

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 6, 2015
Time of Incident:	10:50 pm
Location of Incident:	██████████ Ave.
Date of COPA Notification:	November 7, 2016
Time of COPA Notification:	8:19 am

Sergeant James Cascone¹ and his team were executing a search warrant at ██████████ (the “Warrant House”) when Sgt. Cascone observed two black men enter the neighboring house at ██████████ (the ██████████ House”). Sgt. Cascone became suspicious as the two men “darted” into the ██████████ House. Sgt. Cascone walked to the porch and questioned ██████████ (██████████) a resident of the home. Sgt. Cascone forced entry into the residence, and a physical altercation took place between Sgt. Cascone and ██████████ prompting additional officers to enter the residence. While the additional officers arrested ██████████ and detained his brother, ██████████ ██████████ Sgt. Cascone searched the home.

On July 19, 2019 COPA closed this case. COPA sustained the unjustified-entry and unjustified-search allegations against Lt. Cascone and recommended a 15-day suspension. In a letter² dated September 16, 2019, the Chicago Police Department (“CPD”) stated that CPD did not concur with COPA’s findings. In the non-concurrence letter, CPD argued that Sergeant James Cascone did not violate Complainants’ Fourth Amendment rights, taking issue with a specific case cited in the COPA Summary Report of Investigation (SRI)³. CPD added that “Lt. Cascone would be more appropriately disciplined for violations of Department Orders.”⁴

COPA and CPD met in accordance with the COPA enabling ordinance.⁵ In a letter dated October 4, 2019, COPA indicated to CPD that COPA would “address the concerns raised by the Department.”⁶ Based on the feedback from CPD, COPA has amended its SRI by (1) adding one allegation against Lt. Cascone, which COPA sustains, and (2) updating the analysis of the Fourth Amendment allegations against Sgt. Cascone. COPA has not changed the Fourth Amendment allegations originally brought against Sgt. Cascone and has not changed the findings (sustained) or recommended discipline (15-day suspension) related to those allegations.

This amended SRI presents the complete findings and recommendations of COPA; it should be read in lieu of the original SRI, not in conjunction with it.

¹ At the time of the incident, Lieutenant Cascone had the rank of sergeant. He will be referred to as Lt. or Sgt. Cascone depending on the time period being discussed.
² Att. 99.
³ Att. 100 (original SRI).
⁴ Att. 99.
⁵ Municipal Code of Chicago (“MCC”), 2-78-130.
⁶ Att. 101.

II. INVOLVED PARTIES

Involved Officer #1:	James D. Cascone Star #560 / Employee # [REDACTED] Date of Appointment: May 31, 1994 Lieutenant / Unit 004 DOB: [REDACTED], 1967 Male / White
Involved Officer #2:	Ivan Passamentt Star #19259 / Employee # [REDACTED] Date of Appointment: March 15, 2013 PO / Unit 007 DOB: [REDACTED], 1981 Male / Hispanic
Involved Officer #3:	Juan V. Gali Star #12394 / Employee # [REDACTED] Date of Appointment: March 5, 2013 PO / Unit 007 DOB: [REDACTED], 1978 Male / Hispanic
Involved Officer #4:	James N. Drish Star #19966 / Employee # [REDACTED] Date of Appointment: March 15, 2013 PO / Unit 007 DOB: [REDACTED], 1983 Male / Hispanic
Involved Officer #5:	Michael P. Donahue Star #11762 / Employee # [REDACTED] Date of Appointment: November 30, 2012 PO / Unit 007 DOB: [REDACTED], 1987 Male / White
Involved Officer #6:	Michael M. Carrasco Star #8564 / Employee # [REDACTED] Date of Appointment: December 16, 2009 PO / Unit 007 DOB: [REDACTED], 1978 Male / Hispanic

Involved Individual #1:	<p>██████████ DOB: ██████████, 1992 Male / Black</p>
Involved Individual #2:	<p>██████████ DOB: July 18, 1971 Female / Black</p>
Involved Individual #3:	<p>██████████ DOB: April 6, 1948 Female / Black</p>
Involved Individual #4:	<p>██████████ Male / Black</p>
Involved Individual #5:	<p>██████████ DOB: December 9, 1996 Male / Black</p>

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Lieutenant Cascone	<p>It is alleged that on November 5, 2015, at approximately 11:40 pm, during the execution of a search warrant at ██████████ Lt. Cascone (then Sgt. Cascone):</p> <ol style="list-style-type: none"> 1. Entered the residence of ██████████ (██████████) without a warrant or permission; 2. Searched the residence without a warrant or permission; and 3. Refused to identify himself upon request; and 4. Committed misconduct by leaving the scene of the search warrant before the execution of the warrant was complete, in violation of Special Order 04-19 and/or Special Order 03-03-06 and in violation of Rule 6. 	<p>SUSTAINED/ 15-day suspension</p> <p>SUSTAINED/ 15-day suspension</p> <p>NOT SUSTAINED</p> <p>SUSTAINED/ 2-day suspension</p>

