



Log # 2019-3046

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On August 6, 2019, the Civilian Office of Police Accountability (COPA) received a web complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on August 5, 2019, Sergeant Anthony Bruno, Officers Suzanne Niemoth, Danielle Cusimano and other members of a narcotics investigation team, wrongly raided her home during the execution of a search warrant.<sup>2</sup> Following its investigation, COPA reached sustained findings regarding allegations of the procurement of the search warrant, the way it was executed, and early termination of body-worn cameras.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On August 4, 2019, Officer Cusimano was told by an informant that heroin was being sold from a second-floor apartment at ██████████ in Chicago.<sup>4</sup> With the help of the informant, whom Sergeant Bruno had relied on for information in the past, Officer Cusimano and other members of the team went to the location and identified which apartment it was.<sup>5</sup> The mission team, which included Officer Cusimano and Officer Hegewald, then planned and conducted a controlled buy of narcotics from the location. They met with the informant and waited as s/he made a purchase of suspected heroin from the second-floor apartment. The informant gave a description of the individual the suspected narcotics was purchased from, and a nickname he went by.<sup>6</sup> Officer Niemoth was not part of this operation; however, she was present the following day, August 5, and spoke with Officer Cusimano as well as the informant.<sup>7</sup>

On August 5, 2019, Officer Niemoth went back to the location with the informant who pointed out where s/he had purchased the suspected narcotics and provided Officer Niemoth a

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<sup>1</sup>Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

<sup>2</sup>One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

<sup>3</sup>The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including BWC footage, CPD reports, and officer interviews.

<sup>4</sup>Att. 40, pg. 7 (Complaint for Search Warrant); Att. 47 at 12:30 (PO Cusimano audio interview); and Att. 58, pg. 17 (PO Cusimano transcribed statement).

<sup>5</sup>Att. 47 at 8:45; Att. 49 at 34:00 (Sgt. Bruno audio interview); Att. 56, pg. 22 (PO Niemoth transcribed statement); Att. 57 pgs. 35-36 (Sgt. Bruno transcribed statement).

<sup>6</sup>Att. 58, pgs. 11-17; Att. 60 (Original Case Incident Report RD JC378489), pg. 2.

<sup>7</sup>Att. 56, pgs. 8-11.

description of the suspect known as [REDACTED]”<sup>8</sup> With that information and the assistance of Sergeant Bruno, Officer Niemoth searched CPD databases and found an individual matching that description.<sup>9</sup> A photograph of the identified suspect was shown to the informant, who confirmed that it was the person s/he had purchased heroin from.<sup>10</sup> The informant also gave a description of the inside of the apartment to Officer Niemoth with a general layout of the floorplan.<sup>11</sup>

Based on the information obtained from the informant, and with the help of Sergeant Bruno, Officer Niemoth drafted the complaint for search warrant and search warrant.<sup>12</sup> The search warrant named [REDACTED] as the target, and called for a search of the premises of [REDACTED] 2nd Floor South apartment, to seize heroin, paraphernalia used in the weighing, cutting or mixing of illegal drugs, and any money and records detailing illegal drug transactions which have been used in the commission of, or which constitute evidence of the manufacture and/or delivery of heroin.<sup>13</sup> It also called for the seizure of any documents or evidence pertaining to residency.<sup>14</sup>

The complaint for search warrant stated that: Officer Niemoth had been a police officer for more than one year and had participated in numerous narcotics related arrests and search warrants;<sup>15</sup> and on August 4, 2019,<sup>16</sup> Officer Niemoth met with the J. Doe informant who informed her narcotics were being sold by a black male, 55-60 years old at [REDACTED], 2nd Floor South apartment, who went by the nickname [REDACTED]. The complaint also related that J. Doe indicated s/he had gone to that location on August 4, 2019, and purchased suspect heroin from [REDACTED]. J. Doe knew the substance to be heroin because s/he had been a heroin user for over 20 years and was familiar with what heroin looked like and its packaging; and that J. Doe had purchased heroin from [REDACTED] at that location several times over the previous couple of months.<sup>18</sup> The complaint further stated that on August 4, 2019,<sup>19</sup> Officer Niemoth went to the location with J. Doe where the specific building and apartment were pointed out<sup>20</sup>; Officer Niemoth did an ICLEAR search for [REDACTED] and identified [REDACTED] fitting the description and having the same nickname; and a photo of this individual was shown to J. Doe who positively identified him as the person s/he had purchased heroin from on August 4, 2019.<sup>21</sup>

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<sup>8</sup> Att. 56, pgs. 8-11.

