

## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	April 25, 2018
Time of Incident:	12:50a.m./ 1:20a.m./ 3:21 a.m.
Location of Incident:	██ / 7531 South State Street
Date of COPA Notification:	May 16, 2019
Time of COPA Notification:	7:32 a.m.

On April 25, 2018, Sergeant (Sgt.) Kevin Stephans and his partner Officer Adrien Franklin (the “responding officers”) responded to a call regarding a domestic incident between ██████████ (“Mr. ██████████ and his girlfriend ██████████”). Upon arrival at the scene, the responding officers spoke to Ms. ██████████ and followed her into Mr. ██████████ apartment building. After Ms. ██████████ convinced Mr. ██████████ to open his apartment door, Sgt. Stephans, without identifying himself as a police officer, entered Mr. ██████████ apartment. Mr. ██████████ responded by striking Sgt. Stephans about the head with a glass mug. Once Mr. ██████████ realized Sgt. Stephans was a police officer, he stopped his attack and retreated into his apartment, locking the door. Sgt. Stephans called for assistance and several police units responded, including Sgt. Cornelius Brown and Sgt. Anton White. Sgts. Brown and White forced entry through Mr. ██████████ front door and, along with several police officers, searched the apartment for Mr. ██████████ who had already fled through the rear door.

Ms. ██████████ cooperated with police officers and told them Mr. ██████████ was on his way to his mother, ██████████ apartment. Several officers relocated to Ms. ██████████ apartment. Officer Victor Guebara, concealing his identity as a police officer, attempted to gain entrance into the apartment. Eventually, Mr. ██████████ brother, ██████████ opened the door. Officer Dimar Vasquez pointed his rifle at ██████████ as Officer Guebara moved into the apartment, followed by additional officers. Officer Guebara and Officer Jose Rivera searched the apartment but did not find Mr. ██████████. Officers Guebara and Vasquez gathered information about Mr. ██████████ from the residents before leaving the apartment.

Ms. ██████████ then related to officers the location where she believed Mr. ██████████ was hiding. Several units established a perimeter to surveil the area and they eventually identified and arrested Mr. ██████████. Mr. ██████████ did not allege any police misconduct during his arrest; however, body worn camera (BWC) video captured an unidentified officer state, “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance.”

Following an investigation, the Civilian Office of Police Accountability (COPA) has determined the involved Department members engaged in various acts of misconduct and sustained allegations for each member.

**II. INVOLVED PARTIES**

Involved Sergeant #1:	Kevin Stephans, <sup>1</sup> Star #911, Employee ID # [REDACTED], Date of Appointment: October 29, 2001, Sergeant, Unit 015/714, DOB: [REDACTED], 1971, Male, Black
Involved Sergeant #2:	Anton White, Star #1040, Employee ID # [REDACTED], Date of Appointment: February 17, 1998, Sergeant, Unit 620, DOB: [REDACTED], 1972, Male, Black
Involved Sergeant #3:	Cornelius Brown, Star # 2235, Employee ID # [REDACTED], Date of Appointment: August 1, 1994, Sergeant, Unit 005/145, DOB: [REDACTED], 1969, Male, Black
Involved Officer #1:	Victor Guebara, Star #17147, Employee ID # [REDACTED], Date of Appointment: February 18, 2014, PO, Unit 003/376, DOB: [REDACTED], 1981, Male, White Hispanic
Involved Officer #2:	Dimar Vasquez, Star #17910, Employee ID # [REDACTED], Date of Appointment: February 23, 2004, PO, Unit 003/193, DOB: [REDACTED], 1983, Male, White Hispanic
Involved Officer #3:	Jose Rivera, Star #14928, Employee ID # [REDACTED], Date of Appointment: August 31, 2012, PO, Unit 015, DOB: [REDACTED], 1984, Male, White Hispanic
Involved Individual #1:	[REDACTED] III, DOB: [REDACTED], 1991, Male, Black
Involved Individual #2:	[REDACTED] DOB: [REDACTED], 1995, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Sgt. Kevin Stephans	It is alleged by COPA that on or about April 25, 2018, at approximately 12:50 a.m., at or near [REDACTED] [REDACTED] Sergeant Kevin Stephans, star #911, committed misconduct through the following acts or omissions: 1. entering [REDACTED] apartment without justification; and 2. failing to announce his office.	Sustained  Sustained
Sgt. Anton White	It is alleged by [REDACTED] that on or about April 25, 2018, at approximately 12:50 a.m., at or near [REDACTED] [REDACTED] Sgt. White:	

<sup>1</sup> Kevin Stephans was promoted to rank of Sergeant on October 16, 2018, and will be referred to at his current rank for the purposes of this report.

	<p>1. entered [REDACTED] apartment without justification; and</p> <p>2. searched or directed to search [REDACTED] apartment without justification.</p> <p>It is alleged by COPA that on or about April 25, 2018, at approximately 12:50 a.m., at or near [REDACTED] [REDACTED] Sgt. White:</p> <p>3. failed to comply with S03-14 by failing to activate his body worn camera; and</p> <p>4. stated words to the effect of “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance.”</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>
<p>Sgt. Cornelius Brown</p>	<p>It is alleged by [REDACTED] that on or about April 25, 2018, at approximately 12:50 a.m., at or near [REDACTED] [REDACTED] Sgt. Brown:</p> <p>1. entered [REDACTED] apartment without justification; and</p> <p>2. searched or directed to search [REDACTED] apartment without justification.</p> <p>It is alleged by COPA that on or about April 25, 2018 at approximately 12:50 a.m. at or near [REDACTED] Sgt. Brown:</p> <p>3. failed to comply with S03-14 by failing to activate your body worn camera; and</p> <p>4. stated words to the effect of “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance.”</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>
<p>Officer Victor Guebara</p>	<p>It is alleged by COPA that on or about April 25, 2018, at approximately 1:20 a.m., at or near [REDACTED] Officer Guebara:</p> <p>1. failed to announce his office;</p> <p>2. entered [REDACTED] without justification;</p> <p>3. searched [REDACTED] without justification;</p> <p>4. detained [REDACTED] without justification;</p> <p>5. acted unprofessional in stating words to the effect of “mother fucker” and “god damn;”</p> <p>6. stated words to the effect of “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance;” and</p> <p>7. failed to comply with S03-14 by failing to timely activate his body worn camera.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p>

<p>Officer Dimar Vasquez</p>	<p>It is alleged by COPA that on or about April 25, 2018, at approximately 1:20 a.m., at or near [REDACTED] Officer Vasquez:</p> <ol style="list-style-type: none"> <li>1. detained [REDACTED] without justification;</li> <li>2. stated words to the effect of “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance;” and</li> <li>3. failed to comply with S03-14 by failing to activate his body worn camera.</li> </ol> <p>It is alleged by [REDACTED] that on or about April 25, 2018, at approximately 1:20 a.m., at or near [REDACTED] Officer Vasquez:</p> <ol style="list-style-type: none"> <li>4. pointed his rifle at or in the direction of [REDACTED] without justification.</li> </ol>	<p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p> <p>Sustained</p>
<p>Officer Jose Rivera</p>	<p>It is alleged by COPA that on or about April 25, 2018, at approximately 1:20 a.m., at or near [REDACTED] Officer Rivera:</p> <ol style="list-style-type: none"> <li>1. entered [REDACTED] without justification;</li> <li>2. searched [REDACTED] without justification; and</li> <li>3. failed to comply with S03-14 by failing to activate his body worn camera; and</li> <li>4. stated words to the effect of “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance.”</li> </ol>	<p>Sustained</p> <p>Sustained</p> <p>Unfounded</p> <p>Not 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 5: Failure to perform any duty.
4. Rule 6: Disobedience of an order or directive, whether written or oral.
5. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
6. Rule 38: Unlawful or unnecessary use or display of a weapon.

