



Log # 2019-2528

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On July 8, 2019, the Civilian Office of Police Accountability (COPA) received a phone complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on July 2, 2019, CPD officers entered and searched her home without justification following a traffic stop of her grandson, ██████████² These officers included Officer Maria Anaya, Officer Samuel Flores, Officer Joseph Biszewski, Detective (Det.) Zachary Gammonley,³ and Sergeant (Sgt.) Corey Walker.⁴

Following its investigation, COPA reached sustained findings regarding the search of ██████████ home for all accused officers.

II. SUMMARY OF EVIDENCE⁵

On July 2, 2019, at approximately 1:23 pm, Officer Flores, Det. Gammonley, and Officer Biszewski stopped a black Dodge Avenger for a minor traffic infraction.⁶ As officers in a Gang Enforcement Unit, they were not equipped with body-worn cameras (BWCs) in July 2019, and therefore, the initial traffic stop was not captured on BWC video footage.

While speaking with the driver, later identified as ██████████ the officers observed him to be acting nervously.⁷ As ██████████ adjusted his seatbelt, Officer Flores and Det. Gammonley observed a two-tone handgun on the right side of ██████████ waistline.⁸ They asked ██████████ to exit the

¹ 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.

² 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.

³ At the time of this incident, Det. Gammonley was a police officer with the Star #15808. He has since been promoted to Detective, effective June 1, 2023, with the Star # 20490. He will be referred to by his current rank in this report.

⁴ Sgt. Corey Walker has retired from CPD, effective February 16, 2022. *See* Att. 35. He was not interviewed by COPA as part of this investigation, and this investigation will be placed in "close hold" status as to him.

⁵ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body-worn camera (BWC) footage, police reports, court records, civilian interviews, and officer interviews.

⁶ Att. 12.

⁷ Att. 12.

⁸ Att. 12.

vehicle, but [REDACTED] then fled in the vehicle, speeding through several stop signs.⁹ Officers searched the area and observed [REDACTED] vehicle parked in an abandoned lot located at 7950 S Normal, unoccupied with the driver's door ajar.¹⁰ Based on [REDACTED] driver's license, which officers obtained during the initial traffic stop, they relocated to [REDACTED] [REDACTED] the residence specified on [REDACTED] license.¹¹ Upon arriving at the residence, Officer Flores reported that he observed [REDACTED] looking out the front window.¹² At that time, [REDACTED] arrived and told officers that she was the owner of the residence and that she lived there with her grandson, [REDACTED].¹³ [REDACTED] was a convicted felon and was not allowed to be in possession of a firearm, either on his person or in his household, as of July 2019.¹⁴

As Det. Gammonley and Officer Biszewski interacted with [REDACTED] on her front porch and Officer Flores watched the rear of the residence, other officers, who were equipped with BWCs, arrived to assist. Officer Biszewski gave orders for [REDACTED] to come out by shouting for him,¹⁵ and he also asked [REDACTED] where [REDACTED] was and whether he had a gun.¹⁶ [REDACTED] responded, "He's upstairs, he won't come out."¹⁷ When asked if [REDACTED] had a gun, [REDACTED] stated, "I don't know, he's paranoid."¹⁸ [REDACTED] also said, "Nobody's in there but DJ [in reference to [REDACTED] and he's upstairs."¹⁹ [REDACTED] stepped back into the house, and Officer Biszewski told her that he did not want her to get hurt. [REDACTED] asked, "Do you have a search warrant?" and Officer Biszewski answered, "Ma'am, let me in the house. You told me that he's inside. He's a wanted suspect right now."²⁰ [REDACTED] replied, "I didn't let you in. You said you were gonna stand on this side while I check the door. Did I say, 'Come in?' No."²¹ Sgt. Walker then walked past Officer Biszewski and Det. Gammonley and entered the house as [REDACTED] yielded to the officers, walking in front of them. Officer Biszewski followed the sergeant, joined by Officer David Gonzalez and Det. Gammonley. [REDACTED] asked Sgt. Walker, "Y'all can just come in, or whatever you want?" and the sergeant replied, "We don't need no search warrant."²² [REDACTED] asked why, but Sgt. Walker did not reply and continued walking through [REDACTED] living room into the kitchen. As the officers made their way into the kitchen and began communicating with other officers who were watching the rear yard, Sgt. Walker explained to [REDACTED] "Your son [*sic*] crashed his car in the alley. He has a pistol. My officers saw him run . . . with a pistol. We don't need a search warrant. We know he's in here with a pistol. He's a felon with a pistol. It's exigent circumstances."²³ The sergeant then asked [REDACTED]

⁹ Att. 12.

¹⁰ Att. 12.

¹¹ Att. 12.

¹² Att. 12.

¹³ Att. 12.

¹⁴ Att. 12.

¹⁵ Att. 46 at 3:00; Att. 54 at 1:25.

¹⁶ Att. 46 at 4:10.

¹⁷ Att. 46 at 4:10.

¹⁸ Att. 46 at 4:10.