<p>Officer Passament</p>	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Passament:</p> <ol style="list-style-type: none"> 1. Entered the residence of [REDACTED] ([REDACTED]) without a warrant or permission; 2. Pushed [REDACTED] into a cabinet; 3. Used unnecessary force and pulled [REDACTED] arm as he handcuffed him; and 4. Refused to identify himself upon request. 	<p>EXONERATED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>
<p>Officer Gali</p>	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Gali:</p> <ol style="list-style-type: none"> 1. Punched [REDACTED] in the face 2. Pulled [REDACTED] hair, pulling out two of his dreadlocks; 3. Pushed [REDACTED] head against a police vehicle; and 4. Refused to identify himself upon request. 	<p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>
<p>Officer Drish</p>	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Drish:</p> <ol style="list-style-type: none"> 1. Pushed [REDACTED] onto a sofa; 2. Grabbed [REDACTED] by the arm; 3. Threw [REDACTED] onto the floor; and 4. Refused to identify himself upon request. 	<p>NOT SUSTAINED</p> <p>EXONERATED</p> <p>EXONERATED</p> <p>NOT SUSTAINED</p>

<p>Officer Donahue</p>	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Donahue:</p> <ol style="list-style-type: none"> 1. Entered the residence of [REDACTED] ([REDACTED]) without a warrant or permission; 2. Pushed [REDACTED] onto a sofa; 3. Grabbed [REDACTED] by his arm; 4. Threw [REDACTED] onto the floor; and 5. Refused to identify himself upon request. 	<p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p>
<p>Officer Carrasco</p>	<p>It is alleged that on November 6, 2015, during the arrest of [REDACTED] at [REDACTED] Officer Carrasco:</p> <ol style="list-style-type: none"> 1. Pointed a large weapon (rifle) at [REDACTED] and [REDACTED] 2. Said to [REDACTED] "Bitch, step back." 	<p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>

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IV. APPLICABLE RULES AND LAWS

Rules – The following conduct is prohibited:

Rule 1: Violation of any law or ordinance.

Rule 2: Any action or conduct which impedes 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.

Rule 8: Disrespect or maltreatment of any person, while on or off duty.

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Rule 10: Inattention to duty.

Rule 11: Incompetency or inefficiency in the performance of any duty.

Rule 37: Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

General Orders

1. G-03-02: Use of Force
 2. G-03-02-01: Force Options
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Special Orders

1. S-04-19: Search Warrants
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Federal Laws

1. Fourth Amendment to the United States Constitution

V. INVESTIGATION⁷

a. Interviews

1. Sergeant James Cascone – Accused Officer

IPRA interviewed Sergeant Cascone on March 3, 2016.⁸ Prior to the incident, Sgt. Cascone had known the 5500 block of South Shields to be a high-crime area. He also knew that a drug dealer, ██████████ (██████████) resided at the ██████████ House, which was “a problem house”⁹ to which he had been called “on numerous occasions.”¹⁰

Sergeant Cascone arrived at the Warrant House with members of his team to execute a narcotics-related search warrant. He was the evidence supervisor. Sgt. Cascone and his officers arrived on scene, announced their presence, got in formation, forced entry, and secured the home.

While evidence was collected, Sgt. Cascone walked outside to ensure the front door and vehicles were secured. He saw three or four people standing on the porch of the ██████████ House, including “thug”¹¹ ██████████. At that point, two young black males “dart[ed] in the house,”¹² which Sgt. Cascone thought was suspicious. Sgt. Cascone and his team did not have a warrant for the ██████████ House—but, Sgt. Cascone stated, “[W]hy would you run from the police, unless you’re guilty?”¹³ Sgt. Cascone did not observe any weapons and did not observe any other suspicious activity.¹⁴ He reasoned that running into a house after seeing police is a “common trait of criminals.”¹⁵

Sgt. Cascone wanted to know who those individuals were and why they ran into the house because he “figured they might [have] had a weapon, or some sort of narcotics on them.”¹⁶ Although Sgt. Cascone was already carrying out the assignment of executing the warrant, it was normal for him to leave an assignment to investigate something else if he “felt there was some sort of illegal, or suspicious activity.”¹⁷

⁷ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁸ Attachment 80 (“Att. 80”).

⁹ Att. 80, 10:6-10.

¹⁰ *Id.*

¹¹ *Id.* at 11:11.

¹² *Id.* at 10:12-13.

¹³ *Id.* at 39:7-8; *see also id.* at 40:1-6 (“It’s been my experience, in that area, when people run from me they usually have a reason to run. They’re doing an illegal activity. Most of the time it’s involving narcotics, or, or firearms.”).

¹⁴ *Id.* at 42:6-15 (Q: “Did you observe any weapons being displayed when they were at the porch area?” A: “No, I did not.” Q: “Did you observe any other type of activity being done by any of these two, or three, or four individuals that were on the porch area?” A: “No. They were just watching us.” Q: “So, the only activity you saw, was that they ran in the house?” A: “Yes.” Q: “Okay. And, your assumption from being in that area, is that usually they have narcotics, or they have a weapon, or something that’s illegal?” A: “Based on my experience, yes, ma’am.”).

¹⁵ *Id.* at 46:15-16.

¹⁶ *Id.* at 12:21 – 13:4.

¹⁷ *Id.* at 13:5-17.

