

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 11, 2019
Time of Incident:	10:36 am
Location of Incident:	██████████
Date of COPA Notification:	June 13, 2019
Time of COPA Notification:	1:01 pm

On June 13, 2019, ██████████ contacted COPA to report that on June 11, 2019, Chicago Police Department officers kicked in her basement door and trashed her house while looking for someone but did not have or leave a copy of a warrant. She later learned officers arrested Mr. ██████████, who was present in her home at the time. COPA attempted to contact Ms. ██████████ to arrange for an interview, however, she failed to cooperate with the investigation. On July 20, 2020, COPA was granted an Affidavit Override by CPD Chief Karen Konow, based on, among other things, body worn camera footage of the breach and search of Ms. ██████████'s residence. COPA Deputy Chief Angela Hearts-Glass, the complainant in this case, alleged, among other things, that the officers entered and searched Ms. ██████████ residence without lawful authority.

II. INVOLVED PARTIES

Involved Sergeant #1:	Thomas Davey, star # 1400, employee ID# ██████████, Date of Appointment April 13, 1998, Sergeant, Unit of Assignment 005, DOB ██████████, 1972, Male, White.
Involved Officer #1:	Colin Sullivan, star # 17811, employee ID# ██████████, Date of Appointment February 23, 2015, PO, Unit of Assignment 005, DOB ██████████, 1987, Male, White.
Involved Officer #2:	Tabatha Pringle, star # 13301, employee ID# ██████████, Date of Appointment October 17, 2011, PO, Unit of Assignment 005, DOB ██████████, 1978, Female, Black.
Involved Officer #3:	Divale Roberson, star # 16993, employee ID# ██████████, Date of Appointment October 31, 2016, PO, Unit of Assignment 005, DOB ██████████, 1990, Male, Black.
Involved Officer #4:	Kareem Butler, star # 9021, employee ID# ██████████, Date of Appointment June 16, 2017, PO, Unit of Assignment 005, DOB ██████████, 1990, Male, Black.
Involved Individual #1:	██████████, DOB ██████████, 1986, Male Black.
Involved Individual #2:	██████████, DOB ██████████, 1988, Female, Black.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant Thomas Davey	1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].	NOT SUSTAINED
	2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey performed a search of this property without a valid search warrant.	SUSTAINED
	3. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey failed to adequately supervise police officers.	SUSTAINED
Officer Colin Sullivan	1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Colin Sullivan entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].	NOT SUSTAINED
	2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Colin Sullivan performed a search of this property without a valid search warrant.	SUSTAINED
	3. It is alleged that on June 11, 2019, at approximately 12:21, at District 5, Officer Colin Sullivan falsely described the residence in question as abandoned on the Arrest Report for [REDACTED].	SUSTAINED
Officer Tabatha Pringle	1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Tabatha Pringle entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].	NOT SUSTAINED
	2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED].	SUSTAINED

	██████████, Officer Tabatha Pringle performed a search of this property without a valid search warrant.	
Officer Divale Roberson	<p>1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near ██████████ ██████████, Officer Divale Roberson entered this location without a valid search warrant, or other lawful authority to arrest ██████████.</p> <p>2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near ██████████ ██████████, Officer Divale Roberson performed a search of this property without a valid search warrant.</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p>
Officer Kareem Butler	<p>1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near ██████████ ██████████, Officer Kareem Butler entered this location without a valid search warrant, or other lawful authority, to arrest ██████████.</p> <p>2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near ██████████ ██████████, Officer Kareem Butler performed a search of this property without a valid search warrant.</p> <p>3. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near ██████████ ██████████, Officer Kareem Butler deactivated his Body Worn Camera before the end of the incident in question.</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>

IV. APPLICABLE RULES AND LAWS

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 10-Inattention to duty.

Special Orders

1. S03-14 Body Worn Cameras

a. Interviews

Officer Colin Sullivan was interviewed by COPA on October 22, 2020.¹ On June 11, 2019, Officer Sullivan and Officer Pringle were assisting another unit involved in a stolen vehicle investigation. Officer Tomas Almazan, one of the officers in the area, noticed Mr. [REDACTED] in the window of a residence near the scene of the stolen vehicle.² He contacted Officer Sullivan to alert him of Mr. [REDACTED]'s presence, and the fact he had an outstanding warrant. Officer Sullivan was already familiar with Mr. [REDACTED] through previous interactions, including at least one arrest. He checked out the alleged warrant on his PDT and found that it was active, but did not recall checking the address listed, and did not know if it matched the address where Mr. [REDACTED] had been located on the date in question.³