¹⁹ Att. 46 at 5:18.

²⁰ Att. 46 at 5:30 to 5:37.

²¹ Att. 46 at 5:35 to 5:42.

²² Att. 46 at 5:52 to 6:03.

²³ Att. 46 at 6:40 to 6:51.

to step out of the way because he did not want her to get hurt. She replied that she did not want her grandson to get hurt. Sgt. Walker then asked ██████ to convince her grandson to surrender so that he didn't get shot. She then shouted, "DJ, you got a gun? These policemen are gonna shoot you if you don't come down here with your hands up. Throw the gun down here."²⁴ Someone then shouted, "He's out!"²⁵

Officer Biszewski, Det. Gammonley, Officer Albert Rangel, Officer David Gonzalez, and Sgt. Walker, exited the residence.²⁶ They ran west on 79th Pl. in apparent pursuit of ██████ and also walked through a series of alleys and yards, but were unable to locate him.²⁷ The officers then returned to ██████ residence and conducted a thorough search.²⁸ Officers walked throughout the home, entering the basement, attic, kitchen, bathroom, bedrooms, and living room. Specifically, Officer Anaya and Det. Gammonley entered ██████ bedroom in the basement, where Det. Gammonley searched the dresser,²⁹ closet,³⁰ and shoe boxes.³¹ Officer Anaya also rummaged through clear storages boxes on the floor.³² ██████ led the officers through the house, invited them to look in boxes on the basement stairway, and also sat on the bed and observed Det. Gammonley and Officer Anaya search ██████ bedroom.³³ Det. Gammonley and Officer Flores also searched through the dresser of a second bedroom,³⁴ and Officer Biszewski searched the hallway closet in the main entryway of the residence.³⁵

The search led to Officer Flores's discovery of a two-tone handgun with one live round in the chamber inside the kitchen freezer.³⁶ It was confirmed by the officers that firearm was the same weapon they had observed on ██████ waistline during the initial traffic stop.³⁷ ██████ related to the officers that she did not own any firearms, and that the only other person living in the residence was ██████³⁸ Both an investigative alert and an arrest warrant were later issued for ██████ regarding his unlawful possession of the handgun.³⁹

██████ criminal trial took place on March 10, 2023.⁴⁰ Det. Gammonley was the only officer who testified, other than Officer Joseph Serio, a forensic firearm examiner who was not present

²⁴ Att. 46 at 7:14 to 7:26.

²⁵ Att. 46 at 7:49 to 7:52.

²⁶ Att. 42 at 00:16; Att. 54 at 4:00.

²⁷ Att. 12.

²⁸ Att. 54 at 4:30.

²⁹ Att. 54 at 8:04.

³⁰ Att. 54 at 11:14.

³¹ Att. 54 10:45 to 11:38.

³² Att. 54 at 11:03.

³³ Att. 54 at 11:10.

³⁴ Att. 54 at 15:26.

³⁵ Att. 54 at 16:13.

³⁶ Att. 54 at 16:35.

³⁷ Att. 12.

³⁸ Att. 12.

³⁹ Atts. 14, 22, and 24.

⁴⁰ See Att. 64.

during the underlying incident.⁴¹ ██████ did not testify in his own defense.⁴² Following the bench trial, ██████ was found not guilty of armed habitual criminal and unlawful use of a weapon by a felon.⁴³ Det. Gammonley testified consistently with the CPD case report and arrest report, and ██████ found Det. Gammonley's testimony credible,⁴⁴ but ██████ acquitted ██████ because he could not find, beyond a reasonable doubt, that the gun found in ██████ residence was the same gun that Det. Gammonley testified to seeing earlier on ██████ person.⁴⁵

III. ALLEGATIONS

Officer Samuel Flores, Star #17305

1. Making entry into ██████ home, without justification.
 - **Exonerated.**
2. Searching ██████ home without justification.
 - **Sustained.** Violation of Rules 1, 2, 3, 8, and 11.

Det. Zachary Gammonley, Star #20490

1. Making entry into ██████ home, without justification.
 - **Exonerated.**
2. Searching ██████ home, without justification.
 - **Sustained.** Violation of Rules 1, 2, 3, 8, and 11.

Officer Joseph Biszewski, Star #12014

1. Making entry into ██████ home, without justification.
 - **Exonerated.**
2. Searching ██████ home, without justification.
 - **Sustained.** Violation of Rules 1, 2, 3, 8, and 11.

Officer Maria Anaya, Star #9865

1. Making entry into ██████ home, without justification.
 - **Exonerated.**
2. Searching ██████ home, without justification.

⁴¹ Att. 64, pg. 2.

⁴² COPA made numerous efforts to interview ██████ after his criminal case concluded, but ██████ did not agree to an interview. ██████ also told COPA that he had retained an attorney for a potential civil suit regarding his arrest and prosecution, but ██████ did not provide COPA with the attorney's name or contact information despite multiple requests for this information. CMS Notes CO-1336111; CO-1344941; CO-1346725; CO-1346746; CO-1346761; CO-1346793; CO-1347060; CO-1355466; CO-1355467; and CO-1358022.