<sup>9</sup> Att. 56, pgs. 18-20.

<sup>10</sup> Att. 56, pg. 19.

<sup>11</sup> Att. 56, pg. 11.

<sup>12</sup> Att. 56, pg. 13.

<sup>13</sup> Att. 40, pg. 1.

<sup>14</sup> Att. 40, pg. 1.

<sup>15</sup> Att. 40, pg. 2.

<sup>16</sup> Officer Niemoth, apparently inadvertently, dated the search warrant August 4, 2019, instead of August 5, 2019.

<sup>17</sup> Att. 40, pg. 2.

<sup>18</sup> Att. 40, pg. 2.

<sup>19</sup> See footnote 16.

<sup>20</sup> Att. 40, pg. 2.

<sup>21</sup> Att. 40, pg. 2.

Officer Niemoth understood that Sergeant Bruno had obtained the necessary approval from the lieutenant, and after an assistant state's attorney approved it,<sup>22</sup> Officers Niemoth and Cusimano, along with the J. Doe informant, appeared before the Judge, who questioned J. Doe<sup>23</sup> and found probable cause for the warrant. The complaint for search warrant was signed by Officer Niemoth, the J. Doe Informant, the assistant state's attorney, and the Judge. The lieutenant's signature does not appear on the complaint for search warrant or search warrant.<sup>24</sup>

In the evening of August 5, 2019, Sergeant Bruno and officers from the mission team, including Officers Cusimano and Niemoth, gathered and prepared to execute the search warrant. Upon arriving at the location, members of the mission team broke the glass of the common outer door of ██████████, and proceeded inside the apartment building and up the common stairwell.<sup>25</sup> Once outside apartment 2S, Officer Brendan Mulligan knocked three times on the door, announced "Chicago Police," knocked three more times, and again "announced "Chicago Police, search warrant."<sup>26</sup> Officer Mulligan did not wait for a response after he banged on the door, and five seconds after his first knock, he kicked the door in.<sup>27</sup> Once inside the apartment, Officer Cusimano directed the occupants into the living room while the rest of the team began their search of the apartment. The occupants were ██████████ her adult children, ██████████ and ██████████ and her 11-week-old infant daughter; ██████████ was not present.

After approximately three minutes inside the apartment, Officer Cusimano asked Sergeant Bruno whether they should give the order to turn their body-worn cameras (BWC) off.<sup>28</sup> Sergeant Bruno confirmed that they should, and Officer Cusimano directed the team of officers to terminate their cameras.<sup>29</sup> All officers present terminated their BWC, and the rest of the search was conducted off camera. The officers recovered a small amount of marijuana and some marijuana measuring tools.<sup>30</sup> ██████████ and the other occupants of the apartment said the suspect the police were looking for did not live there, nor did they know who he was.<sup>31</sup> The officers did not find any evidence connecting ██████████ to the apartment.<sup>32</sup>

### III. ALLEGATIONS

#### **Sergeant Anthony Bruno:**

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<sup>22</sup> Att. 56, pgs. 17-18.

<sup>23</sup> Att. 56, pgs. 17-18.

<sup>24</sup> Att. 40, pgs. 1-2.

<sup>25</sup> Att. 19 at 02:43:40 (PO Mulligan BWC).

<sup>26</sup> Atts. 15 (PO Victor BWC) and 19 at 02:44:13 (PO Mulligan BWC).

<sup>27</sup> Atts. 15 and 19 at 02:44:13.

<sup>28</sup> Att. 3 at 02:45:40 (PO Benavides BWC).

<sup>29</sup> Att. 3 at 02:45:40.

<sup>30</sup> Att. 23, pg. 2 (Original Case Incident Report).

<sup>31</sup> Att. 7 (19 C 7506, civil lawsuit complaint).

<sup>32</sup> Att. 56, pg. 37.

1. Failing to ensure subordinates allowed reasonable opportunity for the residents to allow entry before entering the premises in violation of Special Order S04-19.
  - Not Sustained
2. Giving an order for officers to terminate their body-worn cameras in violation of Special Order S03-14.
  - Sustained, Violation of Rules 2, 6 and 10.
3. Failing to ensure the veracity of the Complaint for Search Warrant, Warrant No. [REDACTED] before it was submitted to the Court.
  - Sustained Violation of Rules 3, 5, 10 and 11.
4. Failing to properly supervise search team members in their search warrant preparations.
  - Sustained, Violation of Rules 3, 5, 10 and 11.