Sgt. Cascone approached the porch of the ██████ House and asked ██████ where his friends went. ██████ stood in the doorway approximately two feet from Sgt. Cascone; he became evasive and attempted to block Sgt. Cascone's view by moving around while Sgt. Cascone looked inside the house. Sgt. Cascone asked ██████ why his friends ran inside. ██████ claimed no one ran inside. Sgt. Cascone did not ask ██████ for identification or if he lived in the house. ██████ attempts to block Sgt. Cascone's view heightened the sergeant's suspicion "that there's criminal activity at foot [sic]."¹⁸ Although Sgt. Cascone conceded that ██████ may not have been required to answer any questions, he believed that "if they were doing nothing illegal, . . . they would've just stepped out of the shadows...and showed themselves."¹⁹

During his interaction with ██████ Sgt. Cascone heard a commotion. Sgt. Cascone swayed left to right to look over ██████ shoulder, while ██████ mimicked Sgt. Cascone's actions to block his view. Finally, Sgt. Cascone saw someone "quickly [bolt] with a weap- – with a gun in his hand"²⁰ inside the house. The alleged gunman, who Sgt. Cascone described as a black male with dark clothing, ran to the back of the house.²¹ Sgt. Cascone attempted to enter but ██████ blocked his path.

Sgt. Cascone passed ██████ and entered the house alone—over ██████ objections. Sgt. Cascone did not alert other officers before entering the house. When officers outside saw the struggle, they relocated to the ██████ House. Sgt. Cascone did not inform the responding officers that he saw someone with a gun, nor did he call it out on the radio.

Inside the ██████ House, Sgt. Cascone saw a few people, including at least one female in her 40s or 50s, and a couple of males. Sgt. Cascone searched the home, including the level where he entered and the basement. Sgt. Cascone did not request consent because he believed the search was justified due to exigent circumstances. When asked what those circumstances were, Sgt. Cascone responded, "I thought I s- -- somebody's in there with a gun."²²

Sgt. Cascone entered the basement and he saw two people, neither of whom he thought was the suspect. At first, he could not remember whether those people were even male or female; when pressed on how he knew neither of them were the suspect, he stated that one was female and the other one, the male, did not fit the description of the person he saw. Sgt. Cascone asked the two individuals if they saw someone with a gun; they said no. Sgt. Cascone went into some—but not all—of the rooms in the basement and did not find the suspect. He looked for a basement exit door but did not find one. Sgt. Cascone went back upstairs to look for other possible escape routes. He saw a rear/side door he had initially missed. Sgt. Cascone assumed the suspect escaped through that door; however, he did not go through the door to investigate.

¹⁸ *Id.* at 14:15-18.

¹⁹ *Id.* at 49:3-13; *see also id.* at 49:14 - 50:4 ("[I]f there was no criminal activity, and those two people produced themselves, you know what I mean, and just said, I ain't got nothing on me, I would've just said, okay, fine, and walk away. ... And then, my curiosity would've been, you know, it would've been [quelled] right there.").

²⁰ *Id.* at 14:18-21.

²¹ *Id.* at 16:11-14 ("I saw him very briefly. I could clearly see a, (with, with, with a gun in his hand. He took off to the rear of the house.").

²² *Id.* at 28:23.

Sgt. Cascone went back upstairs and observed a struggle between officers and ██████ who the officers were trying to arrest. ██████ resisted, but he was ultimately arrested. Later in the interview, Sgt. Cascone stated that when he came upstairs, ██████ had already been handcuffed and he did not know who handcuffed him.

At no time did Sgt. Cascone witness any use of unnecessary force by the officers. He did not hear any officer use profanity or refer to anyone in the house in a derogatory manner.²³ Sgt. Cascone never took out his weapon or felt unsafe. Nor did he see any officer draw his weapon in the house. Sgt. Cascone did not see any injuries on ██████ and, had ██████ complained of injuries, he would have transported him for medical care.

When asked why ██████ Arrest Report²⁴ stated that Sgt. Cascone was on patrol and “conducting a person with a gun investigation,”²⁵ he explained that search warrants are part of his patrol procedures. After a break requested by Sgt. Cascone’s attorney, Sgt. Cascone explained, “in my view, the warrant [was] done being executed,” which meant he was back to his “normal patrol duties.”²⁶ However, Sgt. Cascone later stated that as evidence supervisor, he was charged with ensuring “the proper, proper collection techniques are done, in securing evidence, associated with a search warrant,”²⁷ and that a warrant generally “takes between an hour to two hours.”²⁸ Sgt. Cascone thereafter conceded that evidence processing was still ongoing at the Warrant House when he noticed the suspicious behavior at the ██████ House, but he stated that his presence was not needed despite his role as evidence supervisor.

Initially, Sgt. Cascone did not recall being asked to identify himself at the ██████ House; however, he insisted that if asked, he would have done so. Later in the interview, Sgt. Cascone stated the people in the house wanted everyone’s badge numbers, and that he responded by pointing to his star number and telling them who he was.

Sgt. Cascone never told any responding officers, the officers executing the warrant at the Warrant House, or radioed OEMC that he saw a man with a gun. No guns were recovered at the ██████ House.

COPA interviewed Sgt. Cascone again on November 19, 2019, after serving him with an additional allegation in response to CPD’s non-concurrence letter. Lt. Cascone reviewed the transcript of his previous statement and reiterated that it was accurate. Lt. Cascone conceded that he left the scene of the search warrant to investigate suspicious activity next door. According to Lt. Cascone, at the time he left to go to the house next door, the scene had been secured but the execution of the warrant had not been completed.

When asked, Lt. Cascone explained that “the scene” of a warrant generally refers to the specific location mentioned in the warrant, allowing for a sometimes-expanded meaning based on

²³ *Id.* at 28:24 – 29:4 (When asked if he heard such remarks, Sgt. Cascone responded, “No, I did not. If I did, I would’ve took [sic] corrective action.”).

²⁴ See Section V.B.

²⁵ Att. 80, 25:1-8.

²⁶ *Id.* at 26:21-24.

