police Officer of the Month Award

2. Disciplinary: None

ii. Recommended Penalty, by Allegation

1. Allegation No. 2: Written Reprimand

COPA recommends a Written Reprimand for the officers’ misuse of BWC in this case. The misuse proved to be a hindrance to COPA’s investigation into other allegations in this case. The officers were using the BWC for enough time to know the proper usage. Since they were in search of a wanted murder suspect, more care should have been taken to utilize the equipment properly.

IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
[REDACTED]	1. It is alleged that on September 5, 2018, the accused entered the residence of [REDACTED] without justification at [REDACTED]	NOT SUSTAINED
[REDACTED]	2. It is alleged on September 5, 2018 the accused searched [REDACTED] without justification at the location of [REDACTED] Chicago IL.	NOT SUSTAINED
[REDACTED]	3. It is alleged on September 5, 2018 the accused failed to activate his body worn camera in a timely manner.	SUSTAINED/ Written Reprimand

[REDACTED]	<ol style="list-style-type: none">1. It is alleged that on September 5, 2018, the accused entered the residence of [REDACTED] without justification at [REDACTED]2. It is alleged that on or about September 5, 2018 the accused failed to capture his response to an incident with his body worn camera device in its entirety.	NOT SUSTAINED
		SUSTAINED/ Written Reprimand

Approved:



Andrea Kersten
Chief of Investigative Operations

July 30, 2020

Date

Appendix A

Assigned Investigative Staff

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