**Officer Suzanne Niemoth:**

1. Failing to submit for review the Complaint for Search Warrant and Search Warrant to a unit supervisor the rank of lieutenant or above in violation of Special Order S09-19.
  - Not Sustained
2. Failing to verify and corroborate by independent investigation, the John Doe informant's information contained in the Complaint for Search Warrant before presenting such warrant to the Court, in violation of Special Order S04-19.
  - Not Sustained
3. Documenting False, inaccurate and/or misleading information in the Original Case Incident Report, RD# JC380411 by reporting in the narrative section that officers "proceeded to the front door, knocked and waited a reasonable amount of time before beginning entry."
  - Not Sustained
4. Documenting False, inaccurate and/or misleading information in the Original Case Incident Report, RD# JC380411 by reporting that narcotics property recovered belonged to one [REDACTED]
  - Not Sustained
5. Documenting False, inaccurate and/or misleading information in the Original Case Incident Report, RD# JC380411 by reporting this was a "BWC incident."
  - Not Sustained

**Officer Danielle Cusimano:**

1. Directing officers to terminate their body-worn cameras in violation of Special Order S03-14.
  - Not Sustained, Violation of Rules 2, 3 and 6.

#### IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

██████████ did not sit for an interview with COPA. As such, her credibility cannot be determined. Officers Cusimano and Niemoth were both forthcoming and candid in their statements, even when their responses were less than favorable for themselves, making their statements truthful and reliable. However, Sergeant Bruno was less candid in his statement and took little responsibility as a sergeant. He relied heavily on the fact that the special order for search warrants placed most of the ultimate responsibility on lieutenants to excuse his lack of supervision of his subordinates. He did not take responsibility for the actions of his team, even though one of his team members, Officer Niemoth, was a probationary police officer (PPO). Officer Niemoth recalled that he was directly involved in assisting her in the preliminary investigation, the preparation of the search warrant, securing the lieutenant's approval, and preparing the case report after the fact, while Sgt. Bruno denied or claimed he did not recall any of that.<sup>33</sup>

#### V. ANALYSIS<sup>34</sup>

**a. Allegation 1 against Sergeant Bruno --** Failing to ensure subordinates allowed reasonable opportunity for the residents to allow entry before entering the premises.

CPD Special Order S03-03-06 District Field Sergeants,<sup>35</sup> identifies duties and responsibilities of field sergeants assigned to district law enforcement. Those responsibilities include mentoring, guiding, and directing subordinates, as well as monitoring their behavior, performance, and ensuring they abide by Department policies and procedures. Ultimately, it is the sergeant's responsibility to make sure that those under his supervision are following the guidelines of the Department, which include following applicable laws. These broad responsibilities necessarily include supervising subordinates who are executing search warrants. CPD Special Order S04-19 Search Warrants,<sup>36</sup> governs the execution of search warrants, which outlines the procedures to be followed in obtaining and executing a search warrant, including responsibilities of sergeants and other Department members:

A sworn member of the rank of sergeant or above will perform the functions of the search team supervisor and will:

1. oversee all pre-execution planning requirements.

<sup>33</sup> Att. 56, pgs. 8, 13-15, 17, 25, 36, 38, 44, 49; Att. 57 pp. 19, 20-21, 25-29, 44.

<sup>34</sup> For a definition of COPA's findings and standards of proof, see Appendix B.

<sup>35</sup> Att. 59, S03-03-06, District Field Sergeant's (effective March 3, 2017 to present).

<sup>36</sup> Att. 55, S04-19, Search Warrants (effective September 3, 2015 to January 3, 2020).

2. be present and remain on the scene during the time of execution.
3. oversee all post-execution reporting requirements.

