

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 7, 2020
Time of Incident:	10:01 pm
Location of Incident:	4925 W. Hubbard Street
Date of COPA Notification:	January 8, 2020
Time of COPA Notification:	10:54 pm

On January 7, 2020, an officer monitoring a POD camera observed the complainant, [REDACTED] loitering on the 4900 block of W. Hubbard. The officer subsequently saw [REDACTED] approach different vehicles and engage in multiple hand-to-hand transactions, tendering unknown items to the drivers of the vehicles in exchange for cash. The officer monitoring the POD camera believed [REDACTED] was engaging in narcotics transactions, and he radioed [REDACTED] description and location to Officers Hector Deleon (Officer Deleon), Andrew Piecyk (Officer Piecyk), and Jose Castro (Officer Castro). The officers relocated to the 4900 block of W. Hubbard, where they stopped and searched [REDACTED] recovering multiple zip lock bags of cannabis. [REDACTED] was then placed into custody for soliciting unlawful business. He subsequently filed a complaint with COPA alleging the officers stopped, handcuffed, and searched him without justification.

II. INVOLVED PARTIES

Involved Officer #1:	Hector Deleon, Star# 15156, Emp.# [REDACTED], Date of Appointment: April 1, 2013, Officer, Unit 015, DOB: [REDACTED], 1983, Male, White Hispanic
Involved Officer #2:	Andrew Piecyk, Star# 10807, Emp.# [REDACTED], Date of Appointment: May 16, 2017, Officer, Unit 015, DOB: [REDACTED], 1993, Male, White
Involved Officer #3:	Jose Castro ¹ , Star# 11031, Emp.# [REDACTED], Date of Appointment: May 16, 2017, Officer, Unit 015, DOB: [REDACTED], 1991, Male, White Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1983, Male, Black

¹ COPA did not serve any allegations against Officer Castro, as he passed away in May 2021. See Atts. 38-39.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Hector Deleon	It is alleged by ██████████ that on or about January 7, 2020, at approximately 10:01 pm, at or near 4925 W. Hubbard Street, Officer Hector Deleon, star 15156, committed misconduct through the following acts or omissions, by: 1. Stopping ██████████ without justification. 2. Handcuffing ██████████ without justification. 3. Searching ██████████ person without justification.	Exonerated Exonerated Exonerated
Officer Andrew Piecyk	It is alleged by ██████████ that on or about January 7, 2020, at approximately 10:01 pm, at or near 4925 W. Hubbard Street, Officer Andrew Piecyk, star 10807, committed misconduct through the following act or omission, by: 1. Stopping ██████████ without justification.	Exonerated

IV. APPLICABLE RULES AND LAWS

General Orders

1. G06-01-02, Restraining Arrestees (effective December 8, 2017 to present)

Special Orders

1. S04-13-09, Investigatory Stop System (effective July 10, 2017 to present)

Federal Laws

1. Fourth Amendment to the U.S. Constitution

V. INVESTIGATION²

a. Interviews

COPA interviewed the complainant, ██████████ on January 13, 2020.³ According to ██████████ on the date of the incident, he was visiting his ██████████ at her home. ██████████ stated that he had purchased four to six bags of marijuana before arriving at his girlfriend’s house. Later, ██████████ was stopped by police officers as he walked to the liquor store. The officers⁴ exited their

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in the analysis.

³ Att. 2.

⁴ ██████████ referred to the officers as Officer Castro and Officer Piecyk. COPA identified the third partner, Officer Deleon, through body worn camera (BWC) videos and the relevant Attendance & Assignment Sheets.

vehicle and immediately placed ██████ in handcuffs, though ██████ could not remember which officer handcuffed him. ██████ asked the officers what was going on and they responded they would tell him later. ██████ informed the officers he had a few bags of weed in his outer coat pocket, and the officers retrieved the cannabis. One of the officers asked ██████ if he knew how much cannabis he had, and ██████ responded that it was under 30 grams. At that point, ██████ believed the officers were going to issue him a citation. The officers asserted ██████ was selling cannabis, which ██████ denied.

According to ██████ Officer Castro asked him if he had any contraband in his underwear. ██████ said no, at which point Officer Castro opened ██████ belt buckle and shined his flashlight down ██████ pants and into his underwear. Both officers also searched ██████ person. The officers told ██████ they needed to weigh his cannabis at the station, but that regardless of the weight he would be charged with a misdemeanor for soliciting. ██████ was subsequently escorted to a transport vehicle and driven to the station. His primary complaint to COPA was that the officers did not have probable cause to stop him in the first place.

Officer Hector Deleon was interviewed by COPA on June 16, 2021.⁵ On the date of the incident, Officer Deleon was working in the 15th district with two partners, Officers Castro and Piecyk. That evening, a fellow officer, Officer Bradley Michaels, observed an individual on POD camera engaging in hand-to-hand transactions for US currency. Upon making this observation, Officer Michaels radioed to Officer Deleon and his partners the individual's location and description. Officer Deleon and his partners proceeded to the location, where Officer Michaels observed them on the POD camera and directed them to an individual standing on the north sidewalk. Officer Deleon stated that the individual, now known to be ██████ also matched the description Officer Michaels had provided. The officers approached ██████ to place him into custody for soliciting unlawful business.

As Officer Deleon placed ██████ into handcuffs, he observed that ██████ hand was tightly clenched. Officer Deleon asked ██████ to open his hand, revealing a lighter, and causing ██████ cigarette to fall to the ground. ██████ asked Officer Deleon to retrieve the cigarette, and Officer Deleon picked it up and told ██████ he was placing the cigarette in ██████ left pocket. As Officer Deleon put the cigarette in ██████ pocket, he felt multiple zip lock bags of cannabis in the same pocket. Officer Deleon retrieved the cannabis and informed his partners that he just recovered six bags of cannabis from ██████ pocket. The other officers on scene proceeded to search the surrounding area while Officer Deleon waited with ██████ Before ██████ was transported to the station, Officer Deleon performed a custodial search, including searching ██████ pockets and waist area.

Officer Andrew Piecyk was interviewed by COPA on June 16, 2021.⁶ Officer Piecyk was working in the 15th district with two partners, Officers Deleon and Castro, on the date of the incident. That evening, Officer Michaels informed Officer Piecyk and his partners that he observed an individual soliciting unlawful business. Officer Piecyk and his partners proceeded to the area to place the individual into custody. When they arrived, Officer Deleon approached the individual, now known to be ██████ while Officer Piecyk began searching the area for narcotics packaging.

⁵ Att. 28.

⁶ Att. 30.

Officer Piecyk stated that [REDACTED] was already in handcuffs by the time he approached him. Officer Piecyk then assisted his partner in performing a custodial search of [REDACTED] which resulted in the recovery of cannabis.

b. Digital Evidence

COPA obtained **POD video** from two cameras located at 4957 and 4857 W. Hubbard Street.⁷ The videos capture the 4900 block of W. Hubbard Street from different angles. From 9:00 pm - 10:00 pm, the footage shows a black male wearing dark clothes, now known to be [REDACTED] standing outside on the sidewalk and periodically walking up and down the block. As the videos progress, multiple vehicles driving on Hubbard Street pull over and stop near [REDACTED] location. [REDACTED] walks up to each stopped vehicle and exchanges something with the driver. The vehicle then pulls back onto Hubbard Street and drives away. The videos show [REDACTED] make a similar exchange with the occupants of at least five vehicles in the hour before this incident.⁸

COPA obtained **body worn camera (BWC) video from Officer Deleon.**⁹ The video begins as Officer Deleon drives his squad vehicle on Hubbard Street, and Officer Michaels radios the man they are looking for is standing on the sidewalk. Officer Deleon locates [REDACTED] on the sidewalk, pulls over, and exits his squad vehicle. He approaches [REDACTED] and asks if he has any contraband on him, and [REDACTED] responds that he has a few bags of weed. Officer Deleon then places [REDACTED] in handcuffs and informs him that he is being detained. The officer reaches inside [REDACTED] coat pocket and pulls out several zip lock bags containing what appears to be cannabis. Officer Deleon also searches [REDACTED] pants pocket and other coat pockets, and he tells his partner that [REDACTED] has six “dubs.” When additional officers arrive at the scene, Officer Deleon walks away from [REDACTED] and searches the area for narcotics.

COPA obtained **body worn camera (BWC) videos from Officer Piecyk.** The video begins as Officer Deleon approaches [REDACTED] and searches his pockets.¹⁰ Officer Deleon pulls multiple zip lock bags of cannabis from [REDACTED] pocket and tells Officer Piecyk to get in contact with Officer Castro. Officer Piecyk begins searching the surrounding area, then walks back across the street to where Officer Deleon and [REDACTED] are standing on the sidewalk.¹¹ Other officers, including Officer Castro, arrive at the scene over the next several minutes. Officer Castro starts to search [REDACTED] person, including the multiple coats and hoodies [REDACTED] is wearing. Officer Castro asks [REDACTED] what else he is selling, and [REDACTED] tells him nothing else. Officer Piecyk then asks [REDACTED] “You don’t got anything in your nutsack?”¹² [REDACTED] responds no, and Officer Castro completes his search of [REDACTED] clothing. Officer Castro tells [REDACTED] he is going to be arrested for soliciting unlawful business, and he will also be arrested for selling cannabis if the weight is over 30 grams. [REDACTED] responds that he just bought the weed and is not selling it. Officers Castro and Piecyk start to take items out of [REDACTED] pockets, then ask for [REDACTED] name, address, and birthdate since he is not carrying any identification. The officers then escort [REDACTED] to a transport vehicle.

⁷ Atts. 33 & 34.

⁸ See Att. 33 at 9:10:25, 9:23:12; Att. 34 at 9:47:20, 9:51:01, 9:54:02.

⁹ Att. 10.

¹⁰ Att. 35.

