

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

|                            |                  |
|----------------------------|------------------|
| Date of Incident:          | October 29, 2017 |
| Time of Incident:          | 4:35 PM          |
| Location of Incident:      | 730 N. Rush St.  |
| Date of COPA Notification: | November 3, 2017 |
| Time of COPA Notification: | 1:36 PM          |

On October 29, 2017 at approximately 4:35 PM, Officer Esteban Ramos, Officer Lauren Petralia, and Field Training Officer (FTO) Stephen Beranek responded to a complaint that a homeless man was selling products and disturbing customers in front of the Giordano’s Restaurant at 730 N. Rush Street. When the officers arrived, Mr. [REDACTED] the complainant, admitted he did not have a peddler’s license. Although Mr. [REDACTED] claimed he was not selling anything, the officers gave Mr. [REDACTED] a ticket for peddling without a license and told Mr. [REDACTED] to pack-up his belongings and leave the area.

The officers returned later in the day to find Mr. [REDACTED] had not left the area as instructed. The officers ordered Mr. [REDACTED] to leave the area several more times, and when he refused, the officers arrested Mr. [REDACTED] for peddling without a license, disorderly conduct, and soliciting unlawful business. The officers packed up his belongings, brought them to the station, and inventoried the belongings which were held for investigation pending the upcoming court hearing.

**II. INVOLVED PARTIES**

|                      |   |
|----------------------|---|
| Involved Officer #1: | Esteban Ramos, star # 12932, employee ID# [REDACTED], Date of Appointment March 16, 2017, rank Provisional Police Officer, Unit of Assignment 16, DOB [REDACTED], 1979, Male, Hispanic.   |
| Involved Officer #2: | Lauren Petralia, star # 12734, employee ID# [REDACTED], Date of Appointment March 16, 2017, rank Provisional Police Officer, Unit of Assignment 018, DOB [REDACTED], 1984, Female, White. |
| Involved Officer #3  | Stephen Beranek, star # 6356, employee ID# [REDACTED], Date of Appointment April 2, 2007, rank Field Training Officer, Unit of Assignment 018, DOB [REDACTED], 1981, Male, White.         |

Involved Civilian: [REDACTED] DOB [REDACTED], 1942, Male, Black.

Civilian Witness [REDACTED] DOB [REDACTED], 1952, Male, Black.

**III. ALLEGATIONS**

| Officer                 | Allegation  | Finding                                   |
|-------------------------|---|---|
| Officer Esteban Ramos   | <p>1. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Esteban Ramos arrested [REDACTED] without justification, in violation of Rule 2, the Fourth Amendment, and Section 6 of the Illinois Constitution.</p> <p>2. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Esteban Ramos failed to properly inventory or return Mr. [REDACTED] property causing him to be unable to retrieve his property, in violation of Rules 2 and 40, and S07-01-01.</p>     | <p>Exonerated</p> <p>Unfounded</p>        |
| Officer Lauren Petralia | <p>1. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Lauren Petralia arrested [REDACTED] without justification, in violation of Rule 2, the Fourth Amendment, and Section 6 of the Illinois Constitution.</p> <p>2. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Lauren Petralia failed to properly inventory or return Mr. [REDACTED] property causing him to be unable to retrieve his property, in violation of Rules 2 and 40, and S07-01-01.</p> | <p>Exonerated</p> <p>Not Sustained</p>    |
| FTO Stephen Beranek     | <p>1. On October 29, 2017 at approximately 4:35 PM at the 18th District, PO Stephen Beranek refused to allow [REDACTED] to use the restroom causing him to urinate on himself, in violation of Rule 2.</p> <p>2. On October 29, 2017 at approximately 4:35 PM at the 18th District, Officer Beranek verbally abused [REDACTED] when he said, "Nigger, we not going to inventory all this stuff, it's stolen", in violation of Rules 2 and 9.</p>  | <p>Not Sustained</p> <p>Not Sustained</p> |

**IV. APPLICABLE RULES AND LAWS**

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 Rules
 

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1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
  2. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
  3. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
  4. **Rule 40:** Failure to inventory and process recovered property in conformance with Department orders.
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 Special Orders
 