The doctrine of knock and announce is a well-established edict. When executing a search warrant, police officers are required to allow a reasonable amount of time for occupants to allow entry after they knock and announce their presence before they use force to enter.<sup>37</sup> The United States Supreme Court chose not to adopt a bright-line rule, but held that a 15-20 second wait between announcement and entry was reasonable in a drug case with easily disposable evidence.<sup>38</sup> In Illinois, courts have found that a wait of a few seconds is insufficient,<sup>39</sup> but generally uphold waits of 10 seconds,<sup>40</sup> and 15 seconds.<sup>41</sup> However, in People v. Saechao, 129 Ill. 2d 522, 533-534 (1989), the Illinois Supreme Court did find a wait of 5-10 seconds reasonable where the force of the knock caused the unlatched door to open, placing the officers in a vulnerable position.

Here, According to BWC video, when officers arrived at the location, they used a battering ram to break the glass of the outer common door of the apartment building.<sup>42</sup> They did not knock or announce, and it appeared they did not check to see if the door was unlocked first, or if there was an easier way in. The officers proceeded quickly up the stairs and Officer Mulligan thumped on the door of the apartment with his fist, shouted that it was the police, and they had a search warrant.<sup>43</sup> Immediately thereafter, without pausing for a response, Officer Mulligan kicked the door of the apartment in.<sup>44</sup> A total of five seconds elapsed from the first knock to the kicking in of the door. Sgt. Bruno acknowledged that they only waited “a few seconds” after they knocked before they entered, explaining that he thought it was reasonable because there were occupants of the target apartment out on the balcony who could see they were coming.<sup>45</sup>

Here, COPA cannot find by a preponderance of the evidence that that the five seconds between knock and entry was unreasonable amount of time because, as in Saechao, a special circumstance was present here – that the occupants of the target apartment were alerted to the officers’ entering based on their location on the front balcony and when the officers entered it, possibly placing the officers in a vulnerable position had they waited too long to enter. Therefore, COPA finds the **Allegation 1** against Sergeant Bruno is not **sustained**.

***b. Allegation 2 against Sergeant Bruno and Allegation 1 against Officer Cusimano*** – Giving an order for officers to terminate their body-worn cameras.

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<sup>37</sup> Special Order S04-19, Search Warrants, VIII D. 1. a.

<sup>38</sup> United States v. Banks, 540 U.S. 31, 38 (2003).

<sup>39</sup> People v. Riddle, 258 Ill. App. 3d 253 (2<sup>nd</sup> Dist. 1994).

<sup>40</sup> People v. Moser, 356 Ill. App. 3d 900 (2<sup>nd</sup> Dist. 2005), and People v. Kolver, 258 Ill. App. 3d 153 (2<sup>nd</sup> Dist. 1994).

<sup>41</sup> People v. Cobb, 97 Ill. 2d 465 (1983), and People v. Mathes, 69 Ill. App. 3d 275 (3<sup>rd</sup> Dist. 1979).

<sup>42</sup> Att. 19 at 02:43:35.

<sup>43</sup> Atts. 15 and 19 at 02:44:13.

<sup>44</sup> Atts. 15 and 19 at 02:44:13.

<sup>45</sup> Att. 57, pgs. 27-30.

Special Order S03-14, Body Worn Cameras<sup>46</sup> governs body worn camera use and states that BWC should be activated at the beginning of an incident and Department members “will record the entire incident for all law-enforcement-related activities,” including searches of places and buildings.<sup>47</sup> S03-14 further states that BWC will not be deactivated until “the entire incident has been recorded and the member is no longer engaged in a law-enforcement-related activity,” such as “leav[ing] the scene of the incident.”<sup>48</sup>

In this case, about three minutes after the search team entered the apartment, Officer Cusimano asked Sergeant Bruno whether they should terminate their BWC, and Sergeant Bruno told her they should. Officer Cusimano then told the entire team to terminate their BWC, at which point all the officers present deactivate their cameras.<sup>49</sup> In his statement, Sergeant Bruno admitted that he gave the order for the cameras to be terminated stating that his understanding of the BWC requirement at the time was that once the scene was secured, and there was no further threat, the cameras could be terminated.<sup>50</sup> He said he has since been retrained and understands that BWCs are to remain on for the duration of the search, until the officers leave the scene.