Once the warrant was confirmed, officers attempted to persuade Mr. [REDACTED] to exit the residence. During this time, the officers saw Mr. [REDACTED] shut the windows and could hear him moving things in the residence, likely to block the front door. When Mr. [REDACTED] failed to cooperate, Officer Sullivan called Sergeant Davey to the scene to speak with Mr. [REDACTED]. However, he too was unsuccessful. Sergeant Davey called for other officers to bring a ram, which they used to breach the back door.⁴

Officer Sullivan said he was familiar with the process of executing both search and arrest warrants on the date in question, as he had done so many times in the past.⁵ According to Officer Sullivan, the warrant for Mr. [REDACTED] was an arrest warrant for a parole violation related to a gun offense. The arrest warrant required that the involved officers place Mr. [REDACTED] into custody, but nothing else. Officer Sullivan did not inquire into Mr. [REDACTED]'s address, but said that he knew Mr. [REDACTED] to be a squatter at different locations, meaning a person who is not a paying tenant and does not have a right to be there. Mr. [REDACTED] told the officers he was staying at that location with his girl and a baby. Officer Sullivan believed Mr. [REDACTED] was squatting at this address because the house was in disarray, there was nothing in the closets, there was garbage and clothes all over the floor, and there was feces present in the toilet.⁶ However, there was food in the kitchen and there was electricity.

According to Officer Sullivan, they believed the arrest warrant gave them authority to enter the house to effect the arrest.⁷ Sergeant Davey also told them that was sufficient, but Officer Sullivan did not know if the sergeant knew what kind of warrant it was.⁸ Officer Sullivan stated the officers believed the house to be abandoned, which they thought gave them permission to search it.⁹ They also saw a holster and knew Mr. [REDACTED] to be a gun offender, so they searched for a gun.

¹ Att. 28.

² Att. 28 at 12:00.

³ Att. 28 at 15:30.

⁴ Att. 28 at 13:00.

⁵ Att. 28 at 16:08.

⁶ Att. 28 at 25:00.

⁷ Att. 28 at 19:45.

⁸ Att. 28 at 20:49.

⁹ Att. 28 at 21:40.

When asked why he believed the residence to be abandoned, as was reported in the arrest report, he responded that he felt it was not livable, had little food, the toilet didn't seem to work, there was no clothing except what was on the floor, there was garbage present, and there were holes in wall. He did not recall, however, if there was running water or air conditioning.¹⁰ Furthermore, prior dealings with Mr. ██████ suggested that he may be a squatter. However, he did not determine it was abandoned until they got inside the house. Nothing outside of the house caused Officer Sullivan to believe the house was abandoned.¹¹

Officer Tabatha Pringle was interviewed by COPA on October 20, 2020.¹² She provided a similar account of the incident as her partner, Officer Sullivan. Officer Pringle was not familiar with Mr. ██████ before this day, but Officer Sullivan and Officer Tomas Almazan, who was part of the team investigating the stolen vehicle, were both involved in an earlier arrest. Mr. ██████ leaned out of the front window in a house near the scene of the stolen vehicle and watched what was going on. After the officers confirmed the active warrant, they talked to Mr. ██████. He said his girlfriend and baby stay at that address and he recently stayed there as well.¹³

Despite repeated requests, Mr. ██████ refused to come to the door and the officers heard him barricade the front door. About thirty minutes later, Officer Pringle called Sergeant Davey and explained the situation. Sergeant Davey came to the scene and spoke with Mr. ██████ but was unsuccessful in gaining his compliance. Sergeant Davey then asked Officer Sullivan to call for Officers Roberson and Butler to bring a ram to effect a forced entry.¹⁴ While Officer Pringle guarded the front of the house, Sergeant Davey and Officers Butler and Roberson went to the back of the house, gained entry, and placed Mr. ██████ into custody.¹⁵ Officers then brought Mr. ██████ to the front door, escorted Mr. ██████ out of the house, and located a small amount of cannabis and pills during a custodial search. At some point, Officer Butler mentioned seeing a holster in the residence. According to Officer Pringle, Sergeant Davey said they should search the residence for a pistol based on the presence of the holster, and the officers did so.¹⁶ Officer Pringle also mentioned that since Mr. ██████ was squatting at the address in question, and because he had a prior weapons offense, they could not leave a weapon there.¹⁷

In explaining why they entered the house, Officer Pringle said that Mr. ██████ had an active arrest warrant, and they saw him in the window, and lawfully entered the house.¹⁸ She knew it was an arrest warrant out of Rockford for a probation violation for a UUW based on the PDT entry rather than a search warrant.¹⁹ She did not recall what the address was on the warrant, but stated the warrant authorized the officers to arrest Mr. ██████. The officers did not check for an address for Mr. ██████ or check to see who lived at that address. In explaining why, they

¹⁰ Att. 28 at 27:30 and 33:20.