²⁷ *Id.* at 33:11-19.

²⁸ *Id.* at 37:1-3.

specific conditions, e.g. potential for contraband being thrown out of windows, or securing multiple entrances to a building despite the warrant being issued for just one specific apartment. None of those conditions were present that night.

Lt. Cascone denied the additional allegation against him, reasoning that there were multiple supervisors on the scene and that the scene was still supervised even when he walked next door.

2. Officer Ivan Passamentt – Accused Officer

On March 10, 2016, IPRA interviewed Officer Ivan Passamentt, a member of Sgt. Cascone's team. While executing a search warrant at the Warrant House, he was in the front living room when, through a window, he saw Sgt. Cascone walk to the ██████ House. Sgt. Cascone was focused on a group on the porch of the ██████ House, who Officer Passamentt saw after coming down the stairs of the Warrant House.

Standing 10-15 feet away, Officer Passamentt saw Sgt. Cascone immediately walk up the stairs of the ██████ House and attempt "to make entry right into the residence."²⁹ ██████ was in front of Sgt. Cascone trying to prevent him from entering by putting his hand on the sergeant's vest and telling him he could not enter. Sgt. Cascone instructed ██████ to remove his hands. Officer Passamentt "intervened and got in the middle between both of them."³⁰ Sgt. Cascone did not communicate with Officer Passamentt.

After Officer Passamentt's intervention, Sgt. Cascone entered and went to the back of the house. Officer Passamentt told ██████ to put his hands behind his back. ██████ refused, clenched his fists, and began flailing his arms. Officer Passamentt attempted to grab ██████ but, because of their momentum, they ended up against a cabinet close to the entrance.

Officer Juan Gali then came to assist Officer Passamentt. Officer Passamentt viewed ██████ as an assailant and conducted an emergency takedown. Simultaneously, while ██████ arms flailed, Officer Gali directed one closed-hand strike to ██████ face.

Officers Passamentt and Gali had ██████ face-down on the floor and gained control of his arms. Officer Passamentt was positioned near ██████ lower body while Officer Gali was near his upper body. At no time did Officer Passamentt witness Officer Gali pull ██████ dreadlocks nor was he aware that ██████ lost two dreadlocks. However, Officer Passamentt could not clearly see Officer Gali or what he was doing.

When asked why the arrest report for ██████ indicates the officers were on patrol, when in fact, the search warrant was still being executed, Officer Passamentt responded that the team's policy is to immediately return to patrol duties after executing a search warrant and that the team was "wrapping up" the execution of the warrant. Generally, at the sergeant's discretion, some individuals complete the warrant processing, while others return to patrol.

²⁹ Att. 83 at 7:10-13.

³⁰ Att. 83 at 8:13-16.

Officer Passamentt said that, after all the officers involved in the search warrant and the incident at the ██████ House had left the two houses, Sgt. Cascone told those officers that he went into the ██████ House after he saw a man with a gun run toward the back of that house. Sgt. Cascone never mentioned a gun while the officers were in either house.

3. Other Officers – Accused

IPRA interviewed **Officer Juan Gali**³¹ on March 11, 2016. Officer Gali's account of the incident substantially corroborates Officer Passamentt's account. Officer Gali did concede that, as he directed the mechanical strikes at ██████ he may have hit him in the face because ██████ was moving.

On March 22, 2016, IPRA interviewed **Officer James Drish**³². Officer Drish's account substantially corroborates Officers Passamentt and Gali's accounts. However, Officer Drish stated he heard Sergeant Cascone call out on the radio that he needed assistance next door.³³

IPRA interviewed **Officer Michael Donahue**³⁴ on March 23, 2016. Officer Donahue stated he was the inventory officer for the team that executed the search warrant. He remained inside the Warrant House until the warrant was executed, never entering the ██████ House. His duties as inventory officer included ensuring evidence was photographed and inventoried properly.³⁵ Officer Donahue had no first-hand knowledge of the incident or the involved parties' actions.

On May 17, 2016, IPRA interviewed **Officer Michael Carrasco**.³⁶ While Officer Carrasco was on the front porch, he observed two officers escorting ██████ and his brother ██████ to the police vehicles. That is when Officer Carrasco observed a woman, identified by IPRA as Ms. ██████ run toward the officers and attempt to interfere with the detention. Officer Carrasco placed his body between Ms. ██████ and the arresting officers to create distance and prevent her from getting involved. Officer Carrasco stated he carried an M-4 rifle—strapped over his shoulder and across his body—as part of his equipment as an entry officer during the execution of the search warrant. Officer Carrasco maintains that he did not address Ms. ██████ with disrespect or vulgarity.

4. ██████ – Complainant³⁷

IPRA interviewed Ms. ██████ on November 9, 2015. Ms. ██████ stated that on November 6, 2015, as she sat in her bedroom, she heard her nephew, ██████ yell for her. Ms. ██████ went to the living room where she witnessed officers pushing her son, C.

³¹ Att. 81.

³² Att. 87.

³³ By Sgt. Cascone's own admission—and the testimony of Officers Passamentt and Gali—this did not occur.

³⁴ Att. 86.

³⁵ A Contact Card issued to ██████ (Att. 16) included Officer Donahue's name as the second preparing officer. Officer Donahue explained that it is common for an officer to include his partner's name on Field Contact Cards—the Contact Card was prepared by Officer Donahue's partner, Officer Drish.

³⁶ Att. 92.

³⁷ Att. 45.