⁴³ Att. 64, pg. 119.

⁴⁴ Att. 64, pg. 119, lns. 17-18.

⁴⁵ Att. 64, pg. 122, ln. 20, to pg. 123, ln. 6.

- **Sustained.** Violation of Rules 1, 2, 3, 8, and 11.

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question any of the individuals (sworn or unsworn) who provided statements. While the accused CPD members provided accounts of this incident that were consistent with each other and with the available body-worn camera recordings, there were several minor discrepancies in the officers' recollections of the incident, as discussed below. COPA also notes that the available BWC recordings demonstrate that it is highly unlikely that █████ jumped out of the kitchen window while the officers were searching █████ residence, as CPD members were present in the kitchen when someone yelled that █████ was fleeing, and the kitchen window and blinds appeared to be closed and undisturbed. However, Det. Gammonley told the trial court that he did not witness █████ jumping from the window.⁴⁶ The author of the case report that documented █████ jumping from the kitchen window, Officer Flores, told COPA that he did not independently recall most of this incident, beyond what he documented in the report.⁴⁷ Officer Flores also explained that he did not see █████ jump from the window, and that he obtained this information from other officers who were on scene.⁴⁸

V. ANALYSIS⁴⁹

It has first been alleged that Officer Anaya, Officer Biszewski, Officer Flores, and Det. Gammonley entered █████ home without justification. It has also been alleged that

⁴⁶ Att. 64, pg. 81, ln. 23, to pg. 86, ln. 6.

⁴⁷ Att. 70 at 7:15 to 7:30.

⁴⁸ Att. 70 at 11:33 to 11:50. COPA also notes that Officer Flores's report documents that █████ "fled on foot southbound toward 79th St." Att. 12, pg. 3. The BWC footage demonstrates that officers (but not Officer Flores, who was watching the rear yard) were in the kitchen when █████ supposedly jumped from the kitchen window. █████ was not seen on that footage, and the kitchen windows and blinds appeared to be closed and undisturbed. Also, 79th St. is north, not south, of the residence. While this information is incorrect, COPA has found no reason to believe that Officer Flores deliberately falsified these details, and it is apparent from the BWC footage that someone (likely █████) suddenly emerged from the immediate vicinity of the residence and was chased by multiple CPD members. COPA considered bringing Rule 14 allegations against Officer Flores based on the false information in the case report narrative. To sustain an allegation of a violation of Rule 14, COPA would be required to prove by a preponderance of evidence that Officer Flores's narrative was false, that the false narrative was created willfully, and that the narrative was regarding a material issue. Here, the statements in the report narrative documenting that █████ jumped from the kitchen window and that █████ fled southbound are likely false. They are also likely material, at least as to █████ jumping from the kitchen window, because this fact (if true) would place █████ in the same room where the gun was found, aiding the prosecution of the criminal case against █████ for possessing the gun. However, Officer Flores admits that he obtained this information based on statements from other officers, and it is also obvious that some of the false information is the result of a likely mistake regarding cardinal directions. Given the amount of time that has transpired since this incident, COPA is unlikely to be able to determine who told Officer Flores that █████ jumped specifically from the kitchen window, rather than from some other location on or around the █████ residence. Because Officer Flores's false report narrative could be attributed to inattention or mistake rather than willfulness, and because Officer Flores has already told COPA he has little independent recollection of this incident, COPA did not bring a Rule 14 allegation against Officer Flores.

⁴⁹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

Officer Anaya, Officer Biszewski, Officer Flores, and Det. Gammonley searched [REDACTED] home without justification.

The Fourth Amendment prohibits warrantless and nonconsensual entry into a person's home.⁵⁰ A search or seizure inside a home is presumptively unreasonable, but this may be overcome by a showing that voluntary consent to enter was given,⁵¹ and also where there is a showing of both probable cause and exigent circumstances that justify the intrusion.⁵² Regarding consent, people have the right to place explicit limitations on the scope of their consent given to law enforcement officers and also have the right to withdraw that consent once it is given.⁵³ The standard for measuring the scope of someone's consent under the Fourth Amendment is that of "objective reasonableness" — in other words, what a reasonable person would have understood from the exchange between the officer and this person.⁵⁴ Both consent and the withdrawal of consent need not be effectuated through specific words; however, a person's intent to withdraw consent must be demonstrated by unequivocal acts, unequivocal statements, or some combination of both.⁵⁵ Whether apparent consent was in fact "voluntarily given or was in submission to an express or implied assertion of authority, is a question of fact to be determined in the light of all the circumstances."⁵⁶ It has been widely held by courts in Illinois, as well as the United State Supreme Court, that mere acquiescence to police authority is not the same thing as giving consent.⁵⁷ Further, consent cannot be in any way coerced, either by explicit or implicit means or by implied threat or covert force.⁵⁸ This is because no matter how subtly the coercion was applied, the resulting consent "would be no more than a pretext for the unjustified police intrusion against which the Fourth Amendment is directed."⁵⁹

Absent consent, if a warrantless entry into a residence is to be justified, it must be justified on the basis of exigent circumstances.⁶⁰ The exigent-circumstances exception to the warrant requirement provides that a "warrantless entry by criminal law enforcement officials may be legal where there is a compelling need for official action and no time to secure a warrant."⁶¹ There, the appropriate inquiry would be whether the facts, as they appeared at the moment of entry, would

⁵⁰ See *Payton v. New York*, 445 U.S. 573 (1980).

