



Log # 2019-0632

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On April 2, 2019, the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on the night of March 28, 2019, he was arrested without justification by Officer Eulalio Rodriguez and Sergeant (Sgt.) Jennifer Soto,² and that several police officers entered his hotel room at the New Parie Hotel without justification. The officers who entered the hotel room were later identified by COPA as Sgt. Soto, Officer Rodriguez, Officer Gerald Kush, Detective (Det.) Jake Martin,³ Officer John Norwood Jr.,⁴ Officer Jesse Santillan,⁵ Officer Daniel Ojeda,⁶ and Officer Dominic Merola, with the door being unlocked and opened by Officer James Brinkley. ██████████ also alleged that following his arrest, Officer Charles Johnson inappropriately searched him when Officer Johnson touched his groin area while conducting an in-custody search at the 12th District police station.⁷ Upon review of the evidence, COPA also served allegations that Sgt. Soto and Officer Merola conducted a search of ██████████ hotel room without justification.

Following its investigation, COPA reached Sustained findings regarding Sgt. Soto's unjustified entry and search of ██████████ hotel room. COPA also reached Sustained findings regarding Officer Brinkley's unlocking and opening ██████████ hotel room door without justification.

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 Officer Eulalio Rodriguez is no longer an active member of the Chicago Police Department. *See* Att. 82 (Officer Rodriguez has been in "no pay" status since January 31, 2023, pending resolution of another matter; this investigation will be placed in "close hold" status with regard to Officer Rodriguez, and it may be re-opened should he return to active employment with CPD.) At the time of this incident, Sgt. Soto was a Police Officer with star #16517. She has since been promoted to Sergeant of Police, effective May 16, 2022, with star #1603. She will be referred to by her current rank of sergeant in this report.

³ At the time of this incident, Det. Martin was a patrol officer with the Star # 17526. He has since been promoted to Detective, effective June 1, 2023, with Star #20558. He will be referred to by his current rank in this report.

⁴ Officer Norwood is no longer employed with the Chicago Police Department. *See* Att. 81.

⁵ Officer Santillan is no longer employed with the Chicago Police Department. *See* Att. 57.

⁶ Officer Ojeda is no longer employed with the Chicago Police Department. *See* Att. 56.

⁷ 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.

II. SUMMARY OF EVIDENCE⁸

On March 28, 2019, at approximately 9:51 pm, Officer Rodriguez and Sgt. Soto were on patrol when they observed two men, later identified as ██████ and ██████ who they believed to be drinking alcoholic beverages on the public way.⁹ The officers then observed ██████ and ██████ walk through the backyard of 2958 W Washington Blvd. and proceed up the stairs of the residence.¹⁰ The officers then stopped ██████ and ██████ by approaching them and instructing them to come down from the top of the stairs.¹¹ Officer Rodriguez also asked if either of the men had marijuana.¹² As ██████ and ██████ came to the bottom of the stairs, ██████ attempted to flee on foot and a brief struggle ensued.¹³ Sgt. Soto conducted an emergency takedown and the officers were able to place ██████ into custody.¹⁴ While ██████ was being arrested, ██████ left the scene on foot. Officer Rodriguez then related over his police radio that he and Sgt. Soto had one person in custody at 2859 W Washington and that the other person had taken off running eastbound, describing him as short Black male with a black jacket and blue jeans.¹⁵ ██████ admitted to Sgt. Soto that he was in possession of a firearm,¹⁶ and the officers retrieved it from his coat pocket.¹⁷ ██████ was then transported to the 12th District for processing.¹⁸

██████ had gone to the New Parie Hotel, located at 2847 W Washington Blvd., approximately one block away. Officers were made aware that ██████ was at the hotel via another assisting officer who had arrived on scene.¹⁹ Officer Rodriguez and Sgt. Soto made entry into the hotel and approached the front desk.²⁰ Officer Rodriguez asked the woman at the desk, “Where’d that guy go,”²¹ with Sgt. Soto clarifying “the heavy-set guy,”²² both in apparent reference to ██████. The woman at the desk explained that she had just gotten there and said that the officers could knock on doors in the hallway, but she didn’t know which room he was in.²³ The officers then walked down the hallway.²⁴ As they did so, two women walked past Officer Rodriguez and

⁸ 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, civilian interviews, and officer interviews.

⁹ Att. 4, pg. 4.

¹⁰ Att. 4, pg. 4.

¹¹ Att. 4, pg. 4.

¹² Att. 48 at 1:05.

¹³ Att. 48 at 1:10. *See also* Att. 45 at 1:08.

¹⁴ Att. 4, pg. 4; Att. 3, pg. 3; Att. 2, pg. 2. *See also* Att. 45 at 2:00 and Att. 48 at 3:37.

¹⁵ Att. 48 at 2:00.

¹⁶ Att. 45 at 3:11.

¹⁷ Att. 4, pg. 4; Att. 3, pg. 3.

¹⁸ Att. 4, pg. 4; Att. 3, pg. 3.

¹⁹ Att. 48 at 7:06.

²⁰ Att. 48 at 7:55. *See also* Att. 45 at 7:11.

²¹ Att. 48 at 7:55.

²² Att. 48 at 8:10.

²³ Att. 45 at 7:55.