██████████ who stood in the doorway. Ms. ██████████ heard ██████████ ask the officers whether they had a warrant and refusing them entry.

One of the officers punched ██████████ in the mouth, took him to the ground, and handcuffed him. Additional officers entered and grabbed and tossed ██████████ aside. ██████████ brother, entered the living room from the back of the house. Officers grabbed him and threw him onto a sofa. ██████████ asked what was going on multiple times but did not receive an answer.

An officer, identified by IPRA as Sgt. James Cascone, searched the main floor and basement of the home. Sgt. Cascone did not tell Ms. ██████████ why he searched the home. Ms. ██████████ called 911 and informed the operator that officers were in the house without a warrant or consent.

The officers arrested ██████████ and ██████████. When Ms. ██████████ questioned the officer, she said a large, white officer pointed a rifle in her direction and said, "Bitch step back." When a supervisor arrived, he refused to talk to her except to say, "Get the fuck back." According to Ms. ██████████ and ██████████ sustained some injuries but neither sought medical attention.

5. ██████████ – Complainant³⁸

On November 9, 2015, COPA interviewed Mr. ██████████. ██████████ stated that he received a phone call from his friends to let him know they arrived at his house. He opened the door and stood in the doorway. Earlier, ██████████ had noticed the police raiding the house next door.

An officer, later identified as Sgt. Cascone, then entered ██████████ gate and asked him if he lived there. ██████████ affirmed he did and Sgt. Cascone grabbed his arm. ██████████ pulled his arm away and asked what he did. Sgt. Cascone pushed ██████████ inside and into a cabinet. Another officer, later identified as Officer Passamentt, entered the residence, grabbed ██████████ and slammed him on the floor, placing his knee on ██████████ neck. A third officer, later identified as Officer Gali, entered and punched ██████████ in the face.

Officers Passamentt and Gali handcuffed ██████████ and, as they pulled him up to his feet, grabbed his hair and pulled out two dreadlocks. They escorted him to the car, where Officer Gali pushed ██████████ head, bumping it against the police vehicle. ██████████ did not seek medical treatment.

6. ██████████ – Complainant³⁹

IPRA interviewed ██████████ brother, Mr. ██████████ on December 4, 2015. He stated he was in his bedroom when he heard a voice yell, "Get on the ground."⁴⁰ ██████████ ran to the living room and observed officers running inside the residence. ██████████ saw his brother

³⁸ Att. 21.

³⁹ Att. 46.

⁴⁰ *Id.* at 3:6-7.

handcuffed on the floor as an officer, later identified as Officer Drish, asked ██████ his name and instructed him to sit down. ██████ replied, “This my house. Like I know my rights. I ain’t gotta do nothing. Do you have a warrant of being in my crib?”⁴¹

Officer Drish again ordered him to sit down and ██████ stated that, although he was complying, Officer Drish pushed him onto the sofa. ██████ jumped to his feet, and Officer Drish grabbed him and threw him to the floor. Officer Drish handcuffed ██████ brought him to his feet, and took him outside. ██████ sustained bruises to his chest but did not seek medical attention. He did not observe the interaction between his family members and the officers on-scene.

b. Documentary Evidence

Evidence Technician Photographs⁴² of ██████ depict two strands of braids, as well as an apparent bald spot on the left side of his head. Redness is apparent on the right side of ██████ upper torso. Pictures from inside the house show a cracked wall and a cabinet with broken glass.

An **Arrest Report**⁴³ (CB#19218215; RD#HY492357; Event #1531017261) for ██████ was generated by CPD. The report charges ██████ with battery and two counts of Resisting/Obstruction. The report stated Sgt. Cascone was on patrol and “conducting a person with a gun investigation” when the incident began.

A **Search Warrant Data Sheet**⁴⁴ for warrant number ██████ lists the personnel involved in the execution of the warrant. Sgt. Cascone is listed as both the Evidence Supervisor and the search team supervisor. The sheet also lists Sgt. Keith Rigan and Lt. Carl Interrante as “security” while it lists Lt. Eric Olson as “supervising Sergeant or above on search.”

IV. 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.

⁴¹ *Id.* at 7:12-16.

⁴² Att. 44.

⁴³ Att. 14.

⁴⁴ Att. 44.

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

Under the Fourth Amendment, a search warrant must be obtained, absent exigent circumstances or consent, for a law enforcement officer to legally search a home.⁴⁵ The Fourth Amendment draws a firm line at the entrance to the house.⁴⁶ Without exigent circumstances, a house may not be reasonably entered without a warrant.⁴⁷ In determining whether an exigency permitted law enforcement to enter without a warrant, the question is "whether a reasonable officer had a reasonable belief there was a compelling need to act and no time to obtain a warrant."⁴⁸ Courts consider "the totality of facts and circumstances as they would have appeared to a reasonable person *in the position of the ... officer*—seeing what he saw, hearing what he heard."⁴⁹

COPA must sustain allegations if the evidence shows that it is more likely than not that the conduct in question occurred and that it was improper.⁵⁰ Here, the allegations can be divided into five categories: (1) Sgt. Cascone's leaving the scene while the warrant was still being executed; (2) Sgt. Cascone's initial entry and search at the ██████ House based on what he believed were exigent circumstances; (3) the entry of assisting officers; (4) the amount and type of force used by the officers; and (5) the refusal of various officers to identify themselves.

a. Inattention to Duty Lieutenant Cascone – Allegation 4

There is no question that Lt. Cascone, then Sgt. Cascone, left the scene of the warrant to conduct another investigation. Lt. Cascone himself agrees that he left the scene of the warrant after it had been secured but before the execution of the warrant was completed. Specifically, Lt.