¹¹ Att. 28 at 29:25.

¹² Att. 27.

¹³ Att. 27 at 11:05-11:40. Mr. ██████ claimed that his baby was in the house at the time, but that was later revealed to not be true.

¹⁴ Att. 27 at 12:50.

¹⁵ Att. 27 at 13:30.

¹⁶ Att. 27 at 16:10.

¹⁷ Att. 27 at 16:30.

¹⁸ Att. 27 at 24:43.

¹⁹ Att. 27 at 25:50. The arrest warrant was actually for a parole violation related to a battery case.

searched the house, Officer Pringle said they felt the need to search the premises because of the holster and Mr. ██████'s claim that a baby was in the home. She also noted that her sergeant was present at the time.²⁰ Officer Pringle stated she believed the home to be abandoned and described it similarly to Officer Sullivan, adding that the bunk beds had no mattresses. In her opinion, from the outside, the residence looks livable, but on the inside, it looks like squatters are living there.

Sergeant Thomas Davey was interviewed by COPA on October 15, 2020.²¹ On June 11, 2019, Officers Sullivan and Pringle requested his presence at ██████. When he arrived, the officers advised Sergeant Davey they confirmed a Rockford arrest warrant for a probation violation for ██████, who they knew to be inside the residence at that address.²² Sergeant Davey was able to speak with Mr. ██████ through a window and tried to persuade him to come out of the residence on his own to avoid damage to a door that would likely result from a forced entry. Officer Roberson and another officer came on scene to deliver a ram to open a door to the residence. Once the officers entered the home, Mr. ██████ was cooperative and followed all the verbal direction given to him by Sergeant Davey.

Prior to entry, Sergeant Davey was not aware of anyone else in the residence, and he did not know the identity of the of the renter(s) or owner of the residence. Sergeant Davey was under the assumption that the residence was Mr. ██████' home.²³ Sergeant Davey was aware the warrant in question was an arrest warrant, and said he understood the arrest warrant gave them probable cause to arrest Mr. ██████.²⁴ In explaining why they searched the house, Sergeant Davey said the first thing they did was clear the house for any other people.²⁵ Then, one of the officers found a holster in the front room. Because of the holster, the officers searched the residence for a gun, although Sergeant Davey did not know if the holster had anything to do with Mr. ██████.²⁶ No firearm was found. Sergeant Davey also believed the house was abandoned and that it appeared Mr. ██████ was squatting. Sergeant Davey described the interior of the home in the same manner as Officers Sullivan and Pringle.²⁷

Officer Divale Roberson was interviewed by COPA on October 21, 2020.²⁸ During the interview, he stated that Sergeant Davey called him at the district station and requested that he and his partner, Officer Kareem Butler, bring a battering ram to the scene in question to be used in the service of a warrant.²⁹ When they arrived on scene, Sergeant Davey, and Officers Pringle and Sullivan were already present.

According to Officer Roberson, Sergeant Davey gave him a direct order to assist him make entry through the back door of the residence.³⁰ Once inside, Officer Roberson handcuffed Mr.

²⁰ Att. 27 at 29:10.

²¹ Att. 25.

²² Att. 25 at 11:23.

²³ Att. 25 at 14:20-15:50 and 19:40.

²⁴ Att. 25 at 13:10-14:00.

²⁵ Att. 25 at 22:40.

²⁶ Att. 25 at 25:00.

²⁷ Att. 25 at 21:46.

²⁸ Att. 26.

²⁹ Att. 26 at 05:35.

³⁰ Att. 26 at 13:00.

██████████ and escorted him to a police vehicle. Officer Roberson then reentered the residence and searched for a firearm after someone discovered a holster.³¹ Officer Roberson said he moved things around and looked into drawers, but he did not find a firearm or anything else of significance. Officer Roberson reported he did not see any evidence that anyone lived in the residence.³²

Officer Roberson did not know what type of warrant was served or anything about it, and assumed that because he was asked by the Sergeant to assist in the breach and search of the residence, he was clear to follow his instructions and that things were being done correctly.³³ He also believed that it would have been unwise to leave a firearm in an abandoned property, for the safety in the community.³⁴

Officer Kareem Butler was interviewed by COPA on October 28, 2020.³⁵ Officer Butler provided essentially the same information about arriving on the scene with the ram as Officer Roberson did. He also described hearing noises that sounded like Mr. ██████████ was barricading the door and seeing Mr. ██████████ walk back and forth from the front to the rear of the house. Officer Butler and Sergeant Davey then gained entry through a rear door using the ram.³⁶ Officer Butler justified their entry due to the active arrest warrant, a positive identification of Mr. ██████████, and exigent circumstances, which he identified as Mr. ██████████ barricading the door.³⁷