General Orders

1. G02-01: Human Rights and Human Resources (effective October 5, 2017 – present).
2. G03-02: Use of Force (effective October 16, 2017 – February 29, 2020).

3. G03-02-01: Force Options (effective October 16, 2017 – February 29, 2020).

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Special Orders

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1. S03-14: Body Worn Cameras (effective October 17, 2017 – April 30, 2018).
  2. S04-13-09: Investigatory Stop System (effective July 10, 2017 – present).
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Federal Laws

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1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.<sup>2</sup>

## V. INVESTIGATION<sup>3</sup>

*This summary utilized information from several different sources, including interviews, police reports, BWC videos, and radio transmissions.*

### a. Response to Domestic Incident at [REDACTED]

On April 25, 2018, [REDACTED] and his girlfriend, [REDACTED] were drinking at Mr. [REDACTED] apartment.<sup>4</sup> They became engaged in a verbal altercation that escalated, resulting in an injury to Ms. [REDACTED] lip.<sup>5</sup> Ms. [REDACTED] and nearby residents called 911 and reported the incident to the police.<sup>6</sup> Ms. [REDACTED] left Mr. [REDACTED] apartment after telling him she would return with men to harm Mr. [REDACTED].<sup>7</sup>

Officer Franklin and Sgt. Stephans responded to the domestic incident.<sup>8</sup> As they approached the location, Ms. [REDACTED] waved them down outside Mr. [REDACTED] apartment building. Ms. [REDACTED] identified herself as the victim of the domestic incident and stated she wanted Mr. [REDACTED] arrested.<sup>9</sup> Sgt. Stephans explained to Ms. [REDACTED] that he would call for a uniformed police unit to take the domestic report, but he could not enter Mr. [REDACTED] residence unless Mr. [REDACTED] let him inside – he could not force his way into the residence.<sup>10</sup> Ms. [REDACTED] related they could go inside because

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<sup>2</sup> “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

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

<sup>4</sup> Ms. [REDACTED] and Mr. [REDACTED] lived separately. Mr. [REDACTED] resided alone at [REDACTED]. Attachments 5, 65-66.

<sup>5</sup> Attachments 65-66, 101.

<sup>6</sup> The 911 callers provided different addresses: [REDACTED]. The callers also related that Ms. [REDACTED] broke the glass window of the building’s front door. Attachments 5, 12, 14, 16, 19, 20; *see also* Event Query Reports, Attachments 6, 52-55.

<sup>7</sup> Attachments 65-66, 101. Mr. [REDACTED] stated that prior to the officers’ arrival, Ms. [REDACTED] had called him to come outside to fight. When Mr. [REDACTED] walked outside, he observed someone inside a vehicle, but the vehicle drove away as he approached. Attachment 65-66.

<sup>8</sup> Attachments 46, 60, 62-63.

<sup>9</sup> Attachments 46, 62-63, 101.

<sup>10</sup> Attachment 63, page 13, lines 1-5. Later in Sgt. Stephan’s COPA interview, he stated he had permission from Ms. [REDACTED] to enter the residence. He assumed Ms. [REDACTED] lived at the residence because it was a domestic call and Mr. [REDACTED] was her boyfriend, but he admitted he never asked whether it was her residence. Attachment 63, page 21, line 24 – page 24, line 5.

she had already kicked in the building's front door.<sup>11</sup> When Sgt. Stephans and Officer Franklin entered the building, Ms. ██████ was already attempting to gain entry into Mr. ██████ apartment by telling him she was alone and injured.<sup>12</sup> Sgt. Stephans and Officer Franklin remained out of sight, around the corner in the stairwell.<sup>13</sup> Additionally, Sgt. Stephans told Officer Franklin to turn down his radio and motioned for him to get back.<sup>14</sup>

As Mr. ██████ unlocked and opened his front door, Sgt. Stephans walked down the hallway and, without announcing his office, followed Ms. ██████ inside.<sup>15</sup> Officer Franklin walked down the hallway, speeding up as his BWC captured the sounds of a struggle.<sup>16</sup> Mr. ██████ struck Sgt. Stephans with a glass beer mug, pushing him out of the apartment onto the ground in the hallway.<sup>17</sup> Mr. ██████ emerged into the hallway, continuing to strike Sgt. Stephans about the head with the mug until Ms. ██████ yelled "police."<sup>18</sup> At that point, Mr. ██████ looked up in Officer Franklin's direction, noticed his vest, and stopped striking Sgt. Stephans. Mr. ██████ put his hands in the air and yelled he did not know they were police.<sup>19</sup> As Officer Franklin moved towards Mr. ██████ Mr. ██████ fled back into the apartment and locked the front door, successfully preventing Officer Franklin from making entry into the residence.<sup>20</sup>

Sgt. Stephans retreated down the hallway and radioed a "10-1."<sup>21</sup> Officer Franklin followed Ms. ██████ down the stairs to the front door of the building and also radioed for assistance. While the officers waited for backup, Officer Franklin's BWC captured Mr. ██████ yelling through his apartment door that he did not know they were the police.<sup>22</sup> Officer Franklin yelled back that it was over and Mr. ██████ should come out, but Mr. ██████ did not open the front door.<sup>23</sup> An ambulance arrived at the scene and transported Sgt. Stephans to Northwestern Hospital, where he received treatment for a two-inch laceration above his right eye, multiple cuts and bruising to his face, and spinal tenderness.<sup>24</sup>

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<sup>11</sup> Attachments 62-63.

<sup>12</sup> Attachments 29-30, 67-68, 101. The audio from Sgt. Stephans' BWC captures Ms. ██████ talking to Mr. ██████ through his front door. In response to an inaudible question from Mr. ██████ Ms. ██████ states, "No, why would I bring the police?" Att. 29 at 1:42-1:44.

<sup>13</sup> Attachments 29, 30, 65-66, 101.

<sup>14</sup> Attachment 29 at 1:57.