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1. **S07-01-01 Inventorying Arrestee's Personal Property**
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 Federal Laws
 

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1. **The Fourth Amendment of the United States Constitution**
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 State Laws
 

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1. **Section 6 of the Illinois Constitution**

 V. INVESTIGATION<sup>1</sup>

 a. Interviews<sup>2</sup>

Mr. ██████████

On December 1, 2017, Mr. ██████████ attended a recorded interview at COPA regarding an incident that occurred on October 29, 2017, at or near 730 N. Rush St. Mr. ██████████ said on the date in question, and at or near the address in question he had some of his painted umbrellas, hats, clothing, and gloves along with his display racks, shopping carts and bungee cords. Three police officers arrived on the scene; a "senior" white, male police officer; an Hispanic, female "rookie" police officer; and a black, male "rookie" police officer, and pointed out Mr. ██████████ was selling on the public way. The officers ascertained Mr. ██████████ did not have a peddler's license. However, Mr. ██████████ claimed he was not selling anything on the public way, and nobody saw him selling anything.<sup>4</sup> During the arrest, the police officers handcuffed him, pushed him around, and said some of the items were stolen from Walgreens. Mr. ██████████ asked

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<sup>1</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>2</sup> It was initially believed that the incident occurred on October 28, 2017. However, it was later discovered the incident actually occurred on October 29, 2017.

<sup>3</sup> Att. 18.

<sup>4</sup> Att. 18 at 13:05.

for a sergeant and the police officers refused to get one.<sup>5</sup> Mr. ██████ claimed he had a witness who heard what happened, but unfortunately had been unable to reach him.

The officers told Mr. ██████ he was under arrest for peddling and started taking his stuff down. Two more officers came and put Mr. ██████ in a squad car. Mr. ██████ said he did not watch the officers take his stuff down. Mr. ██████ at some point told the officers they had to inventory his merchandise, however, they did an improper itemization of his inventory which left his merchandise at risk of being stolen. Everything was just put into 5 garbage bags.<sup>6</sup>

While at the police station, Mr. ██████ was handcuffed to the wall of his cell, and was in the cell for 30-45 minutes. He told the tall, white, “senior” police officer he needed to go to the bathroom.<sup>7</sup> The “senior” white police officer told him to hold it, after which Mr. ██████ urinated on the floor of the cell and on himself. Mr. ██████ said he showed the police officer the pee and the officer stuck his finger up at him and used racial remarks.

The tall, white, senior police officer allegedly said something to the effect of, “Nigger, we not going to inventory all that junk, it’s stolen.” Although Mr. ██████ did not know the name of the tall, white, “senior” police officer, he said the other two police officers were Officer Lauren Petralia and Officer Esteban Ramos.

Mr. ██████ protested against the charges against him and said he was not disorderly. He did raise his voice during the incident but said that black people speak loudly. There was no law against that, and he had every right to speak up and be heard. He also said there is a law that states he can put his “stuff” on the public way, and he reiterated he was not selling anything. Mr. ██████ believed the police improperly arrested him, and improperly inventoried his merchandise.

Mr. ██████

On April 20, 2018, Mr. ██████ attended a recorded interview at COPA regarding an incident that occurred on October 29, 2017, at or near 730 N. Rush St. Mr. ██████ ran into Mr. ██████ at about 10:30 AM on the date of the interview and asked Mr. ██████ to come to COPA to testify as to what happened on the date in question. Mr. ██████ stated he knew Mr. ██████ but did not know his name. The two men occasionally engaged in conversation outside of a restaurant while Mr. ██████ peddled his things. He described Mr. ██████ as a salesman.

Mr. ██████ stated he was at the address on Rush St. on October 29, 2017. A skinny, white male with dark hair came out of the restaurant and told Mr. ██████ he had to move his things.<sup>9</sup> Then the police came, and they told Mr. ██████ he had to move his things.<sup>10</sup> Mr. ██████ said he heard one of the police officers say Mr. ██████ stole everything he was selling.<sup>11</sup>

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<sup>5</sup> Att. 18 at 13:20.