⁴⁵ *Payton v. New York*, 445 U.S. 573, 590 (1980).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Martinez v. City of Chicago*, 900 F.3d 838, 845 (7th Cir. 2018) (citing *Bogan v. City of Chicago*, 644 F.3d 563, 572 (7th Cir. 2011)).

⁴⁹ *Id.* (emphasis in original).

⁵⁰ *See Avery v. State Farm Mut. Auto. Ins. Co.*, 835 N.E. 2d 801, 856 (2005) (explaining a preponderance-of-the-evidence standard).

Cascone stated that when he pursued the other investigation and left the scene, evidence was being recovered. Lt. Cascone's explanation relies on the propriety of leaving the scene so long as other supervisors were present, including Lieutenants.

The Search Warrant Data Sheet⁵¹ lists Lt. Cascone as both the evidence supervisor and the search team supervisor. Special Order S-04-19 states that "a sworn member of the rank of sergeant or above will perform the functions of the search team supervisor and will . . . be present and remain on the scene during the time of execution."⁵² As the search team supervisor, Lt. Cascone was required to remain on the scene during the time of execution. Lt. Cascone was also required to "personally coordinate the movements and activities of team members."⁵³ There are no exceptions in the directives based on the number of supervisors present or the presence of officers of higher ranks. Accordingly, because Sgt. Cascone left the scene during the time officers were executing the warrant, the allegation against Lt. Cascone is sustained.

b. Unlawful entry and search by Sgt. Cascone
Lt. Cascone – Allegations 1 and 2

The first allegation suggests Sgt. Cascone entered ██████████ without justification. Specifically, he entered the residence without a warrant, consent or exigent circumstances. Based on the evidence, COPA finds Allegations 1 and 2 are **SUSTAINED**.

"At the very core of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion."⁵⁴ In this instance, ██████████ was in his home. Neither his presence on the porch nor the presence of his friends negates the inviolability of his place of residence.

Sgt. Cascone's lack of a warrant or consent to enter ██████████ is undisputed. Accordingly, Sgt. Cascone's entry and search of the home is "presumptively unreasonable."⁵⁵ That presumption can be overcome only when "the exigencies of the situation make the needs of law enforcement so compelling that warrantless search is objectively reasonable under the Fourth Amendment."⁵⁶ Exigent circumstances are present when a reasonable person would believe entry was necessary "to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts."⁵⁷

Here, the totality of the circumstances do not suggest a reasonable officer with Sgt. Cascone's observations would find a compelling need to act without a warrant or consent. Sgt. Cascone claimed to see two men "dart" into the residence from the front porch, and shortly

⁵¹ *Id.*

⁵² S-04-19, II-A.2.

⁵³ *Id.*, VIII-D.1.b.

⁵⁴ *Kyllo v. United States*, 533 U.S. 27, 41 (2001) (quoting *Silverman v. United States*, 365 U.S. 505, 511 (1961)) (internal quotation marks omitted).

⁵⁵ *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006) (quoting *Groh v. Ramirez*, 540 U.S. 551, 559 (2004)).

⁵⁶ *Mincey v. Arizona*, 437 U.S. 385, 394 (1978) (as quoted in *Kentucky v. King*, 563 U.S. 452 (2011)).

⁵⁷ *U.S. v. Howard*, 961 F.2d 1265, 1267 (7th Cir. 1992) (citing *U.S. v. McConney*, 728 F.2d 1195, 1199 (9th Cir. 1984), *cert. denied*, 469 U.S. 824 (1984)).

thereafter a man with a gun retreat further toward the back of the home. However, COPA does not find Sgt. Cascone's version of the events credible, as it is not supported by the evidence. For the following reasons, COPA concludes that it is more likely than not that Sgt. Cascone did not see a man with a gun.

Initially, Sgt. Cascone's statement to IPRA included inconsistencies within it, which affects his credibility. For example, Sgt. Cascone stated that no one asked for his name, then stated that they wanted everyone's name. He stated that he did not remember the gender of the people he found in the basement, then stated that there was one female and one male. Further, the totality of the circumstances calls Sgt. Cascone's account regarding an alleged gunman into question. Sgt. Cascone stated he saw a man he described as a black male with dark clothing "bolt" with a gun in his hand to the back of the house. But when that claim is weighed against the rest of the evidence, it does not stand up to scrutiny.

First, Officer Passamentt indicated that he saw Sgt. Cascone immediately attempt to enter the ██████ House.⁵⁸ Second, ██████ who stood in the doorway, is almost a foot taller than Sgt. Cascone, making it unlikely Sgt. Cascone saw over his shoulder as he claimed. Third, the lighting inside the residence that night was described as dim and as likely consisting of a single lamp.⁵⁹ Fourth, Sgt. Cascone's actions were inconsistent with an officer searching for a gunman: Sgt. Cascone never drew his weapon; he opened some doors while leaving others shut; he never warned other officers on scene about the alleged gunman; he did not use the radio channel dedicated to the warrant team to inform the officers next door a gunman may be running towards them, even though he claimed to enter the house because of the danger posed to his officers; and he never opened the door through which he assumed the alleged gunman made his escape. As a result, COPA finds that Sgt. Cascone did not witness a man with a gun, and therefore was without an exigency to justify his warrantless entry into the ██████ House.