<sup>15</sup> *Id.* at 2:10-2:23; *see also* Attachments 30, 62-63, 65-68, 101. Sgt. Stephans entered Mr. ██████ apartment at approximately 12:50 am. He was not in uniform, his badge was around his neck, and his bullet resistant vest was underneath his clothing. Attachments 62-63, 67-68.

<sup>16</sup> Attachment 30 at 0:55-1:00.

<sup>17</sup> Attachment 29 at 2:20-2:23; Attachment 30 at 00:57-1:02; *see also* Attachments 46, 60, 62, 63, 101. Attachment 46, the Original Case Incident Report, indicates that Officer Franklin heard Sgt. Stephans announce his office when confronting Mr. ██████ however, no other report indicates Sgt. Stephans announced his office. *See, e.g.*, Attachment 60. Because the statement was only in one preliminary report that was written by a third party with multiple layers of hearsay, it is unclear whether this was a false statement or a mistake in recording. Therefore, COPA did not provide an allegation of misconduct related to the statement.

<sup>18</sup> Attachment 30 at 1:02.

<sup>19</sup> *Id.* at 1:02 - 1:10; *see also* Attachments 67-68.

<sup>20</sup> *Id.* at 1:05 - 1:10; *see also* Attachment 46, page 3.

<sup>21</sup> *Id.* "10-1" is a radio code indicating an officer needs emergency assistance.

<sup>22</sup> *Id.* at 3:07-3:23.

<sup>23</sup> *Id.* at 3:23-3:30.

<sup>24</sup> Attachment 46, page 3.

**b. Additional Police Units' Response to [REDACTED]**

When additional units arrived at the scene, approximately eight officers moved into the stairwell and proceeded towards Mr. [REDACTED] apartment. At approximately 12:53 am, officers unsuccessfully attempted to gain entry into Mr. [REDACTED] apartment.<sup>25</sup> Sgts. Brown and White arrived a short time later, and Officer Franklin related Mr. [REDACTED] was inside the apartment.<sup>26</sup> Sgt. Brown and White proceeded down the hallway and attempted to gain entry into Mr. [REDACTED] apartment, yelling for him to open the door. As Sgt. Brown attempted to kick in Mr. [REDACTED] front door, uniformed officers entered the apartment through the back door.<sup>27</sup> Sgt. Brown gained entry at approximately 12:56 am.<sup>28</sup> Sgt. Brown, Sgt. White, and several officers searched Mr. [REDACTED] apartment, but Mr. [REDACTED] was not inside.<sup>29</sup> Ms. [REDACTED] provided officers with Mr. [REDACTED] name and description, which they related over the radio to other officers.<sup>30</sup> An unknown supervisor then reported over the radio they had information Mr. [REDACTED] was on his way to his mother's house.<sup>31</sup> The supervisor instructed that once they obtained an address, covert units should respond and establish a perimeter.<sup>32</sup> Sgt. Brown, however, spoke to Officer Emilio DeLeon in person and told him, "I need an address where his mother's house is. We're fitting to do a home invasion on that bitch."<sup>33</sup>

**c. Entrance at [REDACTED]**

Ms. [REDACTED] told officers Mr. [REDACTED] was possibly on the 67th Street bus, en route to the residence of his mother, [REDACTED].<sup>34</sup> Ms. [REDACTED] rode with Officer Jose Rivera and Officer David Alvarez Jr. to Ms. [REDACTED] residence.<sup>35</sup> At approximately 1:20 am, Officer Rivera arrived outside Ms. [REDACTED] apartment building and related the location to other officers. Officer Rivera instructed Ms. [REDACTED] to wait with other police officers, then approached Ms. [REDACTED] rear apartment door.<sup>36</sup> At approximately 1:21 am, Officer Guebara opened the apparently unlocked front door to the apartment building and proceeded to Ms. [REDACTED] second floor apartment, followed by at least four other officers. Officer DeLeon reported the entry over the radio.<sup>37</sup>

<sup>25</sup> *Id.* at 3:50-4:30.

<sup>26</sup> *Id.* at 6:25-6:40; *see also* Attachments 50-51.

<sup>27</sup> It is unclear whether Mr. [REDACTED] back door was open, or officers forced their way inside. There is no documentary or video evidence showing how the officers entered. Therefore, allegations were brought against the involved sergeants, but not the individual officers.

<sup>28</sup> Attachment 30 at 7:05; *see also* Attachments 84-85, 88-89. There was no BWC video from Sgts. Brown or White related to this incident.

<sup>29</sup> Attachment 46, 50-51, 84-85, 88-89. Officers recovered the mug Mr. [REDACTED] used against Sgt. Stephens as well as several hundred counterfeit DVDs. Attachments 2, 46, 50-51.

<sup>30</sup> Attachment 22; Attachment 50 at 17:32-19:40.

<sup>31</sup> Attachment 22; Attachment 50 at 17:32-19:40. According to officer interviews, police reports, and BWC video, Ms. [REDACTED] provided information about Mr. [REDACTED] and his whereabouts.

<sup>32</sup> Attachments 22, 32. After entering [REDACTED] an officer asked Officer Guebara if he had a covert vehicle. Officer Guebara responded that a covert vehicle was available at the police station, but it would take time to get it. Attachment 39 at 4:40-4:48.

<sup>33</sup> Attachment 33 at 14:26.

<sup>34</sup> COPA scheduled a phone interview with Ms. [REDACTED] for November 20, 2020, but Ms. [REDACTED] did not answer the phone. COPA subsequently made multiple attempts to contact Ms. [REDACTED] using an updated phone number provided by Mr. [REDACTED] with negative results. *See* CMS Notes.

<sup>35</sup> Attachments 32, 73-74, 80, 82.

<sup>36</sup> Attachments 32, 80, 82.

<sup>37</sup> Attachment 38; Attachment 22 at 48:18-49:01.

The officers lined the stairwell behind Officer Guebara as he knocked on Ms. [REDACTED] apartment door. Initially, no one answered the door. Officer Guebara disguised his voice, asking “[REDACTED]” to open the door.<sup>38</sup> A female voice on the other side of the door asked who was knocking on her door and what they wanted. Officer Guebara did not identify himself as a police officer, but continued to disguise his voice, purporting to be a female looking for “[REDACTED],” stating he knows “that motherfucker”<sup>39</sup> is there, “now open the goddamn door.”<sup>40</sup> At that point, [REDACTED] yelled through the door that [Officer Guebara] should stop knocking before he beats his “ass.”<sup>41</sup> Officer Guebara responded by asking [REDACTED] to open the door. As [REDACTED] opened the door, he felt a push backwards, and officers entered the apartment.<sup>42</sup> At this time, someone announced “police,” and the officers proceeded into the residence, demanding [REDACTED] location.<sup>43</sup> [REDACTED] standing in the living room with his hands up in the air, as his grandmother in the hallway, responded with confusion about the situation, relating they had not spoken to [REDACTED] in a while.

