

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	December 12, 2018/ 12:15 p.m./ 1345 W. Fillmore Avenue
Date/Time of COPA Notification:	January 19, 2019/4:40 p.m.
Involved Officer #1:	Joseph Papke, Star No. 4904, Employee No. [REDACTED], Date of Appointment: December 5, 2005, PO, Unit of Assignment 016, DOB: [REDACTED] 1976, male, White
Involved Sergeant #1:	Adrian Vivanco, Star No. 1769, Employee No. [REDACTED] Date of Appointment: October 25, 2004, Sergeant, Unit of Assignment 004, DOB: [REDACTED] 1981, male, Spanish
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1993, male, Black
Case Type:	Improper detention, improper arrest, improper strip search

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Joseph Papke	It is alleged that on or about December 12, 2018, in the vicinity of 1345 W. Fillmore Avenue, Officer Joseph Papke committed misconduct by:	
	1. Detaining [REDACTED] without justification.	Exonerated
	2. Arresting [REDACTED] without justification.	Exonerated
	3. Strip Searching [REDACTED] without justification.	Unfounded
Sergeant Adrian Vivanco	It is alleged that on or about December 12, 2018, in the vicinity of 1345 W. Fillmore Avenue, Sergeant Adrian Vivanco committed misconduct by:	
	1. Detaining [REDACTED] without justification.	Exonerated
	2. Arresting [REDACTED] without justification.	Exonerated

3. Strip Searching [REDACTED] without justification.	Unfounded
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II. SUMMARY OF EVIDENCE¹²

On January 28, 2019, [REDACTED] provided a statement to COPA investigators via telephone. [REDACTED] told investigators that on the day of the incident, he was travelling home from downtown, and deboarded a bus at 71st Street and Western Avenue. As he walked west on 71st Street, an unmarked, gray, SUV pulled up beside him. An officer inside, Officer Papke, jumped out of the SUV and stated to [REDACTED] “Let me show you my probable cause now.”³ Officer Papke and his partner, a Hispanic male, then grabbed [REDACTED] and began to search him. [REDACTED] stated that during the search, the officers put their hands in [REDACTED] mouth and that Officer Papke pulled [REDACTED] pants down slightly and asked [REDACTED] to move his briefs around, which [REDACTED] refused to do. Officer Papke and his partner also searched [REDACTED] pockets and put their hands near his private parts, at one point reaching around to [REDACTED] buttocks. [REDACTED] asked if was being detained or arrested, but the officers did not answer his questions.

[REDACTED] told COPA investigators that Officer Papke made the comment about probable cause because a week prior, around December 8th, Officer Papke pulled over and stopped him as [REDACTED] was coming out of a store on 71st Street and Artesian Avenue, with a friend, [REDACTED]. During this stop, [REDACTED] asked Officer Papke, what was his probable cause for stopping him and [REDACTED] believed Officer Papke was angry that [REDACTED] questioned his authority. Officer Papke replied that he did not need probable cause and directed [REDACTED] to produce identification. After producing identification, Officer Papke let [REDACTED] leave. [REDACTED] claimed that Officer Papke wrote [REDACTED] name down and researched [REDACTED] to see if [REDACTED] had a criminal background so that the next time he saw [REDACTED] Officer Papke could arrest him.

On December 12, 2018, Officer Papke took [REDACTED] to the 8th District police station where [REDACTED] was told that he was being arrested because Officer Papke saw [REDACTED] sell drugs to an undercover officer. [REDACTED] was brought to an interview room where Officer Papke and his partner told [REDACTED] that if [REDACTED] could get them drugs or guns, they would let [REDACTED] go. Officer Papke’s partner told [REDACTED] that he had to first talk to his boss and that if [REDACTED] had a criminal history they could not work with [REDACTED] Officer Papke and his partner returned and told [REDACTED] that they would not be able to work with [REDACTED] because he had a pending charge for Burglary. [REDACTED] was then booked, and he later bonded out.

[REDACTED] told COPA investigators that the case relating to this incident was dismissed because the officers did not show up to court. In support of this claim, during his statement, [REDACTED] handed

¹COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA’s ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

² There is no body worn camera video related to this incident.

³ Att. 4, five minutes, and eighteen seconds.

COPA investigators a standard form from the Cook County Sheriff's Electronic Monitoring Unit⁴ directing the recipient to notify the Sheriff of the change in monitoring status because the "Case Was Nulled." The form had no case number and no date.