Alternatively, Sgt. Cascone's entry into the ██████ House remains unlawful even if his version of the events is taken as true. Sgt. Cascone purportedly witnessed several individuals in a high crime area "dart" inside the ██████ House from the front porch. Soon thereafter, he indicates that he saw a man with a gun retreat further toward the back of the house. However, mere possession of a firearm does not create probable cause for a warrantless search.⁶⁰ Additionally, being in a high crime area does not amount to probable cause by itself,⁶¹ nor does flight from an officer justify warrantless entry into a home.⁶²

⁵⁸ Att. 83, 7:8-13; *id.* at 8:12-24.

⁵⁹ Att. 83, 52:8-16.

⁶⁰ *People v. Thomas*, 2019 IL App (1st) 170474 stating, "police cannot simply assume a person who possesses a firearm . . . is involved in criminal activity." The court in *Thomas* held that it was reasonable for an officer to believe defendant did not legally possess a firearm and therefore follow him into a residence without a warrant, because when defendant was witnessed in a "high crime area" with a gun, he ran from police, and handed off the gun to someone else, providing indicia of criminality as to possession of the gun.

⁶¹ *Harris v. O'Hare*, 770 F.3d 224 holding that a "high crime area" does not necessarily trigger exigent circumstances, and that "a warrantless search must be strictly circumscribed by the exigencies which justify its initiation"

⁶² *People v. D.W. (In re D.W.)*, 341 Ill. App. 3d 517 holding that a defendant who fled from police did not amount to probable cause to enter his home, stating "the right to make a Terry stop is extinguished where a defendant flees into his home."

Consequently, COPA finds that Sgt. Cascone made unlawful entry into the ██████ House. “[T]he Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant.” Sgt. Cascone did not have a warrant to enter the residence in question. And, as explained above, the weight of the evidence contradicts Sgt. Cascone’s justification for warrantless entry. Therefore, Sgt. Cascone’s entry into, and search of, the house was unreasonable and violated the Fourth Amendment of the United States Constitution. Accordingly, the first and second allegations against Lt. Cascone are **SUSTAINED**.

c. Allegations of unlawful entry against other officers

Officer Passamentt – Allegation 1

Officer Donahue – Allegation 1

The entry of other officers into the residence is an entirely different matter from Sgt. Cascone’s entry. Once Sgt. Cascone was seen tussling with ██████ other officers were justified to enter based on the doctrine of exigent circumstances. A reasonable officer observing a partner in a physical altercation would feel compelled to act. Even if it is later revealed that the officer needing aid improperly caused the exigency, the assisting officers’ response is untainted. There is undisputed evidence that Sgt. Cascone and ██████ engaged physically with each other. Therefore, as it pertains to the allegation of entering the residence without justification, Officer Passamentt is **EXONERATED**. Additionally, there is clear and convincing evidence that Officer Donahue never entered the residence—none of the officers or the civilians place him there. Therefore, the allegation that Officer Donahue entered without justification is **UNFOUNDED**.

d. Allegations regarding use of force

Officer Passamentt – Allegations 2 and 3

Officer Gali – Allegations 1, 2, and 3

Officer Drish – Allegations 1, 2, and 3

Officer Donahue – Allegations 1, 2, 3, and 4

The nature and quality of the intrusion on a person's Fourth Amendment interests is balanced with the countervailing governmental interests at stake. There is no precise definition of reasonableness under the Fourth Amendment, so careful attention to the specific facts and circumstances of each case is necessary, including the severity of the crime involved, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade an arrest by flight.⁶³ Here, the totality of the evidence suggest the assisting officers used reasonable force against ██████ and ██████. But while that evidence means that the allegations of excessive force against these officers cannot be sustained, there is not clear and convincing evidence that the levels of force used were, at all times, reasonable, proportionate, and necessary to control ██████ and ██████. That the use of force may have resulted in injury or damage to the property is unfortunate, given that this entire incident should not have occurred; however, the allegations cannot be sustained by a preponderance of the evidence. But neither can the officers be exonerated by clear and convincing evidence.

⁶³ *Medina v. Chicago*, 238 Ill. App. 3d 385, 387 (1992).

The excessive-force allegations against Officers Passamentt, Gali, and Drish are **NOT SUSTAINED**. The excessive-force allegations against officer Donahue are **UNFOUNDED**; as discussed above, there is clear and convincing evidence showing he was not inside the house and did not participate in the detention of the subjects.

e. Officers' refusal to identify themselves

Allegation 3 – Lt. Cascone

Allegation 4 – Officer Passamentt

Allegation 4 – Officer Gali

Allegation 4 – Officer Drish

Allegation 5 – Officer Donahue

The allegations regarding the officers' refusal to identify themselves are **NOT SUSTAINED**. On the one hand, the family asserts they asked the officers for their names and star numbers and received no responses. On the other hand, the officers insist the request was not made, or that they did in fact share their information, even if by informing the residents that the information is on their shirts. In any case, there is insufficient evidence to prove or disprove these allegations.

