

**SUMMARY REPORT OF INVESTIGATION**

Date/Time/Location of Incident:	November 1, 2020 / 8:20 p.m. / 529 W. 112 <sup>th</sup> St., Chicago, IL 60628.
Date/Time of COPA Notification:	November 12, 2020 / 9:48 a.m.
Involved Officer #1:	Officer Alekhine Aguilos, Star #19365, Employee ID # [REDACTED], DOA: July 27, 2018, Unit: 010, Male, Asian.
Involved Officer #2:	Officer Daniel Rehder, Star #14189, Employee ID # [REDACTED], DOA: July 27, 2018, Unit: 012, Male, White.
Involved Individual #1:	[REDACTED] Male, Black.
Involved Individual #2:	[REDACTED] Male, Black.
Case Type:	03Q – Improper Search

**I. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officers Aguilos and Rehder	1. Detaining [REDACTED] and [REDACTED] without justification.	Exonerated.
	2. Searching [REDACTED] vehicle, without justification.	Exonerated.
	3. Searching [REDACTED] without justification.	Exonerated.
	4. Arresting [REDACTED] and [REDACTED] without justification.	Exonerated.

**II. SUMMARY OF EVIDENCE**

On November 12, 2020, at approximately 8:20 p.m., CPD Officers Alekhine Aguilos and Daniel Rehder (collectively “the officers”) were on patrol when they observed a vehicle with no front license plate. The Officers conducted a traffic and approached the vehicle. Upon reaching the vehicle, the officers detected an odor of cannabis emitting from the vehicle and informed the driver, [REDACTED] that the vehicle did not have a front license plate.<sup>1</sup> The Officers requested the occupants exit the vehicle. Once the occupants exited the vehicle, the Officers conducted a search of the vehicle. During the search, a loaded firearm was recovered from under the front driver’s seat. Additionally, the officers completed a protective pat-down of [REDACTED] during which they observed and recovered a plastic bag of suspected cannabis.<sup>2</sup> The Officers confirmed neither [REDACTED] nor [REDACTED] possessed a valid Concealed Carry License (CCL). After confirming that

<sup>1</sup> [REDACTED] was the front seat passenger.

<sup>2</sup> During the entire interaction, [REDACTED] admitted that he was in possession of cannabis on his person and insisted that he was permitted to carry it regardless of the way it was packaged.

neither occupant possessed a valid CCL, the officers arrested both [REDACTED] and [REDACTED] and impounded the vehicle. The officers transported [REDACTED] and [REDACTED] to the 022nd District Station where they were processed and charged.<sup>3</sup>

### III. LEGAL STANDARD

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

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>4</sup> If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense.<sup>5</sup> Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true."<sup>6</sup>

### IV. ANALYSIS AND CONCLUSION

COPA finds the allegations are **exonerated**. A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law."<sup>7</sup> "Reasonable Articulate Suspicion depends on the totality of the circumstances which the sworn member observed and the reasonable inferences that are drawn based on the sworn member's training and experience."<sup>8</sup> Department members are permitted to detain a person when there is

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<sup>3</sup> [REDACTED] was charged with unlawful use of a weapon, operating a vehicle while failing to display a front license plate, and possession of cannabis. [REDACTED] was charged with possession of cannabis.

<sup>4</sup> *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

<sup>5</sup> *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>6</sup> *Id.* at ¶ 28.

<sup>7</sup> *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

<sup>8</sup> S04-13-09 II(C), Investigatory Stop System (effective July 10, 2017 to current).

reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.<sup>9</sup> In instances in which an officer smells marijuana, the officer has probable cause to conduct a search of a vehicle; further, this principle has been extended to include searches of the driver and passengers of that vehicle.<sup>10</sup> Additionally, Illinois law requires registration plates be affixed to both the front and rear of a vehicle.<sup>11</sup> Further, in Illinois, cannabis can only be lawfully transported if it is in a sealed, odor-proof, child-resistant container.<sup>12</sup> Finally, to lawfully possess a loaded firearm in a vehicle, the possessor must have a CCL.<sup>13</sup>

Here, it is undisputed that the vehicle failed to display the front license plate. Additionally, it is undisputed that the odor of cannabis was detected during the initial contact with the occupants.<sup>14</sup> Further, it is undisputed that the vehicle contained a loaded firearm that was readily accessible to [REDACTED] and that neither [REDACTED] nor [REDACTED] possessed a CCL. Finally, it is undisputed that [REDACTED] possessed cannabis on his person in a container that was not odor-proof. Therefore, the Officers decision to stop and search the vehicle, detain, and arrest the occupants were reasonable and proper.

Approved:

[REDACTED]

10/22/2021

Matthew Haynam  
*Deputy Chief Investigator*

Date

<sup>9</sup> S04-13-09 II (A).

<sup>10</sup> *People v. Zayed*, 2016 IL App (3rd) 140780 (2016).

<sup>11</sup> 625 ILCS 5/3-413(a).

<sup>12</sup> 625 ILCS 5/11-502.15(c).

<sup>13</sup> 720 ILCS 5/24-1(a)(4).

<sup>14</sup> The Officers contemporaneously remark that they detected the odor of cannabis during the interaction. Additionally, during his statement, [REDACTED] did dispute the presence of the odor of cannabis. Further, during the interaction [REDACTED] informed the Officers he was in possession of cannabis.

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	14
<b>Investigator:</b>	Emmily Stokes
<b>Supervising Investigator:</b>	Garrett Schaaf
<b>Deputy Chief Administrator:</b>	Matthew Haynam