Officer Butler entered the residence.³⁸ Sergeant Davey and Officer Roberson handcuffed Mr. ██████████ in the kitchen at the rear of the house. Officer Butler went to the front of the house, moved the couch, and let Officers Pringle and Sullivan in through the front door. He did that because the blocked door was a fire hazard and/or otherwise unsafe if there was an emergency, furthermore, it was easier to take Mr. ██████████ out this way since the police vehicles were nearer the front door.³⁹ As Mr. ██████████ was being led from the kitchen to the living room to exit the residence, Officer Roberson communicated to Officer Butler that a holster was present on either the couch or the floor.⁴⁰ At that point, Officer Butler moved the couch cushions to see if he could locate a pistol, which he did not. Officer Butler did also enter other rooms to see if there was anyone else in the house but did not recall touching anything. The justification he provided for this search was the presence of the holster.

Officer Butler confirmed that he re-entered the residence after turning off his body-worn camera (BWC).⁴¹ When asked why he did not reactivate the BWC when he returned to the house, he responded that he felt the evidentiary value was already completed and the assist was completed

³¹ Att. 26 at 13:30.

³² Att. 26 at 09:35.

³³ Att. 26 at 10:30.

³⁴ Att. 26 at 16:30.

³⁵ Att. 29.

³⁶ Att. 29 at 07:40.

³⁷ Att. 29 at 09:03.

³⁸ Att. 29 at 12:05.

³⁹ Att. 29 at 14:30.

⁴⁰ Att. 29 at 08:10.

⁴¹ Att. 29 at 21:04-21:42.

because the subject was in custody and the incident appeared to be over, at least for him at that point.

b. Digital Evidence

The officers' **BWC recordings** capture Officers Sullivan and Pringle speaking to Mr. [REDACTED], who was leaning out the front window at [REDACTED] at the start of their encounter. The officers tried to convince Mr. [REDACTED] to come outside, but he refused. He said something about there being a baby in the house.⁴² The officers told Mr. [REDACTED] that they would force entry into the house and bring dogs if he did not come out and take care of the arrest warrant. Mr. [REDACTED] denied having an arrest warrant and went back into the house. When the officers continued to try to convince Mr. [REDACTED] to leave the house, Officer Sullivan said, "[REDACTED], we know this isn't your house."⁴³

Eventually, Officer Sullivan walked back to his police vehicle where he and Officer Pringle performed a PDT search concerning Mr. [REDACTED]'s warrant.⁴⁴ Sergeant Davey arrived on the scene and the officers explained what was happening.⁴⁵ Once the Arrest Warrant out of Rockford and Mr. [REDACTED]'s identity were confirmed, Sergeant Davey asked Officer Sullivan to call the station to have someone bring the ram. While they waited, the officers continued to try to convince Mr. [REDACTED] to exit the house, with no success.⁴⁶ When Sergeant Davey told him about the warrant, Mr. [REDACTED] denied his identity and closed the window.⁴⁷ Officer Pringle reported she could hear Mr. [REDACTED] moving things in front of the door.

When additional officers arrived with the ram, they broke open the rear basement door. Officer Sullivan entered the residence behind Sergeant Davey, Officer Roberson, and Officer Butler.⁴⁸ The officers walked upstairs and arrested Mr. [REDACTED] in the kitchen.⁴⁹ Mr. [REDACTED] immediately said there were no guns in the house and said it was his "girls" house.⁵⁰ At the same time, Officer Butler walked to the front of the house and flipped over a couch that was blocking the front door, opened the door, and allowed Officer Pringle entry into the living room.⁵¹ After Officer Roberson escorted Mr. [REDACTED] from the kitchen to the front of the house, an officer pointed out that there was a holster lying nearby. Officer Pringle entered the residence and Sergeant Davey pointed out the holster to her.⁵² Officer Roberson then escorted Mr. [REDACTED] to a police vehicle, and searched him.

Once the arrest was completed, Sergeant Davey made his way toward the front of the house and began to search a bedroom.⁵³ After Officer Sullivan told him there was a holster, he walked

⁴² Att. 8 Sullivan 1 at 02:50.

⁴³ Att. 43 Pringle 2 at 07:38.

⁴⁴ Att. 17 Sullivan 2 at 17:45, Att. 44 Pringle 3 at 15:00.

⁴⁵ Att. 17 Sullivan 2 at 20:43.

⁴⁶ Att. 14 Davey at 00:40.

⁴⁷ Att. 44 Pringle 3 at 24:50.