¹¹ Att. 37.

¹² Att. 37 at 6:25.

c. Documentary Evidence

The **arrest report**¹³ and **case report**¹⁴ document that ██████ was arrested on January 7, 2020, for soliciting unlawful business and manufacturing/delivering cannabis (10 – 30 grams). According to the narrative, a surveillance officer, Officer Michaels, observed ██████ on POD camera loitering on the 4900 block of W. Hubbard. Officer Michaels watched as ██████ repeatedly walked into the street, impeding the flow of vehicular traffic. ██████ approached multiple vehicles, engaged in a brief conversation with the drivers of the vehicles, and tendered an unknown item in exchange for an unknown amount of money.¹⁵ Officer Michaels believed ██████ was engaging in narcotic transactions, and he radioed ██████ description to enforcement officers, who relocated to the area and arrested ██████. A custodial search of ██████ resulted in six clear zip lock bags containing a green leafy substance, suspect cannabis, which was packaged for street sale. The reports also note that the 4900 block of W. Hubbard is a known gang and narcotics hot spot.

VI. LEGAL STANDARD

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

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy.¹⁶ If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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

¹³ Att. 7.

¹⁴ Att. 14.

¹⁵ The reports identify a specific hand-to-hand transaction that occurred at 9:55 pm, when Officer Michaels observed ██████ remove an unknown item from his left jacket pocket and tender it to the driver of a vehicle in exchange for an unknown amount of money. The case report also documents four other hand-to-hand transactions that occurred at approximately 9:10 pm, 9:22 pm, 9:47 pm, and 9:50 pm. Att. 14, page 2; Att. 7, page 2.

¹⁶ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

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.”¹⁷ *Id.* at ¶ 28.

VII. ANALYSIS AND CONCLUSIONS

a. The officers had probable cause to stop and arrest ██████████

COPA makes a finding of exonerated for Allegation 1 against Officers Deleon and Piecyk. The Fourth Amendment to the United States Constitution and the Illinois Constitution of 1970 guarantee the right of individuals to be free from unreasonable searches and seizures.¹⁸ An officer may arrest an individual when there is probable cause to believe the individual has committed a crime.¹⁹ “Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest.”²⁰

Here, ██████████ alleged the officers did not have probable cause to stop or arrest him. Officers Deleon and Piecyk, however, maintained they had probable cause to arrest ██████████ for soliciting unlawful business. The officers’ accounts are corroborated by the POD footage, BWC videos, and Department reports. The evidence shows that Officer Michaels was monitoring a POD camera when he observed ██████████ approach multiple vehicles, remove an item from his pocket, and tender that item to the driver of each vehicle in exchange for cash. Officer Michaels believed ██████████ was selling narcotics, and he radioed that information to Officers Deleon, Piecyk, and Castro. The officers then relocated to the area, where Officer Michaels directed them to ██████████ location on the north sidewalk. The officers approached and searched ██████████ recovering six zip lock bags of cannabis that appeared to be pre-packaged for street sale. Under these circumstances, COPA finds there is clear and convincing evidence the officers had probable cause to arrest ██████████ for soliciting unlawful business. As such, COPA finds Allegation 1 against both officers is **exonerated**.

b. Officer Deleon was required to handcuff and search ██████████ prior to transporting him to the station.

COPA finds Allegations 2 and 3 against Officer Deleon, that he handcuffed and searched ██████████ without justification, are exonerated. General Order G06-01-02 provides that Department members are responsible for the safety and security of persons in their custody. The policy states that all arrestees must be restrained, and “when feasible, an arrestee will be handcuffed with both hands behind the back and palms positioned outward.”²¹ Additionally, officers are required to conduct a thorough search of any person they take into custody prior to

¹⁷ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

¹⁸ U.S. Const., Amend. IV; Ill. Const. 1970, Art. I, § 6.

¹⁹ *People v. Johnson*, 408 Ill. App. 3d 107, 119 (citing *Beck v. Ohio*, 379 U.S. 89, 91 (1964)).

²⁰ *People v. Wear*, 229 Ill. 2d 545, 563-64 (2008).

²¹ General Order G06-01-02(V)(A)(1).

transport. The purpose of such a custodial search is to keep contraband and weapons out of jail, preserve any possible evidence, and protect the officer.²²

Here, Officers Deleon and Piecyk told COPA they responded to the 4900 block of W. Hubbard for the express purpose of taking [REDACTED] into custody. Upon arrival, Officer Deleon placed [REDACTED] into handcuffs because he was under arrest for soliciting unlawful business. Officer Deleon also performed a custodial search on [REDACTED] because he was being transported to the station. Under these circumstances, the officer's actions were not simply permissible; they were required by Department policy. As such, COPA finds Allegations 2 and 3 against Officer Deleon are **exonerated**.

Approved:

[REDACTED]

4/13/2022

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date

²² General Order G06-01-02(IV)(A) (citing *Chimel v. California*, 395 U.S. 752 (1969); *New York v. Belton*, 453 U.S. 454 (1981)).