<sup>6</sup> Att. at 19:15.

<sup>7</sup> Att. 18 at 17:35.

<sup>8</sup> Att. 25.

<sup>9</sup> Mr. ██████ kept referring to the restaurant as Portillo’s. It was actually Giordano’s. Mr. ██████ description of the man who came out of Giordano’s was inaccurate in that he said the man was skinny. The man was actually large.

<sup>10</sup> Att. 25 at 06:39.

<sup>11</sup> Att. 25 at 06:49.

Mr. [REDACTED] was unable to describe the officer that made this statement, except that he was white with dark hair, about 165 lbs. Mr. [REDACTED] said Mr. [REDACTED] continually refused to move, and that eventually more officers came to the scene. Mr. [REDACTED] witnessed officers remove Mr. [REDACTED] thing and take him away.

### **Police Officer Esteban Ramos<sup>12</sup>**

On May 31, 2018, Police Officer Esteban Ramos attended a recorded interview at COPA regarding an incident that occurred on October 29, 2017, at or near 730 N. Rush St. Officer Ramos stated that he and the two officers he was with, Officer Lauren Petralia and FTO Stephen Beranek, were dispatched to the address in question because someone was selling items in front of the business located there. When they arrived, the officers spoke with Mr. [REDACTED] and asked if he had a pan handler's license, which he did not.<sup>13</sup> The officers told Mr. [REDACTED] he could not sell there, issued Mr. [REDACTED] an Administrative Notice of Violation (ANOV) for pan handling, and ordered Mr. [REDACTED] to pack up and leave.

Later in the day, the gentleman from Giordano's called the police again, and the three police officers returned to the scene. Mr. [REDACTED] who had not moved-on as ordered, continually stated he was not selling anything. Mr. [REDACTED] was arrested and taken into custody for disorderly conduct after the gentleman from Giordano's signed a complaint against Mr. [REDACTED]. It is alleged Mr. [REDACTED] was being loud toward the manager of Giordano's, his customers, and the people outside the restaurant. Officer Ramos later mentioned Mr. [REDACTED] was agitated and yelling, both at the scene and at the police station.

Police Officer Petralia and FTO Beranek removed Mr. [REDACTED] property from the sidewalk, placed it in Mr. [REDACTED] black plastic bags, and transported it to the police station. Officer Ramos went with Mr. [REDACTED] in the transport vehicle. Officer Ramos saw the items at the police station but did not recall if he was involved with the inventory report writing. The inventory report stated the property was to be held for investigation. Officer Ramos did not know when the property was returned to Mr. [REDACTED].

At some point, FTO Beranek asked Officer Ramos to let Mr. [REDACTED] out so he could use the restroom.<sup>14</sup> Officer Ramos gave two versions of the event. The first version was that he left the room at lock-up to unlock the men's room door, and when he returned Mr. [REDACTED] had urinated in the cell. Then Officer Ramos said the FTO told him to let Mr. [REDACTED] out, and when he did so Mr. [REDACTED] "just went." Mr. [REDACTED] was never taken to the men's room and Officer Ramos was not sure if he urinated on himself or just into the cell. He did not recall whether he noticed Mr. [REDACTED] clothing was wet.<sup>15</sup>

### **Police Officer Lauren Petralia<sup>16</sup>**

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<sup>12</sup> Att. 30

<sup>13</sup> Att. 30 at 05:59.

<sup>14</sup> Att. 30 at 18:20 to 20:20.

<sup>15</sup> Att. 30 at 23:25.

<sup>16</sup> Att. 37.

On June 4, 2018, Police Officer Lauren Petralia attended a recorded interview at COPA regarding an incident that occurred on October 29, 2017, at or near 730 N. Rush St. Officer Petralia stated she and her partners, FTO Beranek and Officer Ramos were dispatched to this address. Officer Petralia's statement as to what occurred is consistent with that of Officer Ramos and FTO Beranek.