⁴⁸ See Att. 15 Butler at 02:05, Att. 13 Roberson at 02:05, Att. 14 Davey at 12:14-24.

⁴⁹ Att. 14 Davey at 12:40, Att. 13 Roberson at 02:26-36.

⁵⁰ Att. 11 Sullivan 3 at 07:15-7:41.

⁵¹ Att. 15 Butler at 02:24.

⁵² Att. 44 Pringle 3 at 35:40.

⁵³ Att. 14 Davey at 12:50.

into the living room and said, “there’s gotta be a pistol in here somewhere.”⁵⁴ Officer Sullivan and Sergeant Davey walked back to the kitchen, which appeared to be neat, and talked about the possibility of there being a pistol on the premises.⁵⁵ Officer Davey opened the refrigerator and freezer doors and looked inside using his flashlight.⁵⁶ There appeared to be food in both. He then called out, “this place looks abandoned anyways, guys.”⁵⁷ Officer Sullivan then walked to the front of the house and looked inside the bedroom nearest the front door, in which there was miscellaneous personal property, and a bunkbed with a full-size mattress on the bottom bunk with what appeared to be folded clothing lying on top. He stated, “No one lives here.” The officers, including Officers Pringle, Butler, and Roberson, continued to search various rooms of the house, including bedroom closets and bathrooms.⁵⁸ The officers learned that Mr. [REDACTED] was a felon, but no gun was found. Officer Roberson asked Mr. [REDACTED] if there was a pistol in the house. Mr. [REDACTED] responded that there was not and that the holster belonged to his brother, who was training to be a police officer.⁵⁹ Officer Butler deactivated his camera at timestamp 15:28:50⁶⁰ but could be seen on other recordings continuing to search after that.

c. Documentary Evidence

On June 7, 2019 a Winnebago County Judge Debra Schafer authorized an **Arrest Warrant (#2013CF002462)** for a Probation Violation, in relation to the offense of Aggravated Battery. The last known address for [REDACTED] was reported as [REDACTED], Chicago, IL.⁶¹

[REDACTED]’s **Arrest Report (CB#19823690)** reveals he was arrested on June 11, 2019 on an Arrest Warrant out of Rockford, IL.⁶² The residence address reported for Mr. [REDACTED] is [REDACTED], which was also the location of arrest. The narrative section of the report, which was attested to by Officer Colin Sullivan, documented that Mr. [REDACTED] was observed by officers to be inside the house that appeared to be abandoned at that address. Officers confirmed he had an active arrest warrant and attempted to cause Mr. [REDACTED] to exit the residence and surrender. When he refused, officers forced entry into the residence and entered through the rear, basement door. Mr. [REDACTED] was taken into custody without incident.

COPA obtained a **US Department of Housing and Urban Development Chicago Apartment Lease** for [REDACTED] (Mr. [REDACTED]’ girlfriend) for the house at [REDACTED] that was valid at the time of this incident.⁶³ Public record searches show a connection with that address for Ms. [REDACTED] December 1, 2017-July 2, 2020, and for Mr. [REDACTED] May 1, 2019-May 31, 2019.⁶⁴

⁵⁴ Att. 14 Davey at 13:30.

⁵⁵ Att. 11 Sullivan 3 at 08:28.

⁵⁶ Att. 14 Davey at 14:18

⁵⁷ Att. 14 Davey at 14:39.

⁵⁸ Att. 14 Davey at 15:29, Att. 11 Sullivan 3 at 11:10-12:15, Att. 6 Sullivan 5, Att. 7 Sullivan 6, Att. 44 Pringle 3 at 37:19-41:00, Att. 13 Roberson at 06:25-08:35, Att. 15 Butler at 02:32-03:27.

⁵⁹ Att. 13 Roberson at 09:10. (Although it is unclear, it sounded like he said his brother’s name was [REDACTED])

⁶⁰ This was 10:28:50am Central time.

⁶¹ Att. 52.

⁶² Att. 2.

⁶³ Att. 48 and 49.

⁶⁴ Att. 59 and 60.

V. LEGAL STANDARD

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

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

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

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

VI. ANALYSIS

Sergeant Thomas Davey

COPA finds **Allegation #1**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED], is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**.

"Because the arrest warrant does not protect the third person's privacy interest in being free from an unreasonable invasion and search of his home, a search of a third person's home based solely on such a warrant is unconstitutional." *United States v. Williams*, 79 F.Supp.3d 888, 901 (S.D. Ill. 2015). However, "For Fourth Amendment purposes, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within." *Payton v. New York*, 445 U.S. 573, 602-03 (1980). Officers are permitted to enter a home on an arrest warrant only if they have a reasonable belief "that a suspect named in an arrest warrant resides at the home to be searched," unless there are exigent circumstances or the residents give the officers permission to enter.