At approximately 1:24 am, Officer Guebara opened the back door of the apartment and Officer Rivera entered.<sup>44</sup> Numerous officers walked through the apartment asking for Mr. [REDACTED] whereabouts. Officer Rivera walked down the hallway, toward the bedrooms, and asked if anyone was inside the rooms. Mr. [REDACTED] grandmother related her daughter was inside the closed bedroom door. Officer Rivera knocked on the door, attempted to open the locked door, and related to Officer Guebara, “He’s in here.”<sup>45</sup> Officers Rivera and Guebara yelled multiple times to open the door. Eventually, Ms. [REDACTED] opened the door with her hands up<sup>46</sup> and spoke with the officers.<sup>47</sup>

While Officers Rivera and Guebara searched the apartment, [REDACTED] was escorted into the hallway, where he was detained and questioned about Mr. [REDACTED] whereabouts by Officer Vasquez.<sup>48</sup> At approximately 1:27 am, Officer Guebara exited the apartment and approached Officer Vasquez and [REDACTED] in the hallway. Officer Guebara thanked [REDACTED] for opening the door, apologized for the circumstances, but stated he had to get in some way.<sup>49</sup> Officer Vasquez continued to talk to [REDACTED] about the last time he saw [REDACTED].<sup>50</sup> Officer Guebara went outside and related the information he gathered to other officers, and when he reentered the building, Officer Vasquez was still talking to [REDACTED] in the hallway. When Officer Guebara

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<sup>38</sup> Attachment 38 at 2:45.

<sup>39</sup> *Id.* at 3:38.

<sup>40</sup> *Id.* at 3:41-3:42.

<sup>41</sup> *Id.* at 3:42-3:46.

<sup>42</sup> Attachments 96-97.

<sup>43</sup> Attachment 38 at 3:53-5:00.

<sup>44</sup> Attachment 32 at 36:52-36:55.

<sup>45</sup> *Id.* at 37:40-37:55.

<sup>46</sup> Both Officers Rivera and Guebara had their weapons drawn and pointed at the bedroom door. Attachment 32 at 38:00. Officer Rivera, in his COPA statement, stated his weapon was drawn because there were two people inside the bedroom, including an unknown male whose hands he could not initially see. Once Officer Rivera saw there was nothing in the male’s hands, he holstered his weapon. Attachments 80, 82.

<sup>47</sup> Attachment 32 at 38:10.

<sup>48</sup> Officer De Leon specifically told [REDACTED] he was being detained and was not under arrest. Attachment 38 at 4:33-4:36. Officer Vasquez, however, maintained that [REDACTED] engaged in a consensual conversation with officers, was free to leave, and was not detained.

<sup>49</sup> Attachment 39 at 3:22-3:27.

<sup>50</sup> *Id.* at 3:27.



deactivated his BWC at approximately 1:31 am, he and Officer Vasquez were talking to ██████ in the hallway.<sup>51</sup>

**d. Arrest of ██████ at 7500 South State Street**

Ms. ██████ who was communicating with Mr. ██████ via phone, related to officers that Mr. ██████ was hiding in the area of East 75th Street and South State Street.<sup>52</sup> Several officers then set up a perimeter for surveillance.<sup>53</sup> At approximately 3:38 am, Mr. ██████ fell out of a garbage can where he was hiding.<sup>54</sup> Officers Guebara and Vasquez approached him, followed by several other officers, and they placed Mr. ██████ into custody.<sup>55</sup> As officers put Mr. ██████ into a police vehicle for transport to District 003, BWC audio captured an unknown officer state words to the effect of, “Fuck you. Nigger, fuck you. We gonna fuckin’ kill you when we get a chance.”<sup>56</sup> Mr. ██████ did not allege any officer misconduct during his arrest.<sup>57</sup>

**VI. LEGAL STANDARD**

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

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>58</sup> 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. Clear and convincing can be defined as a “degree of proof, which, considering all the

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<sup>51</sup> *Id.* at 6:24.

<sup>52</sup> Attachments 67-68, 70-71, 73-74, 76-77, 88-89.

<sup>53</sup> Radio transmissions confirm that officers set up surveillance and requested that all marked squad vehicles leave the area. Attachment 26.

<sup>54</sup> Attachment 68, page 8, line 4 - page 9, line 9.

<sup>55</sup> Attachments 42-44, 70-71, 73-74, 76-77, 84-85.

<sup>56</sup> Attachment 44 at 1:45-1:48.

<sup>57</sup> Attachments 67-68.

<sup>58</sup> 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).

evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>59</sup>

## VII. ANALYSIS

### a. Sgt. Stephans entered Mr. █████ apartment without justification.

The Fourth Amendment generally prohibits the warrantless entry into a person’s home, whether to make an arrest or to search for specific objects.<sup>60</sup>

According to both Mr. █████ and Ms. █████ Ms. █████ did not live at Mr. █████ Kenwood Avenue residence. Sgt. Stephans admitted he entered Mr. █████ apartment without Mr. █████ consent, an arrest warrant, or a search warrant. Sgt. Stephans asserted he had permission to enter from Ms. █████ whom he assumed lived at the residence because it was a domestic call. However, Sgt. Stephans stated he never asked Ms. █████ if she lived at the location, and he was aware she broke the front door to enter the apartment building. Additionally, prior to entering the building Sgt. Stephans explained to Ms. █████ that he would need Mr. █████ to let him inside the apartment, as he could not force entry. None of the paperwork completed for this incident states that Ms. █████ lived with Mr. █████ nor is there any indication that Sgt. Stephans or Officer Franklin believed Ms. █████ resided at the location. Additionally, the BWC video from Sgt. Stephans and Officer Franklin shows Sgt. Stephans let Ms. █████ go back inside the building and attempt to gain entrance into Mr. █████ apartment by purporting to be alone, while the officers actively concealed their presence.

The preponderance of the evidence shows that Ms. █████ did not have the authority to give Sgt. Stephans permission to enter Mr. █████ apartment, and it was not reasonable for Sgt. Stephans to believe she had the requisite authority. Additionally, there were no exigent circumstances present that would have allowed Sgt. Stephans to enter Mr. █████ apartment without a warrant. Therefore, COPA finds Allegation #1 against Sgt. Stephans is **sustained** as a violation of Rules 2 and 3.

### b. Sgt. Stephans failed to announce his office.

Department members are required to “identify themselves as police officers prior to taking any police action, unless identification would jeopardize the safety of the member or others or compromise the integrity of the investigation.”<sup>61</sup> Here, it is undisputed that Sgt. Stephans did not announce himself as a police officer during this incident. Sgt. Stephans did not indicate he had any safety concerns with announcing his office, but he claimed there was not enough time for him to announce his office before Mr. █████ hit him over the head with a mug. BWC video shows that in the 30 seconds prior to entering Mr. █████ apartment, Sgt. Stephans: 1) hid down the hall in the stairwell; 2) instructed Officer Franklin to turn down his radio; 3) listened to Ms. █████ tell Mr. █████ she was alone, and more specifically, not with the police; and 4) walked quietly walked into Mr. █████ apartment behind Ms. █████ It is clear from the evidence that Sgt. Stephans had ample

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<sup>59</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶28 (2016).