Officer Petralia did not recall any of the conversations either she or the other officers had with Mr. [REDACTED] during their first visit. Mr. [REDACTED] said he was not selling anything, but she did not recall if she saw him sell anything. However, based on the BWC video, she did see that he did.<sup>17</sup> Mr. [REDACTED] was arrested, and his property removed to the police station during the second visit.

Officer Petralia did not recall how she was trained to inventory in the academy, but she inventoried Mr. [REDACTED] property as instructed by FTO Beranek.<sup>18</sup> Officer Petralia was in the lock-up area at the police station when she inventoried the property. She did not recall if she or any of the other officers had any conversation with Mr. [REDACTED] about the inventory of his property, and she did not recall anyone saying, "Nigger, we are not going to inventory all this stuff, it's stolen", or anything to that effect.<sup>19</sup>

Officer Petralia did not recall if Mr. [REDACTED] asked anyone to use the bathroom or if anyone took him to the bathroom.<sup>20</sup> Officer Petralia did remember being near the computers and completing the inventory forms while she was at lock-up. Officer Petralia also said she remembered he was in a cell that had a "bathroom."<sup>21</sup> However, later in the interview she said she did not recall whether his cell had a toilet.<sup>22</sup> Officer Petralia also stated she did not recall if Mr. [REDACTED] urinated in his cell, had wet clothing or if anyone refused to let him use the restroom. Officer Petralia did not recall whether there were cameras in the lock-up area.

### **Field Training Officer Stephen Beranek**<sup>23</sup>

On June 1, 2018, Field Training Officer Stephen Beranek attended a recorded interview at COPA regarding an incident that occurred on October 29, 2017, at or near 730 N. Rush St. FTO Beranek's statement regarding the incident at the location in question is consistent with that of Officer Ramos.

The manager for Giordano's showed FTO Beranek a cellphone video of Mr. [REDACTED] selling items to people. The manager said he had problems with Mr. [REDACTED] every day. When FTO Beranek approached Mr. [REDACTED] he claimed he was not selling anything, and that people were just paying him to take pictures with the merchandise. FTO Beranek stated he saw Mr. [REDACTED] sell someone a hat shortly before he was arrested.

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<sup>17</sup> Att. 37 at 08:40.

<sup>18</sup> Att. 37 at 09:52.

<sup>19</sup> Att. 37 at 12:55.

<sup>20</sup> Att. 37 at 13:30.

<sup>21</sup> Att. 37 at 14:06.

<sup>22</sup> Att. 37 at 24:52.

<sup>23</sup> Att. 32.

In regard to Mr. ██████ property, FTO Beranek stated he put the hats, foam heads, metal racks, bungee cords, etc.... into Mr. ██████ garbage bags, and felt it would have taken too much time to itemize this many pieces of merchandise.<sup>24</sup> At 02:40 of his BWC video, FTO Beranek stated, “I’m guessing those hats are stolen.”<sup>25</sup> FTO Beranek did not offer any evidence they actually were stolen, but stated he assumed they were based on past experience. Back at the police station Mr. ██████ stated the officers had to itemize everything.<sup>26</sup> FTO Beranek said he put the items in bulk storage and believed he marked the inventory form to hold for investigation, which he believed would be appropriate because Mr. ██████ had been arrested.

Mr. ██████ alleged FTO Beranek said, “Nigger, we are not going to inventory all this stuff, it’s stolen.” FTO Beranek said he neither made this statement nor said anything that could have been interpreted as though he did.

Mr. ██████ also alleged FTO Beranek denied his access to a restroom. FTO Beranek stated Mr. ██████ never asked him to go to the restroom, he never denied him access to a restroom, and he did not hear Mr. ██████ ask one of the other officers to use the restroom. FTO Beranek also believed Mr. ██████ was in a cell that had a toilet, and did not recall whether he noticed if Mr. ██████ clothing was wet. FTO Beranek later stated Mr. ██████ was in the 2nd large cell with a toilet.