Todosijevic v. County of Porter, 2005 U.S. Dist. LEXIS 36753 at *13 (N.D. Ind. Dec. 2, 2005). But, “If a suspect has been living in a particular dwelling for any significant period, say a few days, it can be certainly considered his “home” for Fourth Amendment purposes, even if the premises are owned by a third party and others are living there, and even if the suspect concurrently maintains a residence elsewhere as well.” *Steagald v. United States*, 451 U.S. 204 at 231.

For this allegation, what is at issue is whether or not Mr. [REDACTED] lived at the address in question. In this case, although there was ample evidence that suggested Mr. [REDACTED] did not live at this address, there was enough contradictory evidence that left open the possibility he did. However, even though Sergeant Davey was operating under a mistake of law, and even though neither Sergeant Davey nor any of the other officers made any attempt to determine whether Mr. [REDACTED] lived at the address in question before gaining entry, without confirmation from the legal tenant, Ms. [REDACTED], there is not enough evidence to make a final determination. Therefore, this allegation is Not Sustained.

COPA finds **Allegation #2**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey performed a search of this property without a valid search warrant, is supported by a preponderance of the evidence and is **Sustained**.

According to the U.S. Supreme Court, “there is ample justification for a search of the arrestee's person and the area 'within his immediate control', construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.” *Chimel v. California*, 395 U.S. 752, 763 (1969). And in this case, a *Chimel* search would have been reasonable.

However, the sergeant and officers went well beyond a *Chimel* search and justified the search in two main ways. First, they suggested that the presence of a holster, in plain view, justified the search. However, according to the U.S. Supreme Court, “it is well established that under certain circumstances the police may *seize* evidence in plain view without a warrant.” They did not, however, extend this exception to the search warrant requirement. *Arizona v. Hicks*, 480 U.S. 321, 326.

They also suggested that it was permissible to search the home, without a search warrant, based on their belief the home was abandoned. The Court, in this instance, established that, “it is unreasonable to assume that a poorly maintained home is an abandoned home.” *U.S. v. Harrison*, 689 F3d 301, 311.

In *Harrison*, officers assumed a property was uninhabitable and abandoned. This assumption was based on the fact the back yard was full of trash, there were boards on the windows and doors, the front door was unlocked and ajar, and one of the officers observed that the property remained in the same state of disrepair over time. Furthermore, the officer had no reason to believe there was electricity in the home and the house was filled with drug paraphernalia and trash. *U.S. v. Harrison*, 689, 305.

The law does not require that police officers always be factually correct; it does demand, however, that they always be reasonable. *Id.* 309. In deciding what is reasonable, a court is to

apply an objective standard, looking at whether “the facts available to the officer at the moment...warrant a man of reasonable caution in the belief” that the search was permissible. *Id.* 309. Unlike a mistake of fact, a search conducted pursuant to a police officer’s mistake as to the governing law, even if reasonable, is not permitted under the Fourth Amendment. *Id.* 309.

This case is distinguishable from *Harrison* in that the mistake in fact is unreasonable. Sergeant Davey admitted in his interview that one reason he allowed the officers to search the house was because he believed it to be abandoned. However, there was no indication the residence was abandoned on the outside, and insufficient evidence on the inside. There were working toilets, electricity, and, from what can be seen on BWC, what appeared to be food in the refrigerator. Furthermore, among other things, the doors and security doors were locked, and there was no mention that any of the officers had any knowledge of the history of this particular location. And, as it turns out, the house was in fact not abandoned, but merely poorly maintained.

The mistake in law, in this case, is neither reasonable nor permitted under the Fourth Amendment. As stated earlier, finding an object in plain sight, in this case a holster, that is reasonably believed to be involved in a crime, only allows police to seize the item without first obtaining a search warrant. It does not, however, authorize a search. Furthermore, the claim that the holster was in plain sight is questionable in that it is undetermined whether the holster would have been in plain sight had Officer Butler not turned over the couch.

Because Sergeant Davey and the other officers entered the residence in question on an arrest warrant, which only granted the authority to arrest Mr. [REDACTED], the only permissible search in this case was a search incident to arrest as is outlined in *Chimel*. And, it must also be pointed out that, based on his BWC, Sergeant Davey began to search at least one of the bedrooms before he even became aware of the holster.

Because this search was based on both an unreasonable mistake in fact and a mistake in law, this allegation is supported by a preponderance of the evidence and is Sustained.

COPA finds **Allegation #3**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey failed to adequately supervise police officers, is supported by a preponderance of the evidence and is **Sustained**.