²⁴ Att. 48 at 8:10.

said, “106,” seemingly in reference to ██████ room number.²⁵ Officer Rodriguez then repeated this to Sgt. Soto.²⁶

Officer Rodriguez and Sgt. Soto then arrived at room 106, and Officer Rodriguez knocked several times before stating, “Police, open up, police open up or I’m gonna kick the door open.”²⁷ At that time, other officers arrived to assist. Officer Rodriguez continued to knock on the door of room 106, announced his office, and then threatened to kick the door open several times before Officer Brinkley appeared with the key.²⁸ Officer Rodriguez then gave instructions for ██████ to “get on the floor,” and the key was inserted into the lock by Officer Brinkley.²⁹ Once the door was unlocked, Officer Rodriguez was the first officer to make entry into room 106,³⁰ followed by Sgt. Soto, Officer Kush, Det. Martin, Officer Norwood, Officer Santillan, Officer Ojeda, and Officer Merola.

When the officers entered, ██████ was lying on his stomach on the floor.³¹ ██████ was then placed under arrest and handcuffed by Officer Rodriguez and removed from the room. After ██████ was escorted from the room, Officer Rodriguez, Officer Norwood, Officer Santillan, Officer Ojeda, Officer Merola, and Sgt. Soto searched the entirety of ██████ hotel room.³² No contraband was discovered as a result of the search of ██████ room.

██████ was then taken from the hotel to the 12th District police station for processing by Det. Martin and Officer Johnson. While at the station, a custodial search was conducted by Officer Johnson.³³ Offenses cited on ██████ arrest report included drinking on the public way in violation of Chicago Municipal Code 8-4-030 and criminal trespass to state land in violation of 720 ILCS 5/21-5-A.³⁴ His case was disposed on March 29, 2019, when the charges were dismissed.³⁵

III. ALLEGATIONS

Sgt. Jennifer Soto, Star #1603:

1. Arresting ██████ without justification.
 - **Not Sustained.**

²⁵ Att. 48 at 8:11.

²⁶ Att. 48 at 8:17.

²⁷ Att. 48 at 8:45. *See also* Att. 48 at 9:40.

²⁸ Att. 48 at 9:40.

²⁹ Att. 48 at 9:40.

³⁰ Att. 48 at 9:55.

³¹ Att. 48 at 10:00.

³² Att. 48 at 10:30. *See also* Att. 45 at 10:30; Att. 39 at 2:00.

³³ Att. 47 at 15:15.

³⁴ Att. 1. *See also* Att. 51.

³⁵ Att. 51.

2. Entering the hotel room of [REDACTED] without justification.
 - **Sustained.** Violations of Rules 1, 2, 3, 8, and 11.
3. Searching the hotel room of [REDACTED] without justification.
 - **Sustained.** Violations of Rules 1, 2, 3, 8, and 11.

Officer James Brinkley, Star #17677:

1. Unlocking and opening the hotel room door of [REDACTED] without justification.
 - **Sustained.** Violations of Rules 1, 2, 3, 8, and 11.

Officer Charles Johnson, Star #2793:

1. Conducting an inappropriate in-custody search of [REDACTED] person by touching his groin area over his clothing while searching him.
 - **Unfounded.**

Officer Dominic Merola, Star #7221:

1. Entering the hotel room of [REDACTED] without justification.
 - **Exonerated.**
2. Searching the hotel room of [REDACTED] without justification.
 - **Exonerated.**

Detective Jake Martin, Star #20558:

1. Entering the hotel room of [REDACTED] without justification.
 - **Exonerated.**

Officer Gerald Kush, Star #18965:

2. Entering the hotel room of [REDACTED] without justification.
 - **Exonerated.**

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 both [REDACTED] and the accused CPD members provided accounts of this incident that are relatively consistent with each other and with the available BWC recordings, there were several minor discrepancies in those accounts, along with minor lapses in recollection, as explained below.

V. ANALYSIS³⁶

a. Arrest without Justification

It has first been alleged that Sgt. Soto arrested ██████████ without justification. Offenses cited on ██████████ arrest report included drinking on the public way, in violation of Chicago Municipal Code §8-4-030, and criminal trespass to state land, in violation of 720 ILCS 5/21-5-A.³⁷

In her interview with COPA on October 10, 2023, Sgt. Soto said that she recalled being on routine patrol on the night of March 28, 2019, when she observed two men who then attempted to flee when they saw the officers.³⁸ She further recalled that the two men cut through an alley to get to a backyard of a house, and that they walked up to the front of the house, which had a staircase.³⁹ Her partner, Officer Rodriguez, instructed the men to come down the stairs so that the officers could conduct an investigatory stop for drinking on the public way, but as soon as the men reached the bottom of the stairs, both attempted to flee.⁴⁰ After a brief struggle, the first man, later identified as ██████████ was arrested and placed into custody for various charges related to trespassing and possession of a firearm, and the officers then located the second man, later identified as ██████████ at a nearby hotel.⁴¹ When asked by COPA whether she recalled ██████████ drinking what she believed to be an open alcoholic beverage on the night of March 28, 2019, Sgt. Soto initially said she did not remember,⁴² but then clarified at the end of her statement that she did recall seeing ██████████ in possession of an opened container of an alcoholic beverage.⁴³ Regarding the trespassing offense, Sgt. Soto was asked how she and Officer Rodriguez came to the conclusion that ██████████ and ██████████ were trespassing. She again responded that she did not remember,⁴⁴ but then clarified at the end of her statement that she recalled seeing that ██████████ and ██████████ addresses did not match either the location of the stop or the hotel.⁴⁵

It is unclear how Sgt. Soto was made aware that ██████████ and ██████████ did not know anyone that lived at 2528 W Washington Blvd., as Sgt. Soto did not ask ██████████ or ██████████ if they knew anyone that resided there. It is also unclear as to how Sgt. Soto became aware that ██████████ was drinking alcohol. Sgt. Soto further could not recall how she initially became aware of either of these things on the date of the incident.⁴⁶ At the beginning of the stop, as ██████████ and ██████████ were walking up the stairs of the residence, ██████████ told Officer Rodriguez that they were

³⁶ For a definition of COPA's findings and standards of proof, *see* Appendix B.