<sup>60</sup> *Payton v. New York*, 445 U.S. 573, 586 (1980); see General Order G02-01(IV)A.

<sup>61</sup> General Order G03-02-01(II)E, Force Options (effective October 16, 2017 — February 29, 2020).

time and opportunity to announce his office, but he deliberately chose to conceal his presence and identity.

Additionally, Mr. █████ stated Sgt. Stephans was not wearing anything that identified him as the police, and he did not know Sgt. Stephans was a police officer until Ms. █████ yelled “police.” Sgt. Stephans confirmed he was not wearing a traditional police uniform that evening. He wore street clothes with his badge on a chain around his neck,<sup>62</sup> a bullet-resistant vest underneath his clothing, with his firearm, handcuffs and radio visible. Sgt. Stephans was photographed after he received medical treatment, and therefore there is no photograph of how he appeared when he entered Mr. █████ apartment. However, photographs of Sgt. Stephans’ clothing shows he wore a dark colored “CUBS” hooded sweatshirt, a puffer vest, and jeans. It is unreasonable to believe, given the manner Sgt. Stephans entered Mr. █████ apartment, that Mr. █████ would have seen Sgt. Stephans’ badge or recognized him as a police officer.

Based on the above, COPA finds that Sgt. Stephans failed to announce his office. There is no evidence to suggest the investigation would have been compromised, or Sgt. Stephans’ safety would have been jeopardized, had he announced his office. In fact, the evidence suggests Mr. █████ would not have struck Sgt. Stephans had he related he was police. Therefore, COPA finds Allegation #2 against Sgt. Stephans is **sustained** as a violation of Rules 2, 3, 5, and 6.

**c. Sgts. Brown and White entered and searched █████ apartment without justification.**

It is undisputed that Sgt. Brown and Sgt. White entered Mr. █████ apartment without consent and without a warrant. The Fourth Amendment generally prohibits the warrantless entry of a person’s home, whether to make an arrest or to search for specific objects.<sup>63</sup> Exigent circumstances, such as the hot pursuit of a fleeing felon, preventing the destruction of evidence, or preventing a suspect’s escape, may justify a warrantless entry.<sup>64</sup> However, the hot pursuit exception only applies when officers are in “immediate” and continuous” pursuit of a suspect from the scene of a crime.<sup>65</sup> Sgts. Brown and White (the “Sergeants”) asserted there were exigent circumstances justifying their entry into Mr. █████ apartment without consent, an arrest warrant, or a search warrant. They stated that Mr. █████ had injured an officer, he was still inside the apartment, and less than ten minutes had passed between the initial call for assistance and the time they made entry. As shown in Officer Franklin’s BWC video, after Mr. █████ hit Sgt. Stephans about the head with a glass mug, he fled into his apartment, successfully locking the door before Officer Franklin could enter. Officer Franklin did not attempt any further pursuit of Mr. █████ Approximately three minutes after Mr. █████ locked the apartment door, responding officers unsuccessfully attempted to force entry into the apartment, then walked away. Three minutes after the officers’ failed attempt to enter Mr. █████ apartment, Sgt. Brown kicked in Mr. █████ door, and he and Sgt. White entered the apartment, searching for Mr. █████

In this case, while the Sergeants did force entry less than ten minutes after the call for assistance, there was no longer a “hot” pursuit of Mr. █████ Officer Franklin terminated the pursuit

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<sup>62</sup> There was no photograph of Sgt. Stephans’ badge from this incident. Attachment 48.

<sup>63</sup> *Payton v. New York*, 445 U.S. 573, 586 (1980). See G02-01(IV)A.

<sup>64</sup> *Minnesota v. Olson*, 493 U.S. 955, 1000 (1990).

<sup>65</sup> *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984)

after Mr. [REDACTED] locked him out of the apartment, and he made no further attempts to enter. By the time the first responding officers arrived three minutes later, Mr. [REDACTED] had already had ample time to make good his escape and destroy the evidence of his alleged crime, a glass mug. Therefore, COPA finds the preponderance of the evidence shows that the Sergeants entered and searched Mr. [REDACTED] apartment without consent, a warrant, or exigent circumstances. For all these reasons, Allegations #1 and 2 against Sgt. Brown and Sgt. White are **sustained** as violations of Rules 2 and 3.

**d. Officer Guebara failed to announce his office and acted unprofessionally in stating words to the effect of “mother fucker” and “god damn.”**

As discussed above, Department policy requires members to “identify themselves as police officers prior to taking any police action, unless identification would jeopardize the safety of the member or others or compromise the integrity of the investigation.”<sup>66</sup> Officer Guebara admitted that when he approached the apartment door at [REDACTED] he disguised his voice because he believed Mr. [REDACTED] was inside the residence and would not open the door if he knew it was the police. Officer Guebara stated he was not trained to disguise his voice or act in this manner; he was “thinking outside the box”<sup>67</sup> because of the violent nature of the incident and the information provided by Ms. [REDACTED]. Officer Guebara asserted he announced his office after the apartment door was open, but he admitted he was trained to announce his office before a door is opened.

Officer De Leon’s BWC captured Officer Guebara disguising his voice, pretending to be a female civilian, and using words to the effect of “mother fucker and “god damn” while trying to gain entrance to the apartment. The video also captured voices from inside the apartment asking what Officer Guebara wanted, and without opening the door, instructing him to stop knocking. Finally, Officer Guebara’s BWC showed he later apologized to [REDACTED] for the circumstances under which he entered the apartment, stating he had to get in some way. The evidence is clear Officer Guebara failed to announce his office and acted unprofessionally when he stated words to the effect of “mother fucker” and “god damn.” Therefore, COPA finds Allegation #1 is **sustained** as a violations of Rules 2, 3, 5, and 6, and Allegation #5 is **sustained** as a violation of Rules 2, 3, and 8.

**e. Officer Vasquez pointed his rifle at or in the direction of [REDACTED] without justification.**

Department policy requires that an officer’s “use of a firearm must be objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by a subject.”<sup>68</sup> Additionally, Rule 38 prohibits the unlawful or unnecessary use or display of a weapon by an officer. Here, it is undisputed that Officer Vasquez pointed his rifle at [REDACTED] as he entered the apartment at [REDACTED]. Therefore, the only issue is whether [REDACTED] posed an imminent threat or resisted officers to a level that allowed Officer Vasquez, under Department policy, to point his rifle at him.

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<sup>66</sup> General Order G03-02-01(II)E.

<sup>67</sup> Attachment 77, page 19, lines 10-11.

<sup>68</sup> General Order G03-02-03(III)C, Firearms Discharge Incidents Involving Sworn Members (effective October 26, 2017 – February 29, 2020).