Here, because the search had not been completed and their law enforcement activities had not been concluded, the officers BWC should have remained on. Sergeant Bruno should not have instructed Officer Cusimano to direct the team to terminate their cameras. As a result, COPA finds by a preponderance of the evidence that Sergeant Bruno and Officer Cusimano violated Special Order S03-14 and **Allegation 2 is sustained.**

For her part, Officer Cusimano said she was following the direction of Sergeant Bruno in instructing everyone to turn off their cameras, which Sgt. Bruno acknowledged.<sup>51</sup> She also told COPA that at the time she believed that the bodycams should be deactivated to protect the identity of the confidential informant in case information about the CI were to accidentally be revealed during the search or discussions with the residents on camera.<sup>52</sup> Officer Cusimano said she has since understood that the bodycams should remain on for the duration of the search.

CPD Rules of Conduct prohibit a member from disobeying a lawful order or directive, whether written or oral, “of a superior officer or another member of any rank who is relaying the order of a superior.”<sup>53</sup> At the time, turning off BWC prior to the end of the law enforcement activity may have been against CPD policy, but it was not unlawful.<sup>54</sup> As such, Officer Cusimano would

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<sup>46</sup> Att. 61, S03-14, Body Worn Cameras (effective April 30, 2018 to present).

<sup>47</sup> Att. 61, S03-14, III. A. 2 j.

<sup>48</sup> Att. 61, S03-14, III. B. 1. A (2).

<sup>49</sup> Att. 3 at 02:45:40.

<sup>50</sup> Atts. 49 and 57, pg. 33.

<sup>51</sup> Att. 57, pg. 34; Att. 58, pg. 18.

<sup>52</sup> Atts. 47 and 58, pg. 17.

<sup>53</sup> Rules and Regulations of the Chicago Police Department, effective April 15, 2015, V. Rule 6.

<sup>54</sup> See, 720 ILCS 5/33-9 (a)(3) eff. July 1, 2021, criminalizing the failure to knowingly and intentionally comply with the Officer-Worn Body Camera Act with the intent to prevent the apprehension or obstruct the prosecution or defense of any person.

have violated the Rules of conduct had she not complied with the verbal order of her superior officer. Thus, COPA finds **Allegation 1** against Officer Cusimano is **not sustained**.

- c. Allegations 3 and 4 against Sergeant Bruno* – Failing to ensure the veracity of the Complaint for Search Warrant and failing to properly supervise search team members in their search warrant preparations.

As discussed earlier, district field sergeants have broad responsibilities in overseeing the conduct of subordinate officers and ensuring they comply with Department policies. Their role includes mentoring and guiding probationary officers. Specifically, regarding search warrant complaint preparation, S04-19 VI. A. states:

A Department member preparing a Search Warrant will:

1. prepare one original Complaint for Search Warrant and one original Search Warrant.
2. ensure that both the Complaint for Search Warrant and the Search Warrant accurately and specifically describe the person and/or premises to be searched and articles to be seized.
3. present both the Complaint for Search Warrant and Search Warrant to the designated unit supervisor the rank of lieutenant or above for review. (Emphasis in original).

In this case, Officer Niemoth was a probationary officer at the time of the incident and stated in her interview with COPA that she was being specifically overseen and directed by Sergeant Bruno in the search warrant preparations. Officer Niemoth said Sergeant Bruno was standing behind her as she was at the computer filling out the complaint for search warrant and helped her draft it.<sup>55</sup> Officer Niemoth also said it was her understanding that Sergeant Bruno had debriefed Lieutenant Alvarez on the search warrant and the lieutenant had signed off on it. However, Sergeant Bruno denied that he “help[ed] at all with the ... writing of the warrant.”<sup>56</sup> He claimed instead that Officer Cusimano was training Officer Niemoth and he essentially left it to them to complete the search warrant preparations, including the controlled-buy the previous day and confirming that the informant’s information was accurate.

According to Sergeant Bruno, he took a completely hands-off approach. In his statement to COPA, he relied heavily on the fact that Special Order S04-19 states that whoever prepares the search warrant will get approval from a lieutenant. While that is what the Special Order requires, it does not absolve a sergeant from supervising his subordinates to ensure they are complying with Department policies and procedures, especially when there is a probationary officer involved. The inclusion of a probationary officer on their team should have been more reason for Sergeant Bruno to ensure the PPO was being appropriately instructed. The broad responsibilities of a sergeant

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<sup>55</sup> Atts. 48 and 56, pgs. 8, 13-14, 26.

<sup>56</sup> Att. 57, pgs. 19, 20-21.



crucially include guiding and mentoring subordinates to ensure they comply with Department policies. So, whether Sergeant Bruno was directly involved in the preparations or not, he *should* have been.

