

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident:	December 5, 2018/ 8:00 p.m./ 630 W Taylor Street, Chicago, IL
Date/Time of COPA Notification:	December 19, 2018/ 1:22 p.m.
Involved Officer #1:	David Sodetz, Star #13693, Employee ID# [REDACTED], Date of Appointment: 25-Apr-2016, Police Officer, Unit of Assignment: 004, [REDACTED]-1989, Male, White
Involved Officer #2:	Anthony Larocchia, Star #12621, Employee ID # [REDACTED], Date of Appointment: 25-Apr-2016, Police Officer, Unit of Assignment: 004, [REDACTED]-1977, Male, White
Involved Individual #1:	[REDACTED]-1987, Male, Black
Involved Individual #2:	[REDACTED]-1989, Male, Black
Case Type:	Improper Search of Vehicle

I. ALLEGATIONS

Officer	Allegation	Finding
Officer David Sodetz	1. Conducting a traffic stop without justification	Exonerated
	2. Detaining [REDACTED] without justification	Exonerated
	3. Searching [REDACTED] without justification	Exonerated
	4. Searching [REDACTED] vehicle without justification.	Exonerated
Officer Anthony Larocchia	1. Conducting a traffic stop without justification	Exonerated
	2. Detaining [REDACTED] without justification	Exonerated

II. SUMMARY OF EVIDENCE

Officers David Sodetz and Anthony Larocchia (collectively “the Officers”) were on patrol when they observed a silver Saturn with a nonfunctioning plate light. The Officers stopped the vehicle and approached the occupants. As the Officers approached the vehicle, a strong smell of burnt cannabis became apparent. Officer Sodetz approached the driver, [REDACTED] (Mr. [REDACTED]) and explained the plate light on his vehicle was out. Officer Sodetz then advised Mr. [REDACTED] that he was being recorded. Officer Sodetz asked Mr. [REDACTED] for his driver’s license and then asked

him to exit the vehicle as he smelled marijuana. Initially, Mr. [REDACTED] was hesitant because he did not understand the need to exit the vehicle, producing a Sage clove and advised Officer Sodetz it was the source of the smell. However, he complied with Officer Sodetz's order and exited the vehicle. While standing at the trunk of the vehicle the Officers and Mr. [REDACTED] engaged in a debate over whether the plate light was functioning properly. Mr. [REDACTED] placed his hand under the light illustrate the light was working. Officer Sodetz explained the light must be visible from 500 feet, and Mr. [REDACTED] plate light was not visible. Officer Sodetz conducted a protective pat down and when he discovered a hard object in Mr. [REDACTED] pocket. Officer Sodetz inquired about the object and Mr. [REDACTED] explained it was a butane lighter and used it to light the sage clove that was in his hand.

Mr. [REDACTED] explained that he smokes weed, and Officer Sodetz probably smelled it on his clothing as he smoked weed earlier in the day while in his home. Officer Larocchia approached the passenger, [REDACTED] (Mr. [REDACTED] and asked him to exit the vehicle. Mr. [REDACTED] complied, exited the vehicle and stood at the rear near the trunk. Mr. [REDACTED] and Mr. [REDACTED] engaged in a verbal altercation regarding what Mr. [REDACTED] shared with the Officers. Officer Sodetz searched the vehicle's front cabin, while Officer Larocchia stood with Mr. [REDACTED] and Mr. [REDACTED]. The Officers completed Investigatory Stop Receipts (ISR) for both Mr. [REDACTED] and Mr. [REDACTED] and they were released from the traffic stop.

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** is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.¹ 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.² Clear and convincing is defined as a "degree of proof, which, considering all the evidence

¹ 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 been found to be more probably true than not).

² See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.

IV. ANALYSIS AND CONCLUSION

COPA finds all the allegations against the Officers 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.”³ A motor vehicle’s rear registration plate is required to be illuminated by a white light and should be visible from 50 feet. According to **Body Worn Camera (BWC)**⁴, Mr. ██████ vehicle did not have a functioning light over the rear registration plate which could be seen from the required distance.⁵ Due to the Officers’ training and experience, they were able to detect the odor of cannabis. In instances in which an officer smells marijuana, the officer has probable cause to conduct a search of the vehicle as well as the person(s) inside the vehicle.⁶ Further, if during the limited search the Department member “encounters an object that based on their training and experience, they believe the object is contraband, the member may seize the item without a warrant.

Additionally, the entire traffic stop was depicted on BWC. Mr. ██████ account of the traffic stop was contradictory the account seen on BWC. In his statement to COPA on January 22, 2019,⁷ Mr. ██████ stated he was pulled over by officers driving a white vehicle with writing. BWC revealed Mr. ██████ was stopped by officers operating a dark colored unmarked vehicle. Moreover, Mr. ██████ stated Officer Sodetz immediately asked him to step out the vehicle as soon as Officer Sodetz approached. However, BWC contradicts that statement. Officer Sodetz provided Mr. ██████ the reason for the stop as well as requested Mr. ██████ driver’s license. Furthermore, Mr. ██████ stated he complied with the Officers order to place his hands on the trunk. BWC reveals Mr. ██████ using the butane lighter removed from his pocket by Officer Sodetz to light his Sage clove and place it on the hood of the trunk. Moreover, Mr. ██████ advised COPA that on the date of the incident he told the Officers he did not smoke “weed” in his car but could not recall whether he told the Officers he smoked earlier that day. Mr. ██████ stated it was not possible that the Officers detected the odor of cannabis from him or his vehicle. However, BWC depicts Mr. ██████ advising Officer Sodetz the odor of cannabis is probably emanating from his clothes. In addition, BWC reveal that the rear registration light was not illuminated. Given the fact that the registration light was not visible from 50 feet, Reasonable Articulate Suspicion was present, and the traffic stop was lawful. Therefore, the Officers’ decision to detain Mr. ██████ was reasonable and proper.

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

⁴ The entire interaction between the complainant and the officers was captured on Officer Sodetz’s BWC. Officer Larocchia was not wearing a BWC that day, which can be seen on Officer Sodetz’s footage. Given the length of time that has passed, in addition to COPA’s limited resources, COPA did not address his lack of BWC footage with Officer Larocchia.

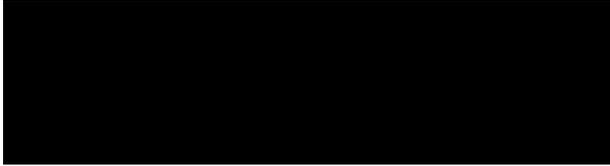
⁵ See Att. 23

⁶ *People v. Zayed*, 2016 IL App (3rd) 140780 (2016); COPA notes the Municipal Code of Chicago (MCC) “prohibits possessing cannabis” “in a vehicle . . . unless the cannabis is in a reasonable secured, sealed container that is odor-proof and child resistant.” MCC 7-24-099(b)(4).

⁷ See Att. 18

Since the Officers' conduct was reasonable and proper, there is no reason for the Officers to answer to the allegations.

Approved:



Angela Hearts-Glass
Deputy Chief Investigator

9-6-2022

Date