## **b. Digital Evidence**

### **Giordano’s Manager’s Cellphone Video<sup>27</sup>**

Giordano’s Manager, Mr. ██████ provided cellphone video clips that show Mr. ██████ with his merchandise in front of the Giordano’s Restaurant at 730 N. Rush Street. All of the clips show several wire racks situated in shopping carts. On the wire racks are a series of knit winter hats, winter scarves, and foam heads to hold some of the hats. In one video Mr. ██████ put out a series of paper umbrellas onto the sidewalk, further blocking it, according to Mr. ██████

In the first video, marked IMG\_0311<sup>28</sup>, an unidentified woman gave Mr. ██████ a \$20 bill. An unidentified man stood next to the woman and held a blue knit hat with a Chicago Cubs insignia. This hat was consistent with the hats Mr. ██████ had on his display.

Throughout all of the clips Mr. ██████ said things like, “Leave me alone. Go inside and sell your pizzas and stay away from me.” In another clip he started yelling for the police and for help. In the video marked IMG\_0317 Mr. ██████ said, “Stop bothering me out here selling my merchandise.”<sup>29</sup>

### **FTO Beranek’s BWC Video 1<sup>30</sup>**

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<sup>24</sup> Att. 32 at 07:45.

<sup>25</sup> Att. 32 at 09:37.

<sup>26</sup> Att. 32 at 10:50.

<sup>27</sup> Att. 19

<sup>28</sup> Att. 19-IMG\_0311 at 00:43

<sup>29</sup> Att. 19-IMG\_0317 at 01:36.

<sup>30</sup> Att. 13.

This video is from the first encounter with Mr. [REDACTED] on October 29, 2018. FTO Beranek approached Mr. [REDACTED] and asked if he had a business license. Mr. [REDACTED] replied he was not selling anything. He claimed he was setting up so people could take pictures. FTO Beranek then approached Mr. [REDACTED], the manager of Giordano's and the person who called the police. Mr. [REDACTED] showed FTO Beranek the cellphone video clips, described above, that showed Mr. [REDACTED] selling a knit winter hat. FTO Beranek told Mr. [REDACTED] he was guessing the merchandise Mr. [REDACTED] was selling was stolen.<sup>31</sup>

The officers went to their police vehicle and wrote an Administrative Notice of Violation (ANOV) against Mr. [REDACTED] for peddling without a license. The officers took the ANOV to Mr. [REDACTED] and Officer Petralia had Mr. [REDACTED] sign it to acknowledge he received the ticket. Officer Petralia and FTO Beranek stated Mr. [REDACTED] had to leave. The officers then left the scene.

### **FTO Beranek's BWC Video 2<sup>32</sup>**

This video is from the second encounter with Mr. [REDACTED] on October 29, 2018. FTO Beranek pulled up to the scene in a police vehicle, exited the vehicle, and approached the area where Mr. [REDACTED] stood. FTO Beranek told the people who looked at the merchandise, "You can't buy any of this merchandise, most of it is all stolen and he's not allowed to sell stuff."<sup>33</sup> FTO Beranek also said Mr. [REDACTED] went to Walgreens and "stole all this shit." Mr. [REDACTED] denied stealing the merchandise.

FTO Beranek said he heard Mr. [REDACTED] say that a hat was \$8.00.<sup>34</sup> He then explained to a Giordano's employee that people go into Walgreens and steal handfuls of similar hats all the time. He asked Mr. [REDACTED] whether he bought all of the hats on display, where he bought them and whether sells them for \$8.00. Mr. [REDACTED] did not respond.

FTO Beranek repeatedly told Mr. [REDACTED] to pack up and leave or he would have to arrest him. Mr. [REDACTED] began to put some of the hats lying on the sidewalk into a black garbage bag. He was moving very slowly. FTO Beranek and Mr. [REDACTED] began to struggle over a green tarp when he attempted to assist Mr. [REDACTED] pack up his things. When they stopped, FTO Beranek continued to put Mr. [REDACTED] merchandise into the black garbage bags.