Officer Niemoth specifically stated that Sergeant Bruno was helping her draft the language of the complaint for search warrant, which included language that the affiant, Officer Niemoth, had been involved in “numerous” search warrant executions. Officer Niemoth herself said she had only officially participated in one other search warrant execution, so this was her second involvement in a search warrant execution.<sup>57</sup> The statement before the Court that she had participated in numerous search warrant executions is highly misleading and ideally Officer Niemoth should not have been the affiant.

For these reasons, COPA finds by a preponderance of the evidence that **Allegation 3** against Sergeant Bruno is **sustained** in that he failed to ensure the accuracy of the complaint for search warrant before it was submitted to the Court. COPA further finds that **Allegation 4** against Sergeant Bruno is **sustained** in that he failed to properly supervise search team members in their search warrant preparations.

**d. Allegations 1-5 against Officer Niemoth** – Search warrant preparations and incident reporting.

As discussed earlier, Special Order S04-19 requires the preparer of a search warrant to submit the complaint and search warrant to a supervisor the rank of lieutenant or above for review. Also, as noted above, Sergeant Bruno was responsible as her direct supervisor, particularly because Niemoth was a probationary officer. Here, Officer Niemoth said she thought Sergeant Bruno had gotten the necessary approvals when he told her, “we’re good to go, that he went to talk to the lieutenant.”<sup>58</sup> As such, COPA finds **Allegation 1** against Officer Niemoth **not sustained**.

As affiant on the Complaint for Search Warrant, Officer Niemoth was responsible for independently verifying the J. Doe informant’s information. In her statement, Officer Niemoth said she was not present the preceding day for the controlled-buy; however, she said she personally spoke to the informant the day the complaint was prepared and went with the informant to the location.<sup>59</sup> Officer Niemoth also said she utilized the CPD databases to search for and identify the subject of the search warrant. Although additional steps could have been taken to investigate and verify the information received from the informant, there was no obvious reason to disbelieve the informant, and the controlled buy was witnessed by other officers. It is also worth noting that Sergeant Bruno said he had used this same informant on many previous occasions, so the informant was known to the mission team and presumably had provided reliable information in the past. The informant was also presented to the Judge for questioning at the time the search warrant was obtained, and the steps taken to investigate the informant’s information was detailed in the

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<sup>57</sup> Atts 48 and 56 pg. 23.

<sup>58</sup> Atts. 48 and 56, pp. 14-15.

<sup>59</sup> Atts. 48 and 56, pp. 11-12.

complaint for search warrant. Based on the foregoing, COPA finds **Allegation 2** against Officer Niemoth is **not sustained**.

In the Original Case Incident Report, Officer Niemoth documented that the officers “knocked and waited a reasonable amount of time” before making entry into the apartment. Officer Niemoth also, as noted above, stated that as she was “typing this up, Sergeant Bruno was ... telling me that’s the type of verbiage to use, ...it seemed reasonable to me at the time considering they had been on the balcony.”<sup>60</sup> As discussed earlier, COPA found that it could not be determined by a preponderance of the evidence that the waiting time was unreasonable. Therefore, COPA finds **Allegation 3** against Officer Niemoth is **not sustained**.

The Original Case Incident Report also documents that the event was recorded on BWC, and that the narcotics property recovered belonged to [REDACTED]. Officer Niemoth admitted that their search did not reveal any evidence of an [REDACTED] living at the residence or that the narcotics property belonged to [REDACTED].<sup>61</sup> However, she also said Sergeant Bruno instructed her to associate the contraband with the target on the reports.<sup>62</sup> As noted above, CPD Rules of Conduct prohibit a member from disobeying a lawful order or directive, whether written or oral, “of a superior officer or another member of any rank who is relaying the order of a superior.”<sup>63</sup> Therefore, COPA finds **Allegation 4** against Officer Niemoth to be **not sustained**.

Although a small portion of the incident was captured on BWC, the vast majority of the incident was not. Officer Niemoth said she thought the required portion of the incident was recorded based on her reliance on a more experienced and a superior officer who was specifically helping her complete the reports.<sup>64</sup> As such, COPA cannot find by a preponderance of the evidence that Officer Niemoth understood that the statement about BWC was inaccurate or misleading. Therefore, COPA finds **Allegation 5** to be **not sustained**.