Based on his own statement, Sergeant Davey was either unaware of or ignored the rules governing arrest warrants and searches, the consequences of which led to the violation of a citizen’s constitutional rights. Sergeant Davey’s statement that he is authorized to go in and arrest a subject using an arrest warrant, no matter the location, is a mischaracterization of the law. Furthermore, his claims that the house was abandoned, and that the presence of a holster provided justification for a search of the residence were also erroneous. And, based on these claims, he allowed the officers to perform an illegal search of the residence in question. Therefore, this allegation is Sustained.

Officer Colin Sullivan

COPA finds **Allegation #1**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Colin Sullivan entered this location without a valid search warrant,

or other lawful authority, to arrest [REDACTED], is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**. The analysis for this allegation is consistent with that for Allegation #1 for Sergeant Davey.

COPA finds **Allegation #2**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Colin Sullivan performed a search of this property without a valid search warrant, is supported by a preponderance of the evidence and is **Sustained**. Although there was a Sergeant on the scene, Officer Sullivan and Officer Pringle summoned that Sergeant with the intent of forcing entry into the residence in question. With that in mind, the analysis is consistent with that of Allegation #2 for Sergeant Davey.

COPA finds **Allegation #3**, that on June 11, 2019, at approximately 12:21, at District 5, Officer Colin Sullivan falsely described the residence in question as abandoned, is supported by a preponderance of the evidence and is **Sustained**.

There is evidence [REDACTED] had a valid lease for the property at [REDACTED] on June 11, 2019. This, along with the analysis of *U.S. v. Harrison* under Allegation #2 for Sergeant Davey, it has been reasonably established that this residence was not, in fact, abandoned on June 11, 2019. Therefore, Officer Sullivan's description of the house being "abandoned" in the arrest report was improper and this allegation is Sustained.

Officer Tabatha Pringle

COPA finds **Allegation #1**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Tabatha Pringle entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED], is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**. The analysis for this allegation is consistent with that for Allegation #1 for Sergeant Davey.

COPA finds **Allegation #2**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Tabatha Pringle performed a search of this property without a valid search warrant, is supported by a preponderance of the evidence and is **Sustained**. The analysis for this allegation is consistent with that of Allegation #2 for Officer Sullivan.

Officer Divale Roberson

COPA finds **Allegation #1**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Divale Roberson entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED], is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**. The analysis for this allegation is consistent with that for Allegation #1 for Sergeant Davey. For this reason, any other justifications for entry into the residence in question mentioned during the investigation will not be addressed in this analysis.

COPA finds **Allegation #2**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Divale Roberson performed a search of this property without a valid search warrant, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that of Allegation #2 for Officer Sullivan.

Officer Kareem Butler

COPA finds **Allegation #1**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Kareem Butler entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED], is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**. The analysis for this allegation is consistent with that for Allegation #1 for Sergeant Davey.

COPA finds **Allegation #2**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Kareem Butler performed a search of this property without a valid search warrant, is supported by a preponderance of the evidence and is **Sustained**. Much like Sergeant Davey, Officer Butler claimed that the presence of a holster provided legal authority to search the residence for a pistol. He also stated that he did not recall if anyone asked him to perform the search. With this in mind, the remaining analysis for this allegation is consistent with that of Allegation #2 for Sergeant Davey and is Sustained.

COPA finds **Allegation #3**, that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED] Officer Kareem Butler deactivated his Body Worn Camera before the end of the incident in question, is supported by a preponderance of the evidence and is **Sustained**. According to BWC policy, the Department member will not deactivate event mode unless the entire incident has been recorded and the member is no longer engaged in law-enforcement-related activity. As required by Special Order 03-14(III)(B)(4), the Department member will, among other things, verbally justify on the BWC when deactivating it prior to the conclusion of an incident.. Officer Butler's argument that he felt the evidentiary value of his BWC recording ended once the subject was in custody and that the incident appeared to be over is unpersuasive. After his own BWC was deactivated, he was captured on another officer's BWC reentering the residence in question, at which time he performed a search of the basement, all without reactivating his BWC. Therefore, this allegation is Sustained.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sergeant Thomas Davey, #1400, Employee # [REDACTED]

i. Complimentary and Disciplinary History

Sergeant Davey has been a member of the Chicago Police Department since April 13, 1998. In that time, he has received 162 Honorable Mentions, 2 Honorable Mention Ribbon Awards, 2 Police Officer of the Month Awards, 1 Superintendent Award of Valor, 19 Department Commendations, and 7 Complimentary Letters. In the last five years, he received a 1-day suspension for failure to provide service in 2017.