A Case Summary for *People v. [REDACTED]* Case No. [REDACTED], from the Criminal Division of the Clerk of the Circuit Court of Cook County, references RD No. JB54499 and CB No. 019741711.⁵ Both numbers are associated with [REDACTED] arrest on December 12, 2018, by Officer Papke and Sergeant Adrian Vivanco.⁶ The case summary lists the offense committed by [REDACTED] as Possession of a Controlled Substance. It also provides that the case was disposed on June 17, 2019, with a guilty plea entered by the defendant, [REDACTED]

[REDACTED] arrest report states that [REDACTED] was positively identified on December 8, 2018, "as while working in conjunction with a co-offender, delivered (2) small, knotted plastic bags, each containing a white rock like substance, suspect crack cocaine to [undercover officer], in exchange for \$30 CPD Pre-recorded 1505 Funds." [REDACTED] is identified as [REDACTED] co-defender and was also arrested on December 12, 2018. Confidential Department vice documents, including a Narcotic's Division Supplemental Report, records the details of the operation.⁷ The report states that it was after the undercover officer radioed team members about the positive narcotics transaction as well as the physical descriptions and last known locations of [REDACTED] and [REDACTED] that the Enforcement Officers, Officer Papke and Officer Robert Davis, stopped and identified [REDACTED] and [REDACTED]. Two photo arrays were conducted by an Independent Lineup Administrator on December 18, 2018, that resulted in the positive identification of [REDACTED] and [REDACTED] by the undercover officer.

III. ANALYSIS AND CONCLUSION

Detaining and arresting [REDACTED] without justification would be a violation of the Fourth Amendment of U.S. Constitution and Department Rule 1, Rule 2, and Rule 6. "The fourth amendment guarantees: 'The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause.' U.S. Const., amend. IV; accord Ill. Const.1970, art. I, § 6." Probable cause, as defined in Department policy, is "where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it."⁸

Here, clear, and convincing evidence supports that Officer Papke and Sergeant Vivanco had sufficient knowledge of facts to believe that [REDACTED] had engaged in the unlawful possession of a controlled substance, crack cocaine. The operation, which included surveillance of a drug transaction followed by the identification of [REDACTED] and [REDACTED] as the involved offenders, is described in detail in the confidential vice documents. For good measure, an independent photo array was conducted several days after the initial stop December 8, 2018, to be sure the undercover

⁴ Att. 23.

⁵ Att. 22.

⁶ Att. 13.

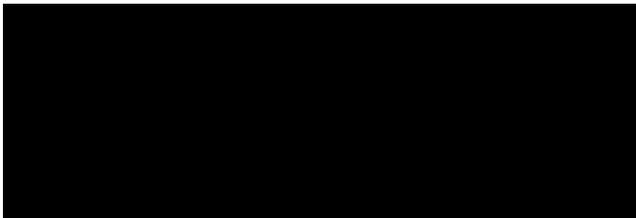
⁷ Att. 24.

⁸ S04-13-09(II)(D).

officer's identification of [REDACTED] and [REDACTED] was consistent. It is clear from these documents, that Officer Papke approached [REDACTED] on December 8, 2018, to confirm his identification after [REDACTED] illegal activity had taken place. The detention and arrest of [REDACTED] on December 12, 2018 was based on the illegal activity of [REDACTED] that occurred on December 8, 2018. Moreover, [REDACTED] pled guilty to engaging in this illegal activity, revealing the claim he made to COPA investigators about the dismissal of the case to be a complete and deliberate fabrication. [REDACTED] therefore, has extremely diminished credibility with respect to the details of this incident. For these reasons, the detention and arrest of [REDACTED] by Officer Papke and Sergeant Vivanco were justified. COPA finds this allegation is **Exonerated**.

With respect to [REDACTED] strip search allegation, COPA finds no evidence in the record to support it. A strip search occurs when an arrested person must move or arrange some or all their clothing to permit a visual inspection of the genitals, buttocks, anus, or undergarments.⁹ Based on [REDACTED] description of the search, at best, the allegation would not be sustained as it is unclear if the search as he described it qualifies as a strip search. However, considering the clear and convincing evidence of [REDACTED] dishonesty and his efforts to deceive COPA investigators with respect to this incident, his credibility is severely diminished regarding this allegation. Thus, COPA finds this allegation to be **Unfounded**.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

7-28-2022

Date

⁹ G06-01-03 (II)(A)(2).