## VI. DISCIPLINARY RECOMMENDATION

### a. Sergeant Anthony Bruno

#### i. Complimentary and Disciplinary History<sup>65</sup>

Sgt. Bruno has received a total of 220 awards, including 181 honorable mentions, 17 department commendations and three crime reduction awards. He has no sustained disciplinary history in the past five years.

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<sup>60</sup> Att. 56, pg. 32

<sup>61</sup> Att. 56, pgs. 37-39.

<sup>62</sup> Att. 56, pg. 36, 38-39.

<sup>63</sup> Rules and Regulations of the Chicago Police Department, effective April 15, 2015, V. Rule 6.

<sup>64</sup> Att. 56, pgs. 28-29.

<sup>65</sup> Att. 62.

## ii. Recommended Discipline

COPA has found that Sgt. Bruno violated Rules 2, 3, 5, 6, 10, and 11 by failing to supervise subordinates in their search warrant preparations, failing to ensure the search warrant and case report were factually accurate, and ordering early termination of BWC during the search warrant execution.

In mitigation, COPA will consider Sgt. Bruno's complimentary history. In aggravation, COPA will consider that Sergeant Bruno minimized his responsibility although the Rules and Regulations of the Department state that supervisors are responsible for the performance of all subordinates. The Rules further state that supervisors are accountable for leadership, supervision, continued training and setting an example for unit members. Additionally, COPA will consider that Sgt. Bruno attempted to minimize his own involvement in the efforts related to search warrant at issue here, Officer Niemoth, who COPA found to be credible, directly refuted this claim.

Here, Sgt. Bruno acknowledged that his supervisory duties included search warrants, but noted that he "wasn't technically in charge of any of them," he "just went with the help."<sup>66</sup> He explained that a TAC officer or Mission Officer can develop their own information, investigate, and write the warrants themselves, and that they can ask him for his input at any time, but that "[t]here's no sergeant approval needed to write the search warrant."<sup>67</sup> Rather, they need to have a lieutenant sign off on it," and get it signed by the state's attorney and a judge, which can all be done without him even knowing about it.<sup>68</sup> He stated that he "d[id]n't have to be part of the process," he is only required to be there for the briefing, and to make sure they have the man power to serve the warrant.<sup>69</sup>

In this case, Sgt. Bruno said he was aware that the affiant, Officer Niemoth, was a PPO, but felt that her being the affiant was not inappropriate because another experienced officer, Officer Cusimano, walked her through it.<sup>70</sup> He claimed that Officers Cusimano and Niemoth "did the preparation and completed a search warrant, got it signed [by a lieutenant], and [he] looked it over and we decided to execute it on the fifth."<sup>71</sup> He also maintained that he "didn't help at all with the ... writing of the warrant."<sup>72</sup> Sgt. Bruno knew that the John Doe informant that they used was someone he was familiar with, but how they went about getting the Complaint for search warrant was "between the two of them."<sup>73</sup>

However, in her COPA interview, Officer Niemoth – who COPA found to be credible –

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<sup>66</sup> Att. 57, pg. 13.

<sup>67</sup> Att. 57, pgs. 14, 44.

<sup>68</sup> Att. 57, pgs. 15-17.

<sup>69</sup> Att. 57, pg. 15.

<sup>70</sup> Att. 57, pgs. 20, 43-44.

<sup>71</sup> Att. 57, pgs. 19-20.

<sup>72</sup> Att. 57, pg. 20.

<sup>73</sup> Att. 57, pg. 37.

related that Sgt. Bruno was directly involved in this case before, during and after the execution of the search warrant. Officer Niemoth stated: “So Sergeant Bruno showed me -- I was still learning all of the different databases, but he showed me CLEAR, you can search for aliases or names that people go by. And so we found someone that matched the general description that went by Draco, and so that’s how we made the identification.”<sup>74</sup> Sgt. Bruno was “show[ing] me through Data Warehouse at the time.”<sup>75</sup> “Sgt. Bruno was showing me some other databases [Lexis] and looking for addresses [of the target] through there. I’m not terribly familiar with them.”<sup>76</sup> Officer Niemoth also recalled that, at the district, “Sergeant Bruno walked me through how to ... write the search warrant,” he “told me how to structure it and the verbiage use. And he explained the process on how ... you approve it.”<sup>77</sup> “It was explained to me by Sergeant Bruno that in a complaint for a search warrant, you sort of introduce yourself and your experience in this sort of work.”<sup>78</sup> Further, “[i]t was [her] understanding from Sergeant Bruno that yes, the lieutenant was briefed and had approved the warrant. Definitely.”<sup>79</sup> “[Sgt. Bruno] said we’re good to go, that he went to talk to the lieutenant.”<sup>80</sup>