³⁷ Att. 1. *See also* Att. 51.

³⁸ Att. 70 at 9:05.

³⁹ Att. 70 at 9:05.

⁴⁰ Att. 70 at 9:05.

⁴¹ Att. 70 at 10:40.

⁴² Att. 70 at 12:50.

⁴³ Att. 70 at 17:10.

⁴⁴ Att. 70 at 13:20.

⁴⁵ Att. 70 at 17:20.

⁴⁶ Att. 70 at 12:50. *See also* Att. 70 at 13:20.

walking to their friend's house but that he did not live at the address.⁴⁷ Officer Rodriguez asked the men if they were drinking.⁴⁸ At that time, Officer Rodriguez was standing at the top of the stairs with [REDACTED] and [REDACTED] while Sgt. Soto was still at the bottom of the stairs,⁴⁹ so it is unclear if she heard that conversation. [REDACTED] did corroborate [REDACTED] explanation to the officers on scene when he told COPA that he and [REDACTED] were friends with a woman that lived in the 3rd floor apartment of [REDACTED],⁵⁰ explaining that her name was [REDACTED].⁵¹ [REDACTED] also stated that on the night of the incident, no one had complained or told him and [REDACTED] to leave the property.⁵² He did admit that he and [REDACTED] were in possession of beer.⁵³ However, without a statement from Officer Rodriguez to corroborate or refute Sgt. Soto's recollection, or to further clarify how the officers became aware that [REDACTED] was committing the above arrestable offenses, there is insufficient evidence available to prove by a preponderance of the evidence that [REDACTED] was arrested without justification. For those reasons, COPA finds that Allegation #1, alleged against Sgt. Jennifer Soto, Star #1603, is **Not Sustained**.

b. Unlocking and Opening of Door and Entry into Hotel Room

It has next been alleged that Officer Brinkley unlocked and opened [REDACTED] hotel room door without justification. It has also been alleged that Sgt. Soto, Officer Kush, Officer Merola, and Det. Martin then entered [REDACTED] hotel room without justification.

The Fourth Amendment prohibits warrantless and nonconsensual entry into a person's home.⁵⁴ A hotel room, as a temporary abode, is also protected from arbitrary searches and seizures by the Fourth Amendment.⁵⁵ The state of Illinois has similarly accorded the residents of a hotel the same constitutional protections against unreasonable searches as are enjoyed by residents of private homes.⁵⁶ Fourth Amendment protection of a hotel room is dependent on the right to private occupancy of the room.⁵⁷ Therefore, if tenancy is terminated for legitimate reasons, constitutional protections will no longer exist.⁵⁸ This is due to the fact that at the conclusion of the rental period,

⁴⁷ Att. 48 at 00:45.

⁴⁸ Att. 48 at 00:45.

⁴⁹ Att. 48 at 00:45.

⁵⁰ Att. 54, pgs. 7, 25.

⁵¹ Att. 54, pg. 26.

⁵² Att. 54, pg. 26.

⁵³ Att. 54, pg. 10.

⁵⁴ See *Payton v. New York*, 445 U.S. 573 (1980).

⁵⁵ See *Hoffa v. United States*, 385 U.S. 293, 301 (1966); see also *United States v. Diaz*, 814 F.2d 454, 458 (7th Cir. 1987).

⁵⁶ See *People v. Bankhead*, 27 Ill.2d 18, 23 (1963); see also *People v. Wilson*, 86 Ill.App.3d 637, 640 (1980); *People v. Eichelberger*, 438 N.E.2d 140, 143 (Ill. 1982).

⁵⁷ See *United States v. Akin*, 562 F.2d 459, 464 (7th Cir.1977).

⁵⁸ See *Finsel v. Cruppenink*, 326 F.3d 903, 907 (7th Cir.2003); accord *United States v. Molsbarger*, 551 F.3d 809, 811 (8th Cir.2009) ("Justifiable eviction terminates a hotel occupant's reasonable expectation of privacy in the room."); *United States v. Allen*, 106 F.3d 695, 699 (6th Cir.1997) ("Once 'a hotel guest's rental period has expired or been lawfully terminated, the guest does not have a legitimate expectation of privacy in the hotel room . . .'" (quoting *United States v. Rahme*, 813 F.2d 31, 34 (2d Cir.1987))); *United States v. Rambo*, 789 F.2d 1289, 1295-96

“the guest has completely lost his right to use the room and any privacy associated with it.”⁵⁹ In cases where the occupancy period has not concluded, the United States Court of Appeals for the Seventh Circuit has held that the authority of hotel staff over the place of residence and the ability to either enter or authorize entry into a guest’s room is limited: specifically, hotel personnel are “not authorized to compromise the resident's privacy beyond what they have to do to perform their authorized tasks.”⁶⁰ The United States Supreme Court has similarly held that hotel staff cannot authorize entry into a guest’s room, noting that Fourth Amendment protection would disappear “if it were left to depend upon the unfettered discretion of an employee of the hotel.”⁶¹ Hotel personnel further cannot consent to the search of a guest's room if the occupancy period has not concluded or has not been terminated.⁶²