⁵¹ See *Illinois v. Rodriguez*, 497 U.S. 177, 181 (1990).

⁵² See *People v. Dawn*, 2013 IL App (2d) 120025, ¶ 22.

⁵³ See *People v. Prinzing*, 389 Ill. App. 3d 923, 937 (2009).

⁵⁴ See *Florida v. Jimeno*, 500 U.S. 248, 251 (1991).

⁵⁵ See *United States v. Sanders*, 424 F.3d 768, 774 (8th Cir. 2005); see also *United States v. Gray*, 369 F.3d 1024, 1026 (8th Cir. 2004).

⁵⁶ *People v. Michael*, 45 Cal.2d 751, 753 (1955); see also *People v. Terry*, 379 Ill. App. 3d 288, 297 (2008); *People v. Anthony*, 198 Ill. 2d 194, 201 (2001).

⁵⁷ See *Bumper v. North Carolina*, 391 U.S. 543, 548–49 (1968); see also *People v. Anthony*, 198 Ill. 2d 194, 201 (2001); *People v. Hayes*, 2018 IL App (5th) 140223.

⁵⁸ See *Schneckloth v. Bustamonte*, 412 U.S. 218, 228 (1973).

⁵⁹ *Schneckloth*, 412 U.S. at 228.

⁶⁰ See *Payton v. New York*, 445 U.S. 573, 583 (1980); see also *People v. Abney*, 81 Ill.2d 159, 168 (1980); *People v. Eichelberger*, 438 N.E.2d 140, 144 (Ill. 1982); *People v. Foskey*, 136 Ill. 2d 66, 74 (1990); *Sparing v. Village of Olympia Fields*, 266 F.3d 684, 688 (7th Cir. 2001).

⁶¹ *Michigan v. Tyler*, 436 U.S. 499, 509 (1978); see also *United States v. Hughes*, 993 F.2d 1313, 1315 (7th Cir. 1993).

lead a reasonable, experienced officer to believe that evidence might be destroyed before a warrant could be secured,⁶² or that prompt action was needed based on the officer's belief that a suspect was armed and potentially violent.⁶³ Factors considered when making a determination as to whether exigent circumstances exist include: (1) whether the offense was recently committed; (2) whether there was any delay by the officers when a warrant could have been obtained; (3) whether a grave offense is involved; (4) whether the officers reasonably believed the suspect to be armed; (5) whether the officers acted upon a clear showing of probable cause based on the type of reasonably trustworthy information; (6) whether it was likely the suspect would have escaped; (7) whether the officers had a strong reason to believe the suspect was inside the dwelling; and (8) whether the entry was made peaceably.⁶⁴ The guiding principle in determining whether exigent circumstances exist is reasonableness; therefore, each case must be decided based on the totality of the circumstances known to the officers at the time that they acted.⁶⁵

Warrantless searches are additionally per se unreasonable under the Fourth Amendment but are subject to specific exceptions.⁶⁶ These exceptions include probable cause accompanied by exigent circumstances, a search incident to arrest, and a search based on consent.⁶⁷ As touched on above, a warrantless search authorized by consent is additionally recognized to be wholly valid.⁶⁸ Once officers legally enter a residence under exigent circumstances, a subsequent search or seizure must be justified on its own by either a warrant or one of the above exceptions to the warrant requirement.⁶⁹

COPA finds that Officer Anaya, Officer Biszewski, Officer Flores, and Det. Gammonley did not enter ██████████ home without justification. However, the officers were not granted consent by ██████████ to enter the home, as Officer Biszewski, Officer Flores, and Det. Gammonley recalled in their interviews with COPA.⁷⁰ As discussed above, while warrantless entry into a home is presumptively unreasonable per the Fourth Amendment, this may be overcome by a showing that there was voluntary consent to enter.⁷¹ However, mere acquiescence to police authority is not the same thing as voluntarily giving consent.⁷²

⁶² See *United States v. Talkington*, 843 F.2d 1041, 1044 (7th Cir. 1988); see also *United States v. Miller*, 800 F.2d 129, 133 (7th Cir. 1986).

⁶³ See *People v. Abney*, 81 Ill.2d 159, 171 (1980).

⁶⁴ See *Abney*, 81 Ill.2d at 169-72.

⁶⁵ See *People v. Cobb*, 97 Ill.2d 465, 484 (1983).