ii. Recommended Penalty, by Allegation

For the allegations that Sergeant Davey performed a search of this property without a valid search warrant and failed to properly supervise the police officers he was with, COPA recommends a suspension of 25 days. Not only was Sergeant Davey's search of the house improper, but his

presence on the scene and the instruction he gave to his subordinates allowed them to commit misconduct by engaging in the same improper search. COPA also recommends that Sergeant Davey be retrained on CPD's directives related to searching premises.

b. Officer Colin Sullivan, #17811, Employee # [REDACTED]

i. Complimentary and Disciplinary History

Officer Sullivan has been a member of the Chicago Police Department since February 23, 2015. In that time, he has received 45 Honorable Mentions and 1 Complimentary Letter. In the last five years, he received a 1-day suspension for failure to provide service in 2017.

ii. Recommended Penalty, by Allegation

For the allegations that Officer Sullivan performed a search of this property without a valid search warrant and falsely described the residence in question as abandoned, COPA recommends a suspension of 20 days. Not only was Officer Sullivan's search of the house improper, but his later use of the word "abandoned" in the residence was based on the same unreasonable perception of the state of the house. COPA also recommends that Officer Sullivan be retrained on CPD's directives related to searching premises.

c. Officer Tabatha Pringle, #13301, Employee # [REDACTED]

i. Complimentary and Disciplinary History

Officer Pringle has been a member of the Chicago Police Department since October 17, 2011. In that time, she has received 58 Honorable Mentions, 1 Honorable Mention Ribbon Award, 3 Department Commendations, and 1 Complimentary Letter. In the last five years, she received a reprimand for search of premise/vehicle without warrant in 2017.

ii. Recommended Penalty, by Allegation

For the allegation that Officer Pringle performed a search of this property without a valid search warrant, COPA recommends a suspension of 15 days. Not only was Officer Pringle's search of the house improper, but her disciplinary history shows this to be a repeated issue. COPA also recommends that Officer Pringle be retrained on CPD's directives related to searching premises.

d. Officer Divale Roberson, #16993, Employee # [REDACTED]

i. Complimentary and Disciplinary History

Officer Roberson has been a member of the Chicago Police Department since October 31, 2016. In that time, he has received 52 Honorable Mentions, 1 Police Officer of the Month Award, and 2 Department Commendations. In the last five years, he received a SPAR for failure to perform assigned tasks in 2020.

ii. Recommended Penalty, by Allegation

For the allegation that Officer Roberson performed a search of this property without a valid search warrant, COPA recommends a suspension of 10 days. COPA also recommends that Officer Roberson be retrained on CPD's directives related to searching premises.

e. Officer Kareem Butler, #9021, Employee # [REDACTED]

i. Complimentary and Disciplinary History

Officer Butler has been a member of the Chicago Police Department since June 16, 2017. In that time, he has received 18 Honorable Mentions. In the last five years, he has not received any discipline.

ii. Recommended Penalty, by Allegation

For the allegations that Officer Butler performed a search of this property without a valid search warrant and deactivated his body worn camera before the end of the incident in question, COPA recommends a suspension of 10 days. COPA also recommends that Officer Butler be retrained on CPD's directives related to searching premises and body worn camera usage.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant Thomas Davey	1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].	NOT SUSTAINED
	2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey performed a search of this property without a valid search warrant.	SUSTAINED
	3. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Sergeant Thomas Davey failed to adequately supervise police officers.	SUSTAINED
Officer Colin Sullivan	1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Colin Sullivan entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].	NOT SUSTAINED

	<p>2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Colin Sullivan performed a search of this property without a valid search warrant.</p> <p>3. It is alleged that on June 11, 2019, at approximately 12:21, at District 5, Officer Colin Sullivan falsely described the residence in question as abandoned.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
Officer Tabatha Pringle	<p>1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], PO Tabatha Pringle entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].</p> <p>2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], PO Tabatha Pringle performed a search of this property without a valid search warrant.</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p>
Officer Divale Roberson	<p>1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Divale Roberson entered this location without a valid search warrant, or other lawful authority to arrest [REDACTED].</p> <p>2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Divale Roberson performed a search of this property without a valid search warrant.</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p>
Officer Kareem Butler	<p>1. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Kareem Butler entered this location without a valid search warrant, or other lawful authority, to arrest [REDACTED].</p> <p>2. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Kareem Butler performed a search of this property without a valid search warrant.</p>	<p>NOT SUSTAINED</p> <p>SUSTAINED</p>

3. It is alleged that on June 11, 2019, at approximately 10:36 am, at or near [REDACTED], Officer Kareem Butler deactivated his Body Worn Camera before the end of the incident in question.

SUSTAINED

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

12-9-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	1
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	Angela Hearts-Glass