Searches and seizures undertaken without warrants are presumed arbitrary and unreasonable, but this rule is subject “to a few specifically established and well-delineated exceptions.”⁶³ Consent to enter provides one exception to the warrant requirement.⁶⁴ Another such exception is the exigent circumstances doctrine, which recognizes that a warrantless entry by law enforcement officials may be legal “when there is a compelling need for official action and no time to secure a warrant.”⁶⁵ Thus, absent consent, if a warrantless entry is to be justified, it must be justified on the basis of exigent circumstances.⁶⁶ Exigent circumstances exist “where police are in ‘hot pursuit’ of a felony suspect who flees from a public place into his residence,”⁶⁷ 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.”⁶⁸ Courts have upheld warrantless entries based on exigent circumstances to prevent the destruction of evidence;⁶⁹ to pursue a “fleeing felon;”⁷⁰ or for community caretaking reasons, such as to attend to an injured or kidnapped victim.⁷¹ Whether the

(8th Cir.1986) (holding that after a suspect was justifiably ejected from his hotel room for disorderly behavior, he “no longer had a reasonable expectation of privacy in the hotel room”).

⁵⁹ See *United States v. Akin*, 562 F.2d 459, 464 (7th Cir.1977).

⁶⁰ See *United States v. Garcia*, 690 F.3d 860, 863 (7th Cir. 2012).

⁶¹ See *Stoner v. State of California*, 376 U.S. 483, 490 (1964).

⁶² See *Stoner*, 376 U.S. 490; see also *Finsel*, 326 F.3d 903.

⁶³ *Katz v. United States*, 389 U.S. 347, 357 (1967).

⁶⁴ See *Illinois v. Rodriguez*, 497 U.S. 177, 181 (1990).

⁶⁵ *Michigan v. Tyler*, 436 U.S. 499, 509 (1978).

⁶⁶ 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).

⁶⁷ *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).

⁶⁸ *United States v. Bugos*, 720 F.2d 1520, 1526 (11th Cir. 1986).

⁶⁹ See *Michigan v. Tyler*, 436 U.S. 499, 509 (1978).

⁷⁰ See *United States v. Santana*, 427 U.S. 38, 42-43 (1976).

⁷¹ See *United States v. Gillenwaters*, 890 F.2d 679, 682 (4th Cir.1989); *United States v. Laboy*, 909 F.2d 581, 586 (1st Cir.1990).

offense in question occurred in the presence of the officers who are making entry is also an important factor.⁷²

COPA finds that Officer Brinkley's unlocking and opening of [REDACTED] hotel room door was not justified under the circumstances. In his interview with COPA on January 3, 2024, Officer Brinkley stated that he recalled arriving at the hotel on the date of this incident to assist the arresting officers before making contact with a member of the hotel staff at the front desk.⁷³ He further recalled that the hotel staff member told him that someone had run into one of their rooms and was not a guest of the hotel before then providing Officer Brinkley the key to that room.⁷⁴ While Officer Brinkley recalled that he obtained the key from hotel staff, he did not remember whether he unlocked and opened the door to [REDACTED] room, instead stating that he believed he handed off the key to another officer.⁷⁵ As stated above, 4th Amendment protection of a hotel room is contingent on the right to occupy the room,⁷⁶ meaning that unless tenancy has concluded or been terminated for legitimate reasons, the authority of hotel staff to authorize entry into a guest's room is limited solely to the performance of authorized tasks.⁷⁷ Therefore, other than related to their duties within the confines of their jobs, hotel staff cannot grant others authorization to enter a guest's room if the guest is still within their rightful occupancy period as a patron of the hotel.⁷⁸

There are several inaccuracies in Officer Brinkley's recollection of the facts. Specifically, Officer Brinkley recalled that hotel staff had related to him that [REDACTED] "did not belong there,"⁷⁹ as well as that it was another officer that unlocked and opened the door to [REDACTED] room.⁸⁰ However, [REDACTED] related to COPA that he had his own key to the hotel room and was buzzed in as he entered.⁸¹ [REDACTED] reiterated several times throughout his statement that he had a key to the room,⁸² as well as that he had rented it for one night.⁸³ [REDACTED] also explained to COPA that he would not have been able to get inside the hotel if he did not have a key.⁸⁴ While Officer Brinkley did not record this event using a BWC, his interaction with the hotel staff member was captured on BWC recordings created by two other CPD members, Officer Jake Martin and Officer Charles Johnson.⁸⁵ Those recordings show Officer Brinkley approaching the staff member at the hotel's

⁷² If officers *reasonably believe* that a felony was being committed in their presence, demanding prompt police action and constituting an exigent circumstance, this additionally justifies a warrantless entry into a hotel room and the arrest. *See* People v. Eichelberger, 438 N.E.2d 140, 145 (Ill. 1982); People v. Abney, 81 Ill.2d 159, 145 (1980).

⁷³ Att. 84 at 6:20.

⁷⁴ Att. 84 at 6:38 and 7:05.

⁷⁵ Att. 84 at 6:54.

⁷⁶ *See* United States v. Akin, 562 F.2d 459, 464 (7th Cir.1977).

⁷⁷ *See* United States v. Garcia, 690 F.3d 860, 863 (7th Cir. 2012).

⁷⁸ *See* Stoner v. State of California, 376 U.S. 483, 490 (1964).

⁷⁹ Att. 84 at 6:38 and 7:05.