⁶⁶ See *Mincey v. Arizona*, 437 U.S. 385, 390 (1978).

⁶⁷ See *People v. Harrell*, 226 Ill.App.3d 866, 872 (1992).

⁶⁸ See *Katz v. United States*, 389 U.S. 347, 358 (1967); see also *Vale v. Louisiana*, 399 U.S. 30, 35 (1970); *Davis v. United States*, 328 U.S. 582, 593-594 (1946); *Zap v. United States*, 328 U.S. 624, 630 (1946).

⁶⁹ See *United States v. Kunkler*, 679 F.2d 187 (9th Cir. 1982); see also *United States v. DeSoto*, 885 F.2d 354, 368 (7th Cir. 1989).

⁷⁰ Att. 68 at 7:40; Att. 71 at 8:00; Att. 70 at 14:20.

⁷¹ See *Illinois v. Rodriguez*, 497 U.S. 177, 181 (1990).

⁷² See *Bumper v. North Carolina*, 391 U.S. 543, 548-49 (1968); see also *People v. Anthony*, 198 Ill. 2d 194, 201 (2001); *People v. Hayes*, 2018 IL App (5th) 140223.

Here, while BWC footage shows that ██████ did not explicitly tell the officers that she did not want them to enter her home, nor did she ever attempt to physically prevent them from doing so, it is apparent based on the circumstances that any consent given, whether implied or explicit, would not have been given voluntarily. During this incident, ██████ was standing in her home with the door opened to multiple armed police officers on her porch and front sidewalk, calling for her grandson to come out of the house. ██████ questioned whether the officers had a warrant prior to their entry and told the officers that she did not let them in. When Sgt. Walker entered ██████ residence, she asked, “Y’all can just come in, or whatever you want?” and Sgt. Walker replied, “We don’t need no search warrant,” and he later provided ██████ with a brief explanation of the exigent circumstances he believed existed.⁷³ The fact that ██████ did not explicitly forbid the officers from entering her home, and the fact that she did not attempt to physically resist their entry do not show that she consented. To the contrary, the facts discussed above show that she did not consent, but merely acquiesced to a show of authority. Also, the fact that Sgt. Walker specifically invoked “exigent circumstances” when answering ██████ objections demonstrates that Sgt. Walker, and the officers accompanying him, knew that the entry was not based on ██████ consent.

However, COPA finds by clear and convincing evidence that the officers’ entry into ██████ home was justified based on the exigent circumstances present during the incident: specifically, their hot pursuit of ██████ and the fact that they reasonably believed ██████ was armed and potentially posed a threat to either himself or ██████. Exigent circumstances to excuse a warrantless entry into a residence may exist “where police are in ‘hot pursuit’ of a felony suspect who flees from a public place into his residence,”⁷⁴ as well as in situations in which “the inevitable delay incident to obtaining a warrant must give way to an urgent need for immediate action.”⁷⁵ Here, the officers had reasonable suspicion to believe that ██████ had committed a crime. Reports authored following the incident cite ██████ demeanor and overall nervousness,⁷⁶ the officers’ observation of the handgun on his waistband,⁷⁷ his failure to comply with officers’ commands to exit the vehicle,⁷⁸ and the fact that he fled the scene once officers observed the weapon.⁷⁹ When taken all together, these factors would give a reasonable officer in the same situation rise to believe that a crime was being committed. It was reasonable for the officers to believe that ██████ possessed a firearm illegally. Confirming what was detailed in reports, Det. Gammonley recounted in his interview with COPA that following his observations of ██████ nervous and agitated demeanor during the officers’ initial contact with him, he and Officer Flores observed a firearm on his waistband.⁸⁰ After the officers then relocated to ██████, Officer Flores observed ██████

⁷³ Att. 46 at 5:52 to 6:03.

⁷⁴ *People v. Hunley*, 313 Ill. App. 3d 16, 25 (2000); *see also* *United States v. Santana*, 427 U.S. 38, 43 (1976) (“[A] suspect may not defeat an arrest which has been set in motion in a public place . . . by the expedient of escaping to a private place.”); *People v. Wear*, 229 Ill. 2d 545, 567-68 (2008).

⁷⁵ *United States v. Bugos*, 720 F.2d 1520, 1526 (11th Cir. 1986).

⁷⁶ Att. 12.

⁷⁷ Att. 12.

⁷⁸ Att. 12.

⁷⁹ Att. 12.