Officer Niemoth also recalled that Sergeant Bruno “walked [her] through” writing the Original Case Incident Report, including “the narrative, the verbiage to use, how to structure it, all of that stuff.”<sup>81</sup> He was “literally standing right behind me as I was typing. I knew how to fill out some of the basics, but I needed help on, you know, what UCR do I use, you know, who -- how do I fill out -- you know, where -- where do I put the target information. So everything -- he just walked me through all of it. And then how to structure the narrative, what to put in there, and how to document everything.”<sup>82</sup> In regards to the reasonableness of the knock and enter, Officer Niemoth said as she was “typing this up, Sergeant Bruno was ... telling me that’s the type of verbiage to use.”<sup>83</sup> She also said Sergeant Bruno walked her through how to associate the contraband with the target on the reports.<sup>84</sup>

Based on the above, COPA finds that Sgt. Bruno was fully involved in all aspects of the search warrant in this case and his claims to the contrary were disingenuous. Moreover, COPA attributes the inaccuracies recorded on the search warrant and the general offense case report – from the exaggeration of Officer Niemoth’s experience with search warrants, to the attributing of the recovered contraband to the target – to him. Not only does COPA consider that, in and of itself, (filing inaccurate police reports) extremely problematic for a supervisory member, it is also problematic in this instance where he was specifically training a new officer, who was unduly

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<sup>74</sup> Att. 56, pgs. 18-19.

<sup>75</sup> Att. 56, pg. 19.

<sup>76</sup> Att. 56 pg. 21.

<sup>77</sup> Att. 56, pg. 13.

<sup>78</sup> Att. 56, pg. 23.

<sup>79</sup> Att. 56, pg. 14.

<sup>80</sup> Att. 56, pgs. 15, 17, 44.

<sup>81</sup> Att. 56, pg. 26.

<sup>82</sup> Att. 56, pg. 27.

<sup>83</sup> Att. 56, pg. 32

<sup>84</sup> Att. 56, pg. 36, 38-39.

influenced by his lack of knowledge, poor judgement, or worse. These indiscretions, along with the early termination of the BWC, do not reflect core values and high standards of the CPD.

As a result, COPA recommends a 60 days suspension.

By minimizing his role as a sergeant, Sergeant Bruno shirked his responsibilities and undermined the values of the Department.

COPA recommends a 10-day suspension.

Approved:



10/16/2023

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*Matthew Haynam*  
*Deputy Chief Administrator – Chief Investigator*

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Date

Appendix A**Case Details**

Date/Time/Location of Incident:	August 5, 2019 / 9:30 pm / 6134 S. Vernon Ave.
Date/Time of COPA Notification:	August 6, 2019 / 8:32 am
Involved Member #1:	Sergeant Anthony Bruno, Star #1123, Employee ID [REDACTED] Date of Appointment: February 25, 2002, 3rd District, white male.
Involved Member #2:	Suzanne Niemoth, Star #17958, Employee ID [REDACTED] Date of Appointment: July 27, 2018, 10th District, white female
Involved Member #3:	Danielle Cusimano, Star #1950, Employee ID [REDACTED] Date of Appointment: May 27, 2014, 3rd District, White Female
Involved Individual #1:	[REDACTED] 41 years old, black female

**Applicable Rules**

- 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 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 10:** Inattention to duty.
- Rule 11:** Incompetency or inefficiency in the performance of duty.
- Rule 14:** Making a false report, written or oral.

**Applicable Policies and Laws**

- Special Order S03-03-06, District Field Sergeants (effective March 3, 2017 – present).
- Special Order S03-14, Body Worn Cameras (effective April 30, 2018 – present).
- Special Order S04-19, Search Warrants (effective September 3, 2015 – January 3, 2020).

## Appendix B

### **Definition of COPA's Findings and Standards of Proof**

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 a proposition is proved.<sup>85</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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.”<sup>86</sup>

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<sup>85</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 is found to be more probably true than not).

<sup>86</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> ed. 2000)).

**Appendix C**

**Transparency and Publication Categories**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation