

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	October 22, 2018 / 10:16 p.m. / 8100 S. Western Ave., Chicago, IL 60620.
Date/Time of COPA Notification:	October 24, 2018 / 10:14 a.m.
Involved Officer #1:	DIAZ, Patricia; star #19367; employee ID# [REDACTED]; DOA: February 16, 2017; Police Officer; Unit: 008; Female; Hispanic.
Involved Officer #2:	SOTO, Cesar; star #8166; employee ID# [REDACTED]; DOA: July 17, 2017; Police Officer; Unit: 008/716; Male; Hispanic.
Involved Officer #3:	MARTINEZ, Jorge; star #2575; employee ID# [REDACTED]; DOA: May 1, 2006; Sergeant; ¹ Unit: 003; ² Male; Hispanic.
Involved Officer #4:	GOMEZ, Robert; star #1576; employee ID# [REDACTED]; DOA: September 27, 2004; Sergeant; Unit 017 ³ ; Male; Hispanic.
Involved Officer #5:	CHAVEZ, Macario; star #9084; employee ID# [REDACTED]; DOA: September 25, 2006; Police Officer; Unit 189 ⁴ ; Male; Hispanic.
Involved Individual #1:	[REDACTED]; Male; Black. ⁵
Case Type:	Improper Search/Arrest

¹ On January 16, 2022, Sgt. Jorge Martinez obtained his current rank. He will be referred by his current rank in this report.

² Sgt. Martinez was assigned to Unit 008 at the time of the incident.

³ Sgt. Gomez was assigned to Unit 008 at the time of the incident.

⁴ Officer Chavez was assigned to Unit 008 at the time of the incident.

⁵ [REDACTED] was a juvenile at the time of this incident. His statement was taken with the consent and in the presence of his mother [REDACTED].

I. ALLEGATIONS

Officer	Allegation	Findings
Officer Patricia Diaz ⁶	<ol style="list-style-type: none"> 1. Stopped ██████████ without probable cause. 2. Searched ██████████ vehicle without probable cause. 3. Arrested ██████████ without probable cause. 4. Transported ██████████ a juvenile, to Holy Cross Hospital and had his blood drawn without his mother’s consent. 	<p>Exonerated.</p> <p>Exonerated.</p> <p>Exonerated.</p> <p>Unfounded.</p>
Officer Cesar Soto	<ol style="list-style-type: none"> 1. Stopped ██████████ without probable cause. 2. Searched ██████████ vehicle without probable cause. 3. Arrested ██████████ without probable cause. 4. Transported ██████████ a juvenile, to Holy Cross Hospital and had his blood drawn without his mother’s consent. 	<p>Exonerated.</p> <p>Exonerated.</p> <p>Exonerated.</p> <p>Unfounded.</p>
Sergeant Jorge Martinez	<ol style="list-style-type: none"> 1. Searched ██████████ vehicle without probable cause. 2. Arrested ██████████ without probable cause. 	<p>Exonerated.</p> <p>Exonerated.</p>
Sergeant Robert Gomez	<ol style="list-style-type: none"> 1. Searched ██████████ vehicle without probable cause. 	<p>Exonerated.</p>
Officer Macario Chavez	<ol style="list-style-type: none"> 1. Searched ██████████ without probable cause. 2. Searched ██████████ vehicle without probable cause. 3. Arrested ██████████ without probable cause. 	<p>Exonerated.</p> <p>Exonerated.</p> <p>Exonerated..</p>

II. SUMMARY OF EVIDENCE

In his **statement to COPA**, ██████████⁷ stated that on October 22, 2018, at approximately 10:16 p.m., in the vicinity of 8100 S. Western Avenue, he was driving southbound on Western when a police vehicle pulled him over. Officer Patricia Diaz approached the vehicle and asked for his license and insurance. ██████████ told Officer Diaz that he had previously been

⁶ COPA’s preliminary investigation revealed that Officer Diaz failed to activate her body-worn camera during this incident; however, this lapse did not deprive the preliminary investigation of any evidence and, as a result, COPA elected to not present an allegation to the officer.

⁷ Att. #5

issued a ticket for speeding and did not have his driver's license. Officer Diaz asked [REDACTED] to step out of the vehicle. [REDACTED] exited his vehicle and Officer Macario Chavez handcuffed and searched him.⁸ Officer Chavez found edibles that contained cannabis on [REDACTED] person.⁹ Officer Soto asked if there was anything in the vehicle and [REDACTED] said no. [REDACTED] did not recall if the Officers asked for permission to search his vehicle. [REDACTED] was placed in the back of an unmarked police vehicle and was told that his vehicle fit the description of a vehicle of a person with a gun. [REDACTED] was transported to a police station while officers drove his vehicle to the station. [REDACTED] was informed that he could not go to the juvenile detention center if he was intoxicated. He was then taken to Holy Cross Hospital where hospital personnel took his blood pressure. [REDACTED] did not know if hospital personnel drew his blood. [REDACTED] was then transported to the juvenile detention center and was eventually released into his mother's custody.

Event Query #1829516355¹⁰ documents that a civilian contacted 911 at approximately 10:14 PM and reported that a male in a gray Dodge struck her and told her that he has a gun. The Dodge then fled southbound from the vicinity of 74th Street and Western at approximately 10:23 PM. Less than 5 minutes later, [REDACTED] vehicle was curbed.

[REDACTED] **Arrest Report**,¹¹ **Investigatory Stop Report**,¹² and the Officers' **Body Worn Camera**¹³ (BWC) footage detail that Officers Diaz and Soto observed [REDACTED] in a vehicle fitting the description given over a flash message of a vehicle that was seen leaving the area of a person with a gun.¹⁴ The Officers conducted a traffic stop of [REDACTED] vehicle in the vicinity of 81st Street and Western. As they approached [REDACTED] vehicle, the Officers smelled a very strong odor of burnt and fresh cannabis emanating from the interior of the vehicle.¹⁵ The Officers requested a driver's license which [REDACTED] could not produce. [REDACTED] admitted to smoking cannabis. Officers Diaz and Soto advised [REDACTED] to step out of the vehicle and placed him in custody for failing to produce a valid driver's license. The Officers searched [REDACTED] and recovered and impounded four silver packages with brownies and Rice Crispy treats containing suspected cannabis.¹⁶ [REDACTED] was issued a citation for failure to produce driver's license.¹⁷

Body-Worn Camera and In-Car Camera recordings corroborate the officers' arrest report.¹⁸

Medical Records from Holy Cross Hospital indicate that hospital personnel conducted a wellness check on [REDACTED] and no invasive tests were performed.¹⁹

⁸ Simultaneous to this, Officer Martinez asks [REDACTED] if he has been consuming cannabis while remarking that the vehicle smells like cannabis. Att 20, file BWCChavezMarcario at 01:08.

⁹ In his statement, [REDACTED] confirmed the edibles contained cannabis. *Id.*, from 12:00 to 12:17.

¹⁰ Att. #21

¹¹ Att. #22.

¹² Att. #37 (the Investigatory Stop Report erroneously lists [REDACTED] last name as "[REDACTED]").

¹³ Att. #20.

¹⁴ Att. #21.

¹⁵ In his statement to COPA, [REDACTED] admitted that he had consumed cannabis in the vehicle prior to being stopped by the Officers. Att. #5 from 10:34 to 11:00.

¹⁶ Att. #12

¹⁷ Att. #22

¹⁸ Att. #20, #38

¹⁹ Att. #28

III. ANALYSIS AND CONCLUSION

COPA finds that Allegations # 1 to 3 against Officers Soto and Diaz; that they improperly stopped ██████ searched his vehicle, and arrested him; Allegation# 1 to 3 against Officer Chavez; that he improperly searched ██████ and his vehicle, and arrested him; Allegations #1 and 2 against Sergeant Martinez; that he improperly searched ██████ vehicle and arrested him; and Allegation #1 against Sergeant Gomez; that he improperly searched ██████ vehicle; are **Exonerated**. Department members are permitted to conduct a traffic stop when there is “at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law.”²⁰ “Reasonable Articulable 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.”²¹ Additionally, Department members are permitted to search a vehicle when: (1) there is probable cause to believe evidence of a crime in present;²² (2) there is reasonable suspicion the vehicle contains a weapon and/or that the occupants are armed and dangerous;²³ (3) an arrest is made, provided there is reasonable suspicion that the vehicle contains evidence of the crime for which the arrest is made;²⁴ (4) a vehicle is being impounded by the Department;²⁵ or (5) consent is obtained. Further, a Department member must have probable cause to arrest a subject.²⁶ “Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject had committed it.”²⁷ The reasonable basis of any arrest “should be considered from the perspective of a reasonable officer at the time” of the arrest.²⁸

Here, Officers Diaz and Soto (the Officers) received a flash message of a gray Dodge leaving the scene of a person with a gun. The Officers observed ██████ driving a vehicle that matched the description in close proximity and time to the flash message. These observations created reasonable articulable suspicion that ██████ was the subject being sought in the flash message. Thus, the Officers’ decision to stop ██████ was reasonable and proper.

Once the Officers stopped ██████ they requested he exit the vehicle. As ██████ exited, he informed the Officers he was in possession of cannabis. Additionally, Officer Chavez detected cannabis emitting from the vehicle. ██████ and his vehicle were searched, and he was arrested for possession of cannabis. ██████ admission and the odor emitting from his vehicle, established probable cause that ██████ and/or his vehicle possessed illegal contraband,²⁹ specifically cannabis.

²⁰ *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

²¹ S04-13-09 II(C), Investigatory Stop System (effective July 10, 2017 to current).

²² *Maryland v. Dyson*, 527 U.S. 465 (1999). This can be the odor of cannabis or an admission by an occupant that cannabis is present in the vehicle and permits the search of an occupant. See *People v. Zayed*, 2016 IL App. (3rd) 140780 (2016).

²³ *Michigan v. Long*, 463 U.S. 1032 (1983).

²⁴ *Arizona v. Grant*, 556 U.S. 332 (2009).

²⁵ *South Dakota v. Oppeman*, 428 U.S. 364 (1976).

²⁶ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

²⁷ S04-13-09 II(D), Investigatory Stop System (effective July 10, 2017 to current).

²⁸ S04-13-09 II(D), Investigatory Stop System (effective July 10, 2017 to current).

²⁹ Cannabis was not legal in Illinois on the date of this incident.

Therefore, the decision to search [REDACTED] and his vehicle, and to arrest [REDACTED] were reasonable and proper.

COPA finds Allegation #4 against Officers Soto and Diaz, that they improperly transported [REDACTED] to the hospital where a blood sample was obtained without consent, is **Unfounded**. Department policy mandates that juveniles who are to be arrested and subsequently detained must have medical clearance when they suffer from injuries, serious illness, taking prescription medication, under the influence of drugs or narcotics, displaying bizarre behavior, or have been diagnosed with epilepsy, diabetes, and/or asthma.³⁰

Here, once the Officers learned that [REDACTED] had consumed cannabis prior in the day and determined that he was going to be arrested, they were obligated to seek and obtain medical clearance. Thus, their decision to transport [REDACTED] to the hospital was reasonable and proper. Further, there is no evidence that [REDACTED] was subjected to a blood draw while at the hospital. In fact, [REDACTED] informed COPA that he could not recall if his blood was drawn, and his medical records contain no indications of any kind that a blood draw occurred. It is for these reasons that COPA finds there is clear and convincing evidence that a blood draw did not occur at the hospital.

Since the allegations against the Officers are clearly exonerated and/or unfounded, there was no need for the Officers to address the allegations.

Approved:

[REDACTED]

Deputy Chief Administrator – Chief Investigator

August 31, 2022

Date

³⁰ S06-04 XIV(B), Processing of Juveniles and Minors Under Department Control (effective May 8, 2017, to February 29, 2020).