⁸⁰ Att. 68 at 6:50 to 8:28. Officer Flores did not recall the initial traffic stop – *See* Att. 70 at 9:30.

inside of the residence.⁸¹ This was confirmed by Officer Flores in his own interview with COPA on January 3, 2024.⁸² Similarly, when asked what the justification was for their warrantless entrance into ██████ home, Officer Biszewski recalled in his interview with COPA on January 5, 2024, that an officer had seen ██████ inside the residence, and additionally that they “believed ██████ was in possession of a firearm illegally, and he obviously fled from the traffic stop.”⁸³ Similarly Det. Gammonley stated to COPA, “We just wanted to place the offender into custody for . . . at the time, we weren’t sure if he had an active FOID card or not, but also for the fleeing and eluding . . . so we were going to try and place him into custody after someone saw him the window of that residence.”⁸⁴ Officer Flores also confirmed this, relating that officers entered the residence because “we had seen this offender, ██████ with a firearm, and I had observed him in the front window of the residence.”⁸⁵

Also, when ██████ first arrived home and spoke with the officers, she told them that she believed ██████ was upstairs, that he would not come out, that she did not know if he had a gun, and that she believed ██████ was paranoid.⁸⁶ Based on this information, and based on their own belief that ██████ had a gun from their observations during the earlier traffic stop, it was also reasonable for the officers to believe that prompt action was required because ██████ was armed and potentially dangerous to himself, to ██████ or to themselves.

In sum, the officers had reasonable suspicion based on the above factors to believe that ██████ was committing a crime before he then fled and was observed inside of his residence, and they also reasonably believed that prompt action was required because ██████ was armed and potentially violent, thus justifying the officers’ entry into ██████ home based on exigent circumstances. The officers’ entry into ██████ home was thus not without justification. For those reasons, COPA finds that **Allegation #1** against **Officer Joseph Biszewski**, **Allegation #1** against **Officer Samuel Flores**, and **Allegation #1** against **Det. Zachary Gammonley** are **Exonerated**.

Similarly, Officer Anaya’s entry into the home was justified under the circumstances. In her statement with COPA on December 29, 2023, when asked what her basis was for entering ██████ home, Officer Anaya related that “there was an offender [inside] with a weapon,”⁸⁷ adding that “the other officers were looking for that particular offender were there, so I was there to assist.”⁸⁸ Officer Anaya, as a responding officer that arrived later as backup and did not observe ██████ in possession of the firearm or ██████ inside the residence, reasonably relied on what was told to her by the other officers when she arrived on scene and later made entry into ██████ home.

⁸¹ Att. 12. *See also* Att. 70 at 11:00; Att. 71 at 8:50.

⁸² Att. 70 at 10:00.

⁸³ Att. 71 at 10:00.

⁸⁴ Att. 68 at 10:28.

⁸⁵ Att. 70 at 11:00.

⁸⁶ Att. 46 at 3:00 to 4:30.

⁸⁷ Att. 69 at 9:45.

⁸⁸ Att. 69 at 14:00.

For those reasons, COPA finds that **Allegation #1** against **Officer Maria Anaya** is also **Exonerated**.

Next, while COPA finds that Officer Anaya, Officer Biszewski, Officer Flores, and Det. Gammonley's entrance into [REDACTED] home was justified, their subsequent search of the residence was not justified.

Portions of the officers' search of [REDACTED] home is depicted on BWC footage, during which they thoroughly search the home and its basement.⁸⁹ It is apparent from the footage that after the officers entered [REDACTED] home, they entered the kitchen, and it then that officers began to yell words to the effect of "he's [seemingly in reference to [REDACTED] out!"⁹⁰ Additionally, officers stated words to the effect of "he's running he's running," again appearing to be referring to [REDACTED]⁹¹ The officers all rushed back out of the home, appearing to be chasing or searching for [REDACTED]⁹² After failing to locate [REDACTED] Officer Anaya, Officer Biszewski, Officer Flores, and Det. Gammonley then returned to [REDACTED] home. This moment is also documented in the narrative section of the case report, which notes that after the officers made entry into the residence, [REDACTED] (offender) jumped from a first-floor kitchen window on the west side of the residence and fled"⁹³ In sum, it was *after* the officers were made aware that [REDACTED] had exited the residence that they began searching [REDACTED] home. They walked throughout the entirety of the residence and its rooms. Officer Anaya and Det. Gammonley entered [REDACTED] bedroom in the basement, where Det. Gammonley searched through the dresser,⁹⁴ closet,⁹⁵ and shoe boxes.⁹⁶ Officer Anaya also rummaged through clear storages boxes on the floor.⁹⁷ Det. Gammonley and Officer Flores also searched through the dresser of a second bedroom,⁹⁸ and Officer Biszewski searched the hallway closet in the main entryway of the residence.⁹⁹ Officer Flores later discovered a two-tone handgun with one live round in the chamber inside the kitchen freezer,¹⁰⁰ confirmed by the officers to be the handgun they had observed earlier on [REDACTED]

In her interview, Officer Anaya stated to COPA that she believed the basis for the search of the home was related to "clearing, making sure that there wasn't anyone else in the home, or offenders, for officer safety again."¹⁰¹ She also explained that her search of the home consisted of a search of the basement and [REDACTED] room "with the presence of the grandmother, and consent of

⁸⁹ Att. 54 at 4:30.

⁹⁰ Att. 54 at 4:00.

⁹¹ Att. 42 at 00:16.

⁹² Att. 54 at 4:00.

⁹³ Att. 12.

⁹⁴ Att. 54 at 8:04.

⁹⁵ Att. 54 at 11:14.

⁹⁶ Att. 54 10:45 to 11:38.

⁹⁷ Att. 54 at 11:03.

⁹⁸ Att. 54 at 15:26.

⁹⁹ Att. 54 at 16:13.

¹⁰⁰ Att. 54 at 16:35.

¹⁰¹ Att. 69 at 10:24.

hers.”¹⁰² Similarly, Officer Biszewski told COPA that the officers’ basis for searching ██████ home was related to ██████ specifying that “he fled our traffic stop, and he was in possession of an illegal firearm, so we wanted to take him into custody, as well as make sure no one inside that residence was in danger, because if he’s armed, it’s not a safe situation.”¹⁰³ Det. Gammonley recounted that following Officer Flores’s discovery of the firearm in the freezer, he did confirm that that was the same weapon he had seen ██████ in possession of during the initial traffic stop.¹⁰⁴ This was additionally confirmed by Officer Flores in his interview.¹⁰⁵

As stated above, once officers enter a residence based on an exigent circumstance, any subsequent search or seizure must be independently justified by either a warrant or an additional exception to the warrant requirement.¹⁰⁶ Here, while exigent circumstances permitted the entry into ██████ residence, officers would have needed to either demonstrate an additional exigent circumstance or obtain a warrant in order to then search the home once ██████ was no longer inside. ██████ departure from the house eliminated the officers’ initial exigent circumstance, and thus the threat of evidence being destroyed, or any threat related to the safety of the officers regarding their belief that ██████ was armed. Also, while ██████ did not verbally object to the search, and even assisted the officers after it became apparent to her that they would search with or without her consent, she never gave consent. The fact that she acquiesced after a show of force and claims of authority does not equal consent, as discussed above related to the officers’ initial entry into her home. The officers’ search of ██████ home was therefore without justification, and for those reasons, COPA finds that **Allegation #2** against **Officer Maria Anaya**, **Allegation #2** against **Officer Joseph Biszewski**, **Allegation #2** against **Officer Samuel Flores**, and **Allegation #2** against **Det. Zachary Gammonley** are **Sustained**.

VI. DISCIPLINARY RECOMMENDATION¹⁰⁷

a. Police Officer Samuel Flores

i. Complimentary and Disciplinary History

Officer Flores has received six Department Commendations, one Superintendent’s Honorable Mention, one Problem Solving Award, one complimentary letter, one-hundred-and-eight Honorable Mentions, the Arnold Mireles Special Partner Award, and seven other awards and commendations. Officer Flores has no sustained complaint registers within the past five years. Officer Flores was reprimanded once through the summary punishment process for a preventable accident in September 2023.

¹⁰² Att. 69 at 11:57.

¹⁰³ Att. 71 at 11:15.

¹⁰⁴ Att. 68 at 11:20.

¹⁰⁵ Att. 70 at 11:150.

¹⁰⁶ See *United States v. Kunkler*, 679 F.2d 187 (9th Cir.1982); see also *United States v. DeSoto*, 885 F.2d 354, 368 (7th Cir.1989).

¹⁰⁷ See Att. 77 for the complimentary and disciplinary histories of the accused CPD members.

ii. Recommended Discipline

COPA has found that Officer Flores violated Rules 1, 2, 3, 8, and 11 by searching [REDACTED] home without justification. Officer Flores either disregarded or failed to understand the constitutional protection that should have been afforded to [REDACTED] contributing to a serious breach of her right to be free from an unreasonable search. Officer Flores should have recognized that [REDACTED] eventual acquiescence to the search was not equivalent to voluntary consent, and he should have recognized that any exigency that could have justified the search earlier had dissipated. COPA has also considered that [REDACTED] was seventy years old at the time of this incident, and that she may have been more vulnerable to police coercion because of her age. However, COPA has also considered that a CPD supervisor was present during this incident and should have prevented the CPD members from conducting the search, even though this does not wholly mitigate Officer Flores's misconduct. Based on this information, and considering Officer Flores's complimentary and disciplinary history, COPA recommends a **10-day suspension**.

b. Det. Zachary Gammonley

i. Complimentary and Disciplinary History

Det. Gammonley has received the Superintendent's Award of Tactical Excellence, four Department Commendations, one Superintendent's Honorable Mention, one complimentary letter, the Problem Solving Award, the Arnold Mireles Special Partner Award, one-hundred-and-thirty-two Honorable Mentions, and eleven other awards and commendations. Det. Gammonley has two sustained complaint registers within the past five years: he received a reprimand for neglect of duty related to an October 2020 incident and a finding of "violation noted" for a civil rights violation related to a December 2018 incident.