⁸⁰ Att. 84 at 6:54.

⁸¹ Att. 54, pg. 13.

⁸² Att. 54, pgs. 13, 14, and 46.

⁸³ Att. 54, pg. 14.

⁸⁴ Att. 54, pg. 46.

⁸⁵ Atts. 18 and 40.

front desk and asking for the key to room 106.⁸⁶ While every word of the brief conversation is not audible, it is clear that Officer Brinkley was speaking with the same female staff member who had spoken with Sgt. Soto and Officer Rodriguez moments earlier, and it is unlikely that she gave Officer Brinkley different information about [REDACTED]. In fact, it appears that she barely spoke with Officer Brinkley and that she simply acquiesced to his request for the key to room 106.

Next, BWC footage confirms that Officer Brinkley unlocked and opened the hotel room door. Officer Brinkley can be seen on Officer Rodriguez's BWC footage walking down the hallway with the key before inserting it into the lock, unlocking the door, and then pushing it open.⁸⁷ Although a member of hotel staff did provide the key to Officer Brinkley in order to unlock and gain entry into Room 106 ([REDACTED] occupied room), that employee was not authorized to do so or to grant consent to enter [REDACTED] room. As [REDACTED] who was in possession of a key to the room, was a legitimate patron of the hotel whose occupancy period had not concluded or been terminated, he would have been guaranteed constitutional protections under the 4th Amendment within his hotel room. Thus, Officer Brinkley's unlocking and opening of [REDACTED] door was unlawful and without justification. For those reasons, COPA finds that Officer Brinkley violated Rules 1, 2, 3, 8, and 11, and **Allegation #1** against **Officer James Brinkley is Sustained**.

Next, COPA finds that Sgt. Soto's warrantless entry into [REDACTED] hotel room was without justification. In her interview with COPA, Sgt. Soto explained that she entered [REDACTED] hotel room because "we believed he might have a weapon as well, and then . . . also cannabis, because earlier on in the video, he stated he had a blunt in a bag."⁸⁸ She added, "The initial stop was for drinking on the public way . . . and then the other individual [REDACTED] ended up having a weapon as well, we just believed that he [REDACTED] might have one as well."⁸⁹ When asked whether she or her partner had considered obtaining a search warrant for [REDACTED] room, Sgt. Soto explained, "[W]e didn't believe any of them had a weapon originally, and it turned out that [REDACTED] had one, and then we believed that Mr. [REDACTED] had one as well, and he ran into this hotel. . . . I don't know if he ran in there with a gun, so it was like an exigent circumstance."⁹⁰

While it would have been permissible for Sgt. Soto to make a warrantless entry into [REDACTED] hotel room based on either consent from [REDACTED] himself or a valid exigent circumstance, neither of these were present during this incident. First, the officers did not receive consent to enter the hotel room just because hotel staff provided them with the key to [REDACTED] room. As discussed above, because [REDACTED] was a guest of the hotel whose occupancy period had not concluded or been terminated, he was guaranteed constitutional protections under the 4th Amendment within his hotel room, and thus hotel staff would not have been authorized to allow entry into his room. Next, no exigent circumstance existed here to warrant Sgt. Soto's entry into [REDACTED] hotel room. [REDACTED] arrest was related to drinking on the public way and trespassing; thus, any justification

⁸⁶ Att. 18 at 0:30 to 1:10; Att. 40 at 0:50 to 1:10.

⁸⁷ Att. 48 at 9:40.

⁸⁸ Att. 70 at 15:10.

⁸⁹ Att. 70 at 15:45.

⁹⁰ Att. 70 at 17:40.

that the warrantless entry could be justified based on the potential destruction of evidence is baseless. Similarly, entry based on the “fleeing felon” exigent circumstance is unsubstantiated, as both of the cited violations related to ██████ arrest were not felonies and ██████ was not suspected of having committed a felony.⁹¹ Lastly, Sgt. Soto’s explanation that the officers believed that ██████ was armed or in possession of contraband solely because ██████ had a firearm on his person is also without merit. Neither ██████ arrest report nor the original case incident report include the officers’ alleged suspicions that ██████ may have been armed (or in possession of any sort of contraband).⁹² Also, even if those suspicions had been documented, they would merely be speculation on the officers’ part. The fact that ██████ companion was armed did not create probable cause for the officers to believe that ██████ was armed, particularly under circumstances where ██████ and ██████ were not suspected of having committed or planned a violent offense. For those reasons, Sgt. Soto’s entry into ██████ hotel room was not justified under the circumstances. Thus, COPA finds that Sgt. Soto violated Rules 1, 2, 3, 8, and 11, and **Allegation #2 against Sgt. Jennifer Soto is Sustained.**

However, it is clear that the later-arriving officers – Officer Kush, Officer Merola, and Det. Martin – reasonably relied on what was conveyed to them over the radio and on scene by the arresting officers once they arrived at the hotel and as they entered ██████ hotel room. Therefore, the warrantless entrance of Officer Kush, Officer Merola, and Det. Martin into ██████ room was not without justification, but instead was based on rational reliance of what was related to them upon their arrival at the incident.