**f. Officer Carrasco's interaction with Ms. [REDACTED]
Officer Carrasco – Allegations 1 and 2**

The final allegations concern Officer Carrasco's interaction with Ms. [REDACTED] COPA identified Officer Carrasco as the person who had the "large gun," *i.e.*, the M-4 rifle, referred to by Ms. [REDACTED] but he denies using derogatory terms or pointing a weapon at her. Because of the competing accounts COPA cannot find that the events either occurred or did not occur. Accordingly, both allegations against Officer Carrasco, that he pointed a large rifle at Ms. [REDACTED] and that he spoke to her using derogatory terms, are **NOT SUSTAINED**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Lieutenant Cascone

i. Complimentary and Disciplinary History

Lieutenant Cascone has received 93 honorable mentions, 13 emblems of recognition for physical fitness, 11 department commendations, 9 complimentary letters, 4 attendance recognition awards, 3 outside governmental agency awards, 2 honorable mention ribbon awards, and 2 superintendent Awards of Valor. Additionally, Lieutenant Cascone has received a Democratic National Convention Award, a Presidential Election Deployment Award, a Traffic Stop of the Month award, a 2004 Crime Reduction Ribbon, a Police Blue Star Award, a Life Saving Award, a NATO Summit Service Award, a 2009 Crime Reduction Award, a Joint Operations Award, a Unit Meritorious Performance Award, and a special commendation. Lieutenant Cascone has no publishable disciplinary history.

ii. Recommended Penalty

Allegations One and Two. On one hand, this case is an egregious example of a fourth amendment violation. Lieutenant Cascone entered a home, where the constitution has drawn a firm line, without consent, a warrant, or any articulable exigent circumstances. As a sergeant, he left his fellow CPD members at the scene of a valid warrant execution where he was an evidence and search team supervisor, instead chasing civilians based on his admitted assumption that people in that area who avoid the police are likely engaged in illegal activity. Lieutenant Cascone displayed contempt for people exercising their constitutional rights, arguing they would not care if they had nothing to hide, contrary to the accepted rule that the onus of proving probable cause lies with the police. Finally, Lieutenant Cascone’s entry led to additional officers entering the home and using force. And although those officers did not act unreasonably in using force, the entire situation would have been avoided had then-Sgt. Cascone acted reasonably. After balancing the above aggravating factors with Lieutenant Cascone’s impressive disciplinary history, COPA recommends a suspension of 15 days for Lieutenant Cascone.

Allegation Four. As a sergeant, Lt. Cascone left his fellow CPD members at the scene of a valid warrant execution where he was a search team supervisor and evidence supervisor. At the same time, although there are no exceptions in the CPD Directives, the presence of other high-ranking officers at the scene of the warrant mitigates the actions of Lt. Cascone. COPA recommends a two-day suspension.

VIII. CONCLUSION

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

Officer	Allegation	Finding/ Recommendation
Lieutenant Cascone	It is alleged that on November 5, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Lt. Cascone (then Sgt. Cascone):	
	5. Entered the residence of [REDACTED] ([REDACTED]) without a warrant or permission;	SUSTAINED/ 15-day suspension
	6. Searched the residence without a warrant or permission; and	SUSTAINED/ 15-day suspension
	7. Refused to identify himself upon request; and	NOT SUSTAINED
	8. Committed misconduct by leaving the scene of the search warrant before the execution of the warrant was complete, in violation of Special Order 04-19	SUSTAINED/ 2-day suspension

	and/or Special Order 03-03-06 and in violation of Rule 6.	
Officer Passament	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Passament:</p> <ol style="list-style-type: none"> 5. Entered the residence of [REDACTED] ([REDACTED]) without a warrant or permission; 6. Pushed [REDACTED] into a cabinet; 7. Used unnecessary force and pulled [REDACTED] arm as he handcuffed him; and 8. Refused to identify himself upon request. 	<p>EXONERATED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>
Officer Gali	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Gali:</p> <ol style="list-style-type: none"> 5. Punched [REDACTED] in the face 6. Pulled [REDACTED] hair, pulling out two of his dreadlocks; 7. Pushed [REDACTED] head against a police vehicle; and 8. Refused to identify himself upon request. 	<p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>
Officer Drish	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Drish:</p> <ol style="list-style-type: none"> 5. Pushed [REDACTED] onto a sofa; 6. Grabbed [REDACTED] by the arm; 7. Threw [REDACTED] onto the floor; and 	<p>NOT SUSTAINED</p> <p>EXONERATED</p> <p>EXONERATED</p>

	8. Refused to identify himself upon request.	NOT SUSTAINED
Officer Donahue	<p>It is alleged that on November 6, 2015, at approximately 11:40 pm, during the execution of a search warrant at [REDACTED] Officer Donahue:</p> <p>6. Entered the residence of [REDACTED] [REDACTED] ([REDACTED]) without a warrant or permission;</p> <p>7. Pushed [REDACTED] onto a sofa;</p> <p>8. Grabbed [REDACTED] by his arm;</p> <p>9. Threw [REDACTED] onto the floor; and</p> <p>10. Refused to identify himself upon request.</p>	<p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>UNFOUNDED</p>
Officer Carrasco	<p>It is alleged that on November 6, 2015, during the arrest of [REDACTED] at [REDACTED] Officer Carrasco:</p> <p>3. Pointed a large weapon (rifle) at [REDACTED] and</p> <p>4. Said to [REDACTED] "Bitch, step back."</p>	<p>NOT SUSTAINED</p> <p>NOT SUSTAINED</p>

Approved:

[REDACTED]

Andrea Kersten
Chief Administrator

Date: December 30, 2019

Appendix A

Assigned Investigative Staff

Squad#:	4
Investigator:	Tamer Abouzeid
Supervising Investigator:	James Murphy-Aguilú
Deputy Chief Administrator:	Andrea Kersten