ii. Recommended Discipline

COPA has found that Det. Gammonley violated Rules 1, 2, 3, 8, and 11 by searching [REDACTED] home without justification. Det. Gammonley either disregarded or failed to understand the constitutional protection that should have been afforded to [REDACTED] contributing to a serious breach of her right to be free from an unreasonable search. Det. Gammonley should have recognized that [REDACTED] eventual acquiescence to the search was not equivalent to voluntary consent, and he should have recognized that any exigency that could have justified the search earlier had dissipated. COPA has also considered that [REDACTED] was seventy years old at the time of this incident, and that she may have been more vulnerable to police coercion because of her age. However, COPA has also considered that a CPD supervisor was present during this incident and should have prevented the CPD members from conducting the search, even though this does not wholly mitigate Det. Gammonley's misconduct. Based on this information, and considering Det. Gammonley's complimentary and disciplinary history, COPA recommends a **10-day suspension**.

c. Police Officer Joseph Biszewski**i. Complimentary and Disciplinary History**

Officer Biszewski has received four Department Commendations, one Superintendent's Honorable Mention, one Problem Solving Award, the Arnold Mireles Special Partner Award, one-hundred-and-forty-four Honorable Mentions, and ten other awards and commendations. Officer Biszewski has two sustained complaint registers within the past five years: he received a reprimand for neglect of duty related to an October 2020 incident and a finding of "violation noted" for a civil rights violation related to a December 2018 incident. Officer Biszewski also received a notation of "no disciplinary action" for a preventable accident through the summary punishment process for an accident that occurred in August 2023.

ii. Recommended Discipline

COPA has found that Officer Biszewski violated Rules 1, 2, 3, 8, and 11 by searching [REDACTED] home without justification. Officer Biszewski either disregarded or failed to understand the constitutional protection that should have been afforded to [REDACTED] contributing to a serious breach of her right to be free from an unreasonable search. Officer Biszewski should have recognized that [REDACTED] eventual acquiescence to the search was not equivalent to voluntary consent, and he should have recognized that any exigency that could have justified the search earlier had dissipated. COPA has also considered that [REDACTED] was seventy years old at the time of this incident, and that she may have been more vulnerable to police coercion because of her age. However, COPA has also considered that a CPD supervisor was present during this incident and should have prevented the CPD members from conducting the search, even though this does not wholly mitigate Officer Biszewski's misconduct. Based on this information, and considering Officer Biszewski's complimentary and disciplinary history, COPA recommends a **10-day suspension**.

d. Police Officer Maria Anaya**i. Complimentary and Disciplinary History**

Officer Anaya has received three Department Commendations, the Problem Solving Award, the Traffic Stop of the Month Award, the Police Officer of the Month Award, one complimentary letter, the Annual Bureau Award of Recognition, seventy Honorable Mentions, and four other awards and commendations. Officer Anaya has no sustained complaint registers within the past five years.

ii. Recommended Discipline

COPA has found that Officer Anaya violated Rules 1, 2, 3, 8, and 11 by searching [REDACTED] home without justification. Officer Anaya either disregarded or failed to understand the constitutional protection that should have been afforded to [REDACTED] contributing to a serious breach

of her right to be free from an unreasonable search. Officer Anaya should have recognized that [REDACTED] eventual acquiescence to the search was not equivalent to voluntary consent, and she should have recognized that any exigency that could have justified the search earlier had dissipated. COPA has also considered that [REDACTED] was seventy years old at the time of this incident, and that she may have been more vulnerable to police coercion because of her age. However, COPA has also considered that a CPD supervisor was present during this incident and should have prevented the CPD members from conducting the search, even though this does not wholly mitigate Officer Anaya's misconduct. Additionally, Officer Anaya was not present at the beginning of the incident, and she may have been less aware than the other three accused CPD members about how [REDACTED] did not consent to the search. Based on this information, and considering Officer Anaya's complimentary and disciplinary history, COPA recommends a **3-day suspension**.

Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

January 24, 2024
Date

Appendix ACase Details

Date/Time/Location of Incident:	July 2, 2019 / 1:00 pm / ██████████ ██████████
Date/Time of COPA Notification:	July 8, 2019 / 9:05 am
Involved Member #1:	Officer Maria Anaya; Star #9865; Employee #█████████; Date of Appointment: June 27, 2016; Unit of Assignment: 006/215; White Hispanic; Female
Involved Member #2:	Officer Joseph Biszewski; Star #12014; Employee #█████████; Date of Appointment: April 6, 2015; Unit of Assignment: 006; White; Male
Involved Officer #3:	Officer Samuel Flores; Star #17305; Employee #█████████; Date of Appointment: November 25, 2013; Unit of Assignment: 006/008; White Hispanic; Male
Involved Officer #4:	Det. Zachary Gammonley; Star #20490; Employee #█████████; Date of Appointment: February 23, 2015; Unit of Assignment: 640; White; Male
Involved Individual #1:	██████████ Black; Female
Involved Individual #2:	██████████ Black; Male

Applicable Rules

- Rule 1:** Violation of any law or ordinance.
- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- 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

- **The Fourth Amendment to the United States Constitution.**

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.¹⁰⁸ 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.”¹⁰⁹

¹⁰⁸ See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

¹⁰⁹ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th 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