In his interview with COPA on October 30, 2023, Det. Martin recounted that on the night of the incident, he arrived at the New Parie Hotel following other 12th District TAC officers requesting assistance over the radio following an arrest where one of the two offenders had escaped on foot.⁹³ Upon his arrival to the hotel, many officers were already on scene. Det. Martin recalled that officers gathered outside and that another officer spoke to hotel staff, and something was then tendered to the officers.⁹⁴ He explained that he believed a key to the room had just been provided by hotel staff, or that this was a hot pursuit situation and officers had seen the offender flee into the room, because he observed officers at the door giving verbal commands to the occupant inside before then making entry.⁹⁵ Det. Martin said that he “was under the assumption that, based on the circumstances at hand, this was either a hot pursuit situation and this arrestee had been observed fleeing into that room, or the staff at the hotel was giving consent to enter that room as a result of him trespassing into it.”⁹⁶ He explained that the decision to enter the hotel room was made by the officers at the front of the tactical column near the door, and it was his assumption that their legal standing for entering the room was valid based on hot pursuit and consent, so he was merely standing there for officer safety purposes.⁹⁷ Similarly, Officer Merola, in his own interview with

⁹¹ Att. 1.

⁹² Atts. 1 and 4.

⁹³ Att. 71 at 7:08.

⁹⁴ Att. 71 at 8:40.

⁹⁵ Att. 71 at 8:40.

⁹⁶ Att. 71 at 11:00.

⁹⁷ Att. 71 at 11:40.

COPA on November 2, 2023, recounted that he responded to an assist call from other officers who related that they had the offender flee an arrest and gave the address of the hotel.⁹⁸ He also noted that by the time he arrived, there were already officers present at the hotel.⁹⁹ Officer Merola walked down the hallway of the first floor and checked the hotel's back entryway, and when he returned, other officers were making entry into a hotel room.¹⁰⁰ He recalled that the entry was, "I believe, through consent of the hotel, I don't know if a key was given or if the person behind the door opened it,"¹⁰¹ and added that once the other officers made entry, he followed suit.¹⁰² Officer Merola explained that he believed that the basis for entering the hotel room was due to the fact that ██████ was a wanted offender.¹⁰³ Officer Kush corroborated the statements of his fellow officers in his statement to COPA on November 2, 2023, recounting that a key was tendered by hotel staff in order to enter the hotel room, and that the basis for entering the room was "due to the primary officer that made the arrest was banging on the door, indicating the offender . . . had gone into that room."¹⁰⁴ Officer Kush also confirmed that his entry into the hotel room was based on both the consent he believed was obtained from hotel staff and his own reasonable reliance on the other officers who had gotten there first.¹⁰⁵

Because they did not participate in the initial contact with ██████ and arrived at the hotel later as backup, COPA finds that Officer Kush, Officer Merola, and Det. Martin reasonably relied on what was related to them by other officers regarding the consent (albeit invalid) that was obtained from hotel staff in order to enter – and why it was necessary to enter – ██████ hotel room, and thus did not enter ██████ hotel room without justification. For those reasons, COPA finds by clear and convincing evidence that **Allegation #1** against **Officer Gerald Kush** is **Exonerated**; **Allegation #1** against **Officer Dominic Merola** is **Exonerated**, and **Allegation #1** against **Det. Jake Martin** is **Exonerated**.

c. Search of Hotel Room

It next been alleged that Sgt. Soto and Officer Merola conducted a search of ██████ hotel room without justification. The entirety of the search of ██████ hotel room can be seen on BWC footage,¹⁰⁶ with Sgt. Soto and Officer Rodriguez looking through ██████ clothes and around the entirety of the room.¹⁰⁷ Other officers also looked under the mattress;¹⁰⁸

⁹⁸ Att. 73 at 9:00.

⁹⁹ Att. 73 at 9:00.

¹⁰⁰ Att. 73 at 9:30.

¹⁰¹ Att. 73 at 9:30.

¹⁰² Att. 73 at 10:10.

¹⁰³ Att. 73 at 10:47.

¹⁰⁴ Att. 72 at 8:42.

¹⁰⁵ Att. 72 at 9:17.

¹⁰⁶ Att. 45 at 10:30; Att. 48 at 11:30.

¹⁰⁷ Att. 45 at 10:45.

¹⁰⁸ Att. 45 at 11:45; Att. 48 at 11:43; Att. 39 at 2:35.

inside the boards on the ceiling;¹⁰⁹ behind the curtains on the windows;¹¹⁰ inside the refrigerator;¹¹¹ and in the bathroom.¹¹² In her interview with COPA, Sgt. Soto stated that she specifically recalled that the officers were looking for a weapon or cannabis when searching the room, explaining that the basis for searching the hotel room was her belief that “he was armed, and that he may have a bag and a blunt.”¹¹³ However, Sgt. Soto believed that ██████ was armed solely because ██████ was in possession of a weapon, emphasizing, “[W]e didn’t believe any of them had a weapon originally, and it turned out that ██████ had one, and then we believed that Mr. ██████ had one as well, and he ran into this hotel. . . . I don’t know if he ran in there with a gun, so it was like an exigent circumstance.”¹¹⁴ When asked why the narratives in the reports authored following the incident did not include the officers’ belief that ██████ was armed or in possession of contraband in order to justify their entry into and search of his hotel room, she explained that although she did review the reports for accuracy, she did not know why that was not included.¹¹⁵ Officer Merola related in his own interview that he believed that the basis for conducting the search of ██████ hotel room was to look for weapons, contraband, or any other individuals that may have potentially been present inside the room.¹¹⁶ He explained that because of this, he walked around the room and looked into the bathroom, and he also made sure that the windows were closed.¹¹⁷ As discussed above, Officer Merola arrived at the hotel following the arresting officers’ initial contact with ██████ and ██████ and also as officers were already gathered in the hallway around ██████ door.