Officer Vasquez explained he pointed his rifle at [REDACTED] because he believed [REDACTED] to be violent without provocation. As a result, when [REDACTED] a black male, answered the door saying, “What the hell?,” Officer Vasquez pointed his rifle at him until he determined there was nothing in [REDACTED] hands. Officer Vasquez did not indicate [REDACTED] took any actions that posed an imminent threat to officer safety or resisted officers in any way. Instead, the evidence shows that [REDACTED] encountered incessant knocking on his door at approximately 1:20 am. The knocking continued even after [REDACTED] told the person to stop, and he opened the door demanding an explanation.

The preponderance of the evidence shows that Officer Vasquez used his knowledge of prior encounter between a different officer and [REDACTED] to justify pointing a rifle at [REDACTED] an unknown black male whose only action was to answer his apartment door in the middle of the night to an unknown and uninvited person. Therefore, under the totality of the circumstances, COPA finds it was unreasonable, unnecessary, and disproportionate for Officer Vasquez to point his rifle at [REDACTED]. For all these reasons, Allegation #4 is **sustained** as a violation of Rules 2, 3, 6, and 38.

**f. Officer Guebara entered and searched [REDACTED] without justification.**

The Fourth Amendment generally prohibits the warrantless entry of a person’s home, whether to make an arrest or to search for specific objects.<sup>69</sup> Exigent circumstances, such as the hot pursuit of a fleeing felon, preventing the destruction of evidence, or preventing a suspect’s escape, may justify a warrantless entry.<sup>70</sup> Here, it is undisputed that Officer Guebara did not have a search warrant to enter the residence. Additionally, [REDACTED] maintained he did not consent to Officer Guebara, or any other officers, entering the apartment and searching for [REDACTED]. Officer Guebara told COPA he did not recall whether [REDACTED] provided consent; he just went inside because he believed [REDACTED] was inside. Once Officer Guebara entered the apartment, he stated he spoke to [REDACTED] and his grandmother about [REDACTED] whereabouts. Officer Guebara denied that he entered and searched the residence without justification.

Neither Officer Guebara nor Officer Vasquez had their BWCs activated at the time Officer Guebara entered the apartment; therefore, there is no video evidence showing whether [REDACTED] provided consent. However, it is unlikely [REDACTED] could provide voluntary consent considering Officer Vasquez had a rifle pointed at him. Additionally, after Officer Guebara entered the apartment, there is no evidence he asked for or received permission to remain inside and search. To the contrary, the available BWC shows that Officer Rivera attempted to kick in a bedroom door until Ms. [REDACTED] eventually opened the door. The video captured Officer Guebara asking about [REDACTED] whereabouts while he searched behind a door and inside a closet in one of the bedrooms. Finally, Officer Guebara went inside Ms. [REDACTED] bedroom and talked to her about [REDACTED]. At no time did Officer Guebara ask Ms. [REDACTED] for consent to be in the apartment or to search the apartment. At no time did Ms. [REDACTED] provide Officer Guebara with consent to be in the apartment or search the apartment.

<sup>69</sup> *Payton v. New York*, 445 U.S. 573, 586 (1980). See G02-01(IV)A.

<sup>70</sup> *Minnesota v. Olson*, 493 U.S. 955, 1000 (1990).

Based on the foregoing, the preponderance of the evidence shows that Officer Guebara entered and searched the residence without consent, without a warrant, and without an applicable exception to the warrant requirement. Therefore, COPA finds that Officer Guebara entered and searched ██████████ in violation of Department policy and the law, and Allegations #2 and #3 are **sustained** as violations of Rules 2 and 3.

**g. Officer Rivera entered and searched ██████████ without justification.**

As discussed above, Officer Rivera was required to have consent, a search warrant, or an exception to the warrant requirement to enter and search the residence at ██████████. Officer Rivera admitted he entered and searched the residence, looking for ██████████. Officer Rivera asserted he was able to enter and search the residence because someone let him inside, the residents were cooperating, and no one asked him to leave. However, Officer Rivera's BWC shows that Officer Guebara, not a resident, opened the rear door of the residence and let Officer Rivera inside. Officer Rivera then looked around the apartment and attempted to kick in a locked bedroom door until Ms. ██████████ who was presumably sleeping inside the bedroom, opened the door.

The preponderance of the evidence shows that no officers received consent to enter and search the residence, Officer Guebara entered and searched the residence in violation of Department policy and the law, and Officer Rivera erroneously relied on Officer Guebara as authority to enter and search. Therefore, COPA finds that Officer Rivera violated Department policy and the law when he entered and searched ██████████. Thus, Allegations #1 and #2 against Officer Rivera are **sustained** as violations of Rules 2 and 3.

**h. Officer Guebara and Officer Vasquez detained ██████████ without justification.**

Department members are permitted to detain a person when there is reasonable articulable suspicion<sup>71</sup> the person is about to commit, is committing, or has committed a criminal offense.<sup>72</sup> The Fourth Amendment protects against unreasonable seizures, and whether an encounter is a seizure is determined using the totality of the circumstances. The Supreme Court has held that, in situations where a person is in a confined space where they would choose to remain if not for police presence, "the appropriate inquiry is whether a reasonable person would feel free to decline the officers' requests or otherwise terminate the encounter."<sup>73</sup> Additionally, the Court acknowledged two significant factors in the analysis are the time and place of the encounter.<sup>74</sup>

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<sup>71</sup> Reasonable Articulable Suspicion "is less than probable cause but more substantial than a hunch or general suspicion. Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member's training and experience." Special Order S04-13-09 (II)C, Investigatory Stop System (effective July 10, 2017 – present).

<sup>72</sup> Special Order S04-13-09 (II)A.

<sup>73</sup> *Florida v. Bostick*, 501 U.S. 429, 436-37 (1991), citing *Michigan v. Chesternut*, 486 U.S. 567, 576 (1988) (seizure occurred if "respondent could reasonably have believed that he was not free to disregard the police presence and go about his business").

<sup>74</sup> *See id.*

According to [REDACTED] he did not feel he was free to leave or stop speaking with the officers.<sup>75</sup> Neither Officer Vasquez nor Officer Guebara asserted they had reasonable articulable suspicion to believe [REDACTED] was about to commit, was committing, or had committed a criminal offense. The officers described the situation as consensual because [REDACTED] was free to leave at any time, although Officer Guebara admitted he was not sure where [REDACTED] could go since the officers were inside his residence.

In this situation, officers knocked on [REDACTED] door at approximately 1:20 am, when the officers did not know who was inside and had no evidence the residents were doing anything but sleeping. Officer Guebara continued to use prohibited techniques to enter the residence, even after [REDACTED] yelled, through the door, for him to stop knocking. Then, when [REDACTED] opened the door, Officer Guebara said “police,” and Officer Vasquez pointed a rifle at him. [REDACTED] responded by placing his hands in the air and moving back into the apartment. Finally, after Officers Vasquez and Guebara searched the residence and did not find [REDACTED] they continued to question [REDACTED] about his brother’s whereabouts. Based on the foregoing, [REDACTED] clearly did not feel he could terminate the encounter. Therefore, COPA finds the officers detained [REDACTED] without justification, and Allegation #1 against Officer Vasquez and Allegation #4 against Officer Guebara are **sustained** as violations of Rules 2, 3, and 6.

**i. Sgt. Brown and Sgt. White failed to activate their BWCs.**

Department policy provides that members will activate their BWCs at the beginning of an incident and record the entire incident for all law-enforcement-related activities, which include calls for service, arrests, and searches.<sup>76</sup> Sgt. White admitted he was assigned a BWC on the date of incident but did not recall whether he activated it for this incident. Sgt. Brown told COPA he did not recall whether he had a BWC on the date of incident but admitted he would have been assigned a BWC the same time as his unit. Records show Sgt. Brown and Sgt. White did not have any BWC recordings from the date of this incident, but both sergeants have recordings from the month of April 2018. Additionally, it is undisputed that Sgts. Brown and White engaged in law enforcement activity when they responded to a call for officer assistance at [REDACTED]

COPA finds the preponderance of the evidence shows that Sgt. Brown and Sgt. White were assigned BWCs on the date of incident, and they failed to activate their BWCs for this incident. Therefore, Allegation #3 against both sergeants is **sustained** as a violation of Rule 6.

**j. Officer Vasquez failed to activate his BWC at [REDACTED] and 7500 S State Street.**

Officer Vasquez told COPA he activated his BWC when he responded to [REDACTED] and deactivated his BWC when he was inside his vehicle driving toward Mr. [REDACTED] alleged location. At [REDACTED] Officer Vasquez acknowledged his BWC was not activated and attributed the failure to human error. Officer Vasquez’s BWC corroborates his account. The evidence shows that Officer Vasquez engaged in law enforcement activities at [REDACTED] and 7500 South State Street. He was required to

<sup>75</sup> In fact, BWC video captured Officer DeLeon specifically telling [REDACTED] he was being detained, but was not under arrest. See Attachment 38 at 4:33-4:36.

<sup>76</sup> Special Order S03-14 (III)(A)(2), Body Worn Cameras (effective October 17, 2017 – April 30, 2018).

activate his BWC at all three locations; however, he only activated his BWC at the Kenwood location. Therefore, COPA finds that Officer Vasquez failed to activate his BWC in accordance with Special Order S03-14, and Allegation #3 is **sustained** as a violation of Rule 6.

**k. Officer Guebara failed to comply with S03-14 by failing to timely activate your body worn camera.**

As discussed above, Officer Guebara engaged in law enforcement activities at [REDACTED] and 7500 South State Street, and he was required to activate his BWC at all three locations. Officer Guebara did not recall when he activated his BWC but admitted he should have activated it prior to entering both residences. Additionally, Officer Guebara admitted he did not activate his BWC at the 7500 South State Street location, noting he removed his vest prior to placing Mr. [REDACTED] into custody, and his BWC was attached to his vest. The evidence shows Officer Guebara did not activate his BWC at [REDACTED] or 7500 South State Street, and he activated his camera at [REDACTED] only after he entered the apartment and engaged in conversation with the residents. Based on the foregoing, COPA finds that Officer Guebara failed to activate his BWC in accordance with Special Order S03-14, and Allegation #7 is **sustained** as a violation of Rule 6.

**l. Officer Rivera activated his BWC when he engaged in law enforcement activity during this incident.**

Officer Rivera denied the BWC allegation against him, pointing out that he activated his camera before he arrived at [REDACTED] and did not deactivate it until after he left [REDACTED]. Officer Rivera told COPA he did not believe he needed to activate his BWC at the 7500 South State Street location. He explained that while he was part of the surveillance perimeter, he did not assist in the physical arrest of Mr. [REDACTED] and the incident was over by the time he arrived. Officer Rivera's BWC confirms that he recorded the entire incident until he left [REDACTED] and the evidence supports his assertion that he was not involved in the physical arrest of Mr. [REDACTED]. Therefore, COPA finds Allegation #3 against Officer Rivera is **unfounded**.

**m. COPA lacks sufficient evidence to determine which Department member stated words to the effect of, "Fuck you. Nigger, fuck you. We gonna fuckin' kill you when we get a chance."**

Department members are required to "treat all persons with the courtesy and dignity which is inherently due every person as a human being...and maintain a courteous, professional attitude in all contacts with the public."<sup>77</sup> Officer Alvarez's BWC shows that after Mr. [REDACTED] was placed into custody, an officer standing outside the frame of the camera told Mr. [REDACTED] "Fuck you. Nigger, fuck you. We gonna fuckin' kill you when we get a chance."<sup>78</sup> There is limited video evidence because numerous officers, many unknown, did not activate their BWCs. All of the Department members COPA interviewed denied using this language, denied hearing any other Department member use

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<sup>77</sup> General Order G02-01(III)(B), Human Rights and Human Resources (effective October 5, 2017 – present); *see* General Order G02-04(II)C, Prohibition Regarding Racial Profiling and Other Bias Based Policing (effective December 1, 2017 – present).

<sup>78</sup> Attachment 44 at 1:44-1:49.



this language, and denied recognizing the voice from the video. There were no independent witnesses who could identify the Department member, and Mr. ██████ did not identify the Department member. Unfortunately, COPA lacks sufficient evidence to determine, by a preponderance of the evidence, which Department member made the statement. Additionally, there is insufficient evidence to determine, by clear and convincing evidence, that each of the accused members did not make the inappropriate statement. Therefore, Allegation #2 against Officer Vasquez, Allegation #6 against Officer Guebara, and Allegation #4 against Sgt. Brown, Sgt. White, and Officer Rivera are all **not sustained**.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS<sup>79</sup>

### a. Sergeant Kevin Stephans

In considering disciplinary recommendations for sustained findings, COPA reviewed Sgt. Stephan's complimentary and disciplinary histories.<sup>80</sup> Sgt. Stephans has no sustained complaints and one SPAR, which he received for a preventable traffic accident in February 2021. Sgt. Stephans was not disciplined as a result of that incident. He has received a total of 120 awards while employed by the Department.

COPA has found that Sgt. Stephans violated Rules 2, 3, 5, and 6 by failing to announce his office and entering ██████ apartment without justification. COPA notes there are substantial aggravating factors in determining the appropriate discipline for Sgt. Stephans, most notably his deception in gaining entrance to Mr. ██████ apartment. Sgt. Stephans admitted he knew Ms. ██████ had broken the building's front door, she had no ownership or rental rights in Mr. ██████ apartment, and he could not enter the apartment without Mr. ██████ permission. Despite this, Sgt. Stephans entered Mr. ██████ apartment without announcing his office, thereby preventing Mr. ██████ from identifying him as a Department member. Sgt. Stephan's actions set in motion the chain of events that led to the unlawful entry and search of two residences, as well as the unjustified detention of ██████ Ms. ██████ Mr. ██████ grandmother, and an unknown male. Sgt. Stephans' disregard for Department policy caused unnecessary trauma to innocent civilians and perpetuated their mistrust of the Department. For these reasons, COPA recommends a penalty range for Sgt. Stephans of a **180-day suspension up to and including separation** from the Department.

### b. Sergeant Cornelius Brown

In considering disciplinary recommendations for sustained findings, COPA reviewed Sgt. Brown's complimentary and disciplinary histories.<sup>81</sup> Sgt. Brown has two sustained complaints in the past five years: a June 2020 complaint for conduct unbecoming, and a July 2018 complaint for failure to follow inventory procedures. Sgt. Brown received written reprimands as a result of both incidents. He has received a total of 118 awards while employed by the Department.

COPA has found that Sgt. Brown violated Rules 2, 3, and 6 by entering and searching ██████ apartment without justification, and by failing to activate his BWC. COPA notes

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<sup>79</sup> When determining disciplinary recommendations for all the accused Department members, COPA considered that the members responded to a situation where they knew Sgt. Stephans had been injured, but they did not know the circumstances of how he was injured or his condition for some time.

<sup>80</sup> Attachment 102.

<sup>81</sup> Attachment 103.

there are substantial aggravating factors in determining the appropriate discipline for Sgt. Brown, including the sergeant's disregard for his duty to protect the rights of civilians by illegitimately gaining entrance into Mr. [REDACTED] apartment and instructing officers to do the same. Without assessing the situation, Sgt. Brown broke down Mr. [REDACTED] door. Then, based on inaccurate and incomplete information, he escalated the situation by instructing his subordinates to conduct a home invasion on the residence of Ms. [REDACTED] an innocent civilian. Sgt. Brown's behavior was egregious on its own, but it was particularly inexcusable when contrasted with another supervisor's simultaneous instruction to conduct covert surveillance and confirm Mr. [REDACTED] presence prior to approaching Ms. [REDACTED] residence. While it is fortunate that Sgt. Brown did not respond to Ms. [REDACTED] home and there is no evidence his instruction was provided to Officer Guebara, that does not negate the fact that Sgt. Brown's actions violated Mr. [REDACTED] rights and brought discredit to the Department. Additionally, Sgt. Brown's attempt to violate the rights of Ms. [REDACTED] Mr. [REDACTED] grandmother, and an unknown male perpetuated the community's fear and distrust of the Department. For these reasons, COPA recommends a penalty range for Sgt. Brown of a **180-day suspension up to and including separation** from the Department.

#### c. Sergeant Anton White

In considering disciplinary recommendations for sustained findings, COPA reviewed Sgt. White's complimentary and disciplinary histories.<sup>82</sup> Sgt. White has one sustained complaint for neglect of duty/conduct unbecoming, for which he received a 3-day suspension in June 2019. He has received a total of 111 awards while employed by the Department.

COPA has found that Sgt. White violated Rules 2, 3, and 6 by entering and searching [REDACTED] apartment without justification, and by failing to activate his BWC. COPA considered Sgt. White's supervisory rank in aggravation, as he is held out as a leader within the Department. Additionally, Sgt. White failed to take basic steps to determine what happened before working with Sgt. Brown to break into Mr. [REDACTED] apartment. While Sgt. White did ensure that Sgt. Stephans received medical care, he failed to protect Mr. [REDACTED] constitutional rights and failed to ensure that his subordinates had accurate information and proper instructions on how to proceed. For these reasons, COPA recommends a penalty range for Sgt. White of a **90-day suspension up to and including a 180-day suspension**.

#### d. Officer Victor Guebara

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Guebara's complimentary and disciplinary histories.<sup>83</sup> Officer Guebara has no sustained complaints and one SPAR for a preventable traffic accident in January 2020. Officer Guebara received a written reprimand as a result of that incident. He has received a total of 58 awards.

COPA has found that Officer Guebara violated Rules 2, 3, 5, 6, and 8 by failing to announce his office, entering and searching [REDACTED] without justification, detaining [REDACTED] without justification, using profanities, and failing to activate his BWC. COPA notes there are substantial aggravating factors in determining the appropriate discipline for Officer Guebara, most notably his deception in forcing [REDACTED] to open the apartment door. To his credit, Officer

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<sup>82</sup> Attachment 104.

<sup>83</sup> Attachment 105.

Guebara took full responsibility for his deceptive tactics, acknowledging he was not trained or instructed to impersonate a civilian, in a borderline racist tone, in order to access a residence at a time most residents would be asleep. However, Officer Guebara's radical tactics caused multiple officers to unlawfully enter the residence, resulting in unnecessary trauma to four innocent civilians who were detained without justification. His actions brought discredit to himself and the Department, confirming the community's distrust of the Department. For these reasons, COPA is recommending a penalty range for Officer Guebara of a **180-day suspension up to and including separation** from the Department.

**e. Officer Dimar Vasquez**

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Vasquez's complimentary and disciplinary histories.<sup>84</sup> Officer Vasquez has no sustained disciplinary history in the past five years. He has received a total of 85 awards.

COPA has found that Officer Vasquez violated Rules 2, 3, 6, and 38 by detaining and pointing a rifle at [REDACTED] without justification, and by failing to activate his BWC. COPA notes there are substantial aggravating factors in determining the appropriate discipline for Officer Vasquez, most notably that he pointed a rifle at an innocent man inside his home in the middle of the night. While Officer Vasquez has a right to personal safety when performing his job, he cannot do so at the detriment of innocent civilians he is sworn to protect. Here, Officer Vasquez knew that [REDACTED] was not [REDACTED] residence, [REDACTED] might not be there, the officers did not have a search or arrest warrant, and Officer Guebara used unauthorized deception to gain entrance into the home. For these reasons, COPA recommends a penalty range for Officer Vasquez of a **180-day suspension up to and including separation from the Department**.

**f. Officer Jose Rivera**

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Rivera's complimentary and disciplinary histories.<sup>85</sup> Officer Rivera has no sustained disciplinary history in the past five years. He has received a total of 59 awards.

COPA has found that Officer Rivera violated Rules 2 and 3 by entering and searching [REDACTED] apartment at [REDACTED] without justification. COPA recognizes that Officer Rivera was unaware Officer Guebara had gained entrance without authorization, but Officer Rivera remains culpable for relying on Officer Guebara's actions, which perpetuated the community's distrust of the Department. For these reasons, COPA recommends Officer Rivera receive a **10-day suspension**.

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<sup>84</sup> Attachment 106.

<sup>85</sup> Attachment 107.

Approved:



12/28/2021

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date



12/28/2021

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Andrea Kersten  
*Interim Chief Administrator*

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Date