Police officers, subsequent to a lawful arrest, may search an arrestee or the area within an arrestee’s control without a warrant,¹¹⁸ with the search being contemporaneous with the arrest, conducted to prevent use of a weapon or the destruction of evidence, and limited to the area immediately within the immediate control of the arrestee.¹¹⁹ An area “within the immediate control” of the arrestee is narrowly limited to extend only to the room in which the arrest took place.¹²⁰ Other important factors include whether there is a compelling need for prompt action and time would not permit them to obtain a warrant.¹²¹ In determining the presence of exigency in relation to a warrantless entry or search, courts in Illinois evaluate each case dependent on the totality of the circumstances confronting the officers at the time the warrantless entry was made.¹²²

¹⁰⁹ Att. 45 at 11:52; Att. 45 at 12:12; Att. 48 at 12:20.

¹¹⁰ Att. 45 at 11:57; Att. 39 at 2:20.

¹¹¹ Att. 45 at 12:30.

¹¹² Att. 48 at 11:50; Att. 39 at 3:00.

¹¹³ Att. 70 at 15:30.

¹¹⁴ Att. 70 at 17:40.

¹¹⁵ Att. 70 at 19:00.

¹¹⁶ Att. 73 at 11:05; Att. 73 at 19:00.

¹¹⁷ Att. 73 at 11:05.

¹¹⁸ See *Chimel v. California*, 395 U.S. 752, 768 (1969); see also *United States v. Bennett*, 908 F.2d 189 (7th Cir. 1990).

¹¹⁹ See *Chimel*, 395 U.S. 768.

¹²⁰ See *Chimel*, 395 U.S. 762-63.

¹²¹ See *People v. Franklin*, 2016 IL App (1st) 140059, ¶ 26.

¹²² See *People v. Wimbley*, 314 Ill. App. 3d 18, 24 (2000).

COPA finds that Sgt. Soto's warrantless search of ██████ hotel room was not justified for several reasons. Most importantly, and as discussed above, the officers had no basis to enter the room, either based on consent via the key tendered by the hotel staff or any of the valid exigent circumstance exceptions, making any subsequent search of ██████ hotel room invalid. Also, this was not a lawful search incident to arrest. ██████ was arrested for drinking on public way and trespassing; thus, there was no contraband to search for incident to, or related to, the offenses for which he was arrested. Further, at the time of the search, ██████ was handcuffed and up against the wall outside of the hotel room in the hallway. At that point, he was already in police custody and fully cooperative, clearly posing no danger to anyone else. There also would not have been concern that ██████ could have quickly escaped to re-gain entry into the room, since he had already been apprehended and handcuffed. Also, there was no evidence of a serious or violent crime having been committed that would have justified a search. Based on these reasons, Sgt. Soto's search of ██████ hotel room was not justified. Therefore, COPA finds that Sgt. Soto violated Rules 1, 2, 3, 8, and 11, and **Allegation #3** against **Sgt. Jennifer Soto** is **Sustained**.

Officer Merola arrived following the arresting officers' initial contact with ██████ and also as other officers were already making entry into the hotel room. Consequently, COPA recognizes that Officer Merola's search of ██████ hotel room was based on his reasonable reliance of what was related to him on scene by the arresting officers. The warrantless search of the hotel room by Officer Merola was thus not without justification, and COPA finds by clear and convincing evidence that **Allegation #2** against **Officer Dominic Merola** is **Exonerated**.

d. In-Custody Search

It has lastly been alleged that Officer Charles Johnson committed misconduct when he conducted an inappropriate in-custody search of ██████ person by touching his groin area over his clothes when searching him. A custodial search is a warrantless search of a person under arrest with or without probable cause to believe there is any contraband or evidence subject to seizure on the person.¹²³ This type of search is justified by the need to keep contraband and weapons out of jail, to preserve any possible evidence, and to protect the officer.¹²⁴ Officers taking persons into custody are responsible for conducting a thorough search of the arrestee.¹²⁵

Officer Johnson's search of ██████ following his transport to the 12th District was captured on BWC footage.¹²⁶ Officer Johnson searched through the pockets of ██████ jeans to retrieve his wallet and other possessions.¹²⁷ Officer Johnson then patted down both of ██████ legs and shook his pants by the waistband.¹²⁸ In his interview with COPA on November 2, 2023, Officer Johnson explained that he conducted a "thorough search of his [██████] clothing," and he also recalled a general pat down of ██████ legs and waist area, along with emptying ██████

¹²³ Att. 83, G06-01-02(IV)(A), Restraining Arrestees (effective December 8, 2017, to present).

¹²⁴ Att. 83, G06-01-02(IV)(A).

¹²⁵ Att. 83, G06-01-02(IV)(B).

¹²⁶ Att. 47 at 15:15.

¹²⁷ Att. 47 at 15:15.

¹²⁸ Att. 47 at 18:20.

pockets.¹²⁹ He also explained the scope of a custodial search of an arrestee that takes place at the district: “Grab their pants, give it a little shake, enter the pockets, make sure there’s nothing in there . . . feel their legs thoroughly, make sure there’s nothing there, socks, shoes, and then the groin area, get in the area but not close enough to manipulate or feel intentionally any male genitalia . . . shoelaces, shoes off, under the soles, socks inside out, and . . . if they can stretch their pants and their underwear too, just to shake it, so there’s nothing there that falls out, and spread their legs as well.”¹³⁰ Officer Johnson affirmed that a pat down of the groin area is an appropriate custodial search technique following an arrest and that he does so with all male arrestees,¹³¹ but he emphasized that such a technique is not invasive enough to manipulate or intentionally feel any genitalia.¹³²

Based on the available BWC footage and Officer Johnson’s statement, COPA finds that Officer Johnson’s search of ██████ was not overly invasive and was appropriate under the circumstances. While Officer Johnson can be seen conducting a pat-down up and down ██████ legs, touching his inner thighs and briefly his groin area,¹³³ this was not improper, but instead merely a part of an appropriate custodial search of an arrestee. It is clear from both BWC footage and Officer Johnson’s statement that he did not purposefully feel or manipulate ██████ genitalia through his clothing. For these reasons, COPA finds that Allegation #1 against Officer Charles Johnson is **Unfounded**.

VI. DISCIPLINARY RECOMMENDATION¹³⁴

a. Sgt. Jennifer Soto

i. Complimentary and Disciplinary History

Sgt. Soto has received one Department Commendation, two complimentary letters, fifty-nine Honorable Mentions, and thirteen other awards and commendations. Sgt. Soto has not been disciplined within the past five years.

ii. Recommended Discipline

COPA has found that Sgt. Soto violated Rules 1, 2, 3, 8, and 11 by entering and searching ██████ hotel room without justification. Sgt. Soto likely did not act out of malice, but she did not properly understand or apply the foundation that was needed before engaging in a serious breach of ██████ right to be free from an unreasonable search. As a law enforcement officer, Sgt. Soto was responsible for properly applying the 4th Amendment and related law before entering and searching ██████ hotel room without his consent. Based on this information, and

¹²⁹ Att. 74 at 7:30.

¹³⁰ Att. 74 at 8:10.

¹³¹ Att. 74 at 9:29.

¹³² Att. 74 at 8:10.

¹³³ Att. 47 at 18:40 to 18:43.

¹³⁴ See Att. 87 for the complimentary and disciplinary histories of the accused CPD members.

considering Sgt. Soto's complimentary and disciplinary history, COPA recommends a **10-day suspension**.

b. Police Officer James Brinkley

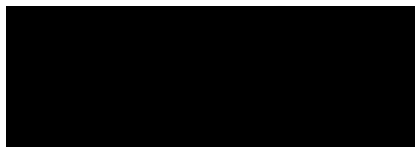
i. Complimentary and Disciplinary History

Officer Brinkley has received three Department Commendations, one Special Commendation, one complimentary letter, sixty-one Honorable Mentions, and six other awards and commendations. Officer Brinkley has one sustained complaint register within the past five years: he was suspended for five days for an incident involving neglect of duty that occurred in January 2019.

ii. Recommended Discipline

COPA has found that Officer Brinkley violated Rules 1, 2, 3, 8, and 11 by unlocking and opening [REDACTED] hotel room without justification. Officer Brinkley likely did not act out of malice, but he did not properly understand or apply the foundation that was needed before engaging in a serious breach of [REDACTED] right to be free from an unreasonable search. As a law enforcement officer, Officer Brinkley was responsible for properly applying the 4th Amendment and related law before facilitating the entry and search of [REDACTED] hotel room without his consent. Based on this information, and considering Officer Brinkley's complimentary and disciplinary history, COPA recommends a **10-day suspension**.

Approved:



Matthew Haynam
Deputy Chief Administrator – Chief Investigator

January 22, 2024

Date

Appendix A**Case Details**

Date/Time/Location of Incident:	March 28, 2019 / 9:51 pm / 2958 W Washington Blvd., Chicago IL, 60612 and 2847 W Washington Blvd., Chicago IL, 60612
Date/Time of COPA Notification:	April 2, 2019 / 4:58 pm
Involved Member #1:	Sgt. Jennifer Soto; Star #1603; Employee # [REDACTED]; Date of Appointment: July 15, 2013; Unit of Assignment: 008; White Hispanic; Female
Involved Member #2:	Officer Charles Johnson; Star #2793; Employee # [REDACTED]; Date of Appointment: January 16, 2018; Unit of Assignment: 012; White; Male
Involved Member #3:	Officer Dominic Merola; Star #7221; Employee # [REDACTED]; Date of Appointment: April 30, 2001; Unit of Assignment: 001; Hispanic; Male
Involved Member #4:	Det. Jake Martin; Star #20558; Employee # [REDACTED]6; Date of Appointment: April 17, 2017; Unit of Assignment: 620; White; Male
Involved Member #5:	Officer Gerald Kush; Star #18956; Employee # [REDACTED]; Date of Appointment: February 6, 1995; Unit of Assignment: 012; White; Male
Involved Member #6:	Officer James Brinkley; Star #17677; Employee # [REDACTED]; Date of Appointment: November 4, 2013; Unit of Assignment: 010; White; Male
Involved Individual #1:	[REDACTED] Black; Male
Involved Individual #2:	[REDACTED] 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 5:** Failure to perform any duty.
- 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 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule 11:** Incompetency or inefficiency in the performance of duty.

Applicable Policies and Laws

- 1. The Fourth Amendment to the United States Constitution.**
- 2. 720 ILCS 5/21-5:** Criminal Trespass to State Supported Land (effective January 2013).¹³⁵
- 3. Municipal Code of Chicago Section 8-4-030:** Drinking in Public Ways (effective April 1985).¹³⁶

¹³⁵ Att. 80.

¹³⁶ Att. 86.

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.¹³⁷ 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.”¹³⁸

¹³⁷ 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.”).

¹³⁸ *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