FTO Beranek asked Mr. [REDACTED] again if he was going to leave, but he did not answer. FTO Beranek then told Officers Petralia and Ramos to get a wagon and told Mr. [REDACTED] they were going to take all his stuff and hold it for investigation. Mr. [REDACTED] said to go ahead and take it. FTO Beranek continued to pack up the merchandise and asked Mr. [REDACTED] how he usually packed up his things, but there was no clear reply.

An unidentified officer appeared on the scene and told FTO Beranek he had given a ticket to Mr. [REDACTED] the day before for peddling without a license and was warned by a sergeant that

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<sup>31</sup> Att. 13 at 02:40.

<sup>32</sup> Att. 45.

<sup>33</sup> Att. 45 at 00:30-00:56.

<sup>34</sup> Att. 45 at 02:50.

next time he would be arrested.<sup>35</sup> The unidentified officer also told FTO Beranek that Sergeant Lisa Idle (phonetic) came out to the scene and said in the event that they did have to inventory all of Mr. [REDACTED] inventory, they would not need to inventory every item, but to simply indicate the number of bags and a general description of what is in them. The unidentified officer also verified the merchandise was to be held for investigation.

The unidentified officer stated he had a car with a cage and proceeded to handcuff Mr. [REDACTED] Mr. [REDACTED] was at some point placed in the unidentified officers police vehicle. FTO Beranek and two other officers finished putting all of Mr. [REDACTED] merchandise into black garbage bags and placed the bags into the two police vehicles.<sup>36</sup>

### c. Documentary Evidence

#### Arrest Report- [REDACTED]

Arrest report marked with CB# [REDACTED] stated that on October 29, 2017 at approximately 4:35 PM, at or near 730 N. Rush St., Mr. [REDACTED] was arrested for peddling without a license, disorderly conduct and soliciting unlawful business. Police officers were dispatched to the address by Mr. [REDACTED] who related that Mr. [REDACTED] was selling merchandise in front of his store and showed officers a video of a sales transaction. ANOV # [REDACTED] was issued and Mr. [REDACTED] was advised to remove his property and stop selling items. Twenty minutes later the officers returned, and Mr. [REDACTED] was still there. The officers observed Mr. [REDACTED] tell a citizen that a hat cost \$8.00. Mr. [REDACTED] began to yell and bother Mr. [REDACTED] customers. The officers continually ordered Mr. [REDACTED] to leave the area, and after about 15 minutes of refusals, the officers took Mr. [REDACTED] into custody.

#### Property Inventory Form- Inv. No. [REDACTED]<sup>38</sup>

Lists the following Items:

- 1-50 Gallon Black Garbage Bag Filled with Umbrellas
- 1-50 Gallon Black Garbage Bag Filled with Clamps and Bungee Cords
- 5-50 Gallon Black Garbage Bags Filled with Misc. Clothing Merchandise
- 1-50 Gallon Black Garbage Bag Filled with Foam Heads and Misc. Hats
- 10-White in Color Wire Shelves

The form states the property is to be held for Investigation and/or Evidence and was approved by Sergeant Karla Witt.

#### To/From Memo: Subject-Lock-Up Inspection regarding [REDACTED] Arrest<sup>39</sup>

The memo stated that on July 13, 2018 COPA Investigators visited the 18<sup>th</sup> District lock-up area where Mr. [REDACTED] was taken on October 29, 2017. There are two large cells in the

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<sup>35</sup> Att. 45 at 17:35.

<sup>36</sup> This video was not included with the original BWC videos provided by Evidence.com. A request for additional BWC footage was sent after the interview of FTO Beranek had already been completed.

<sup>37</sup> Att. 6.

<sup>38</sup> Att. 31.

<sup>39</sup> Att. 47.

processing area that are equipped with toilets and several that are not. The cell FTO Beranek described does have a toilet in the cell.

**Court Order:**<sup>40</sup>

Ordered CPD to return Mr. [REDACTED] property.

## 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 occurred and violated Department policy. *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). 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. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

## VII. ANALYSIS

The burden of proof COPA must satisfy to support the findings for the allegations discussed below is preponderance of the evidence or clear and convincing evidence.

### Officer Esteban Ramos

COPA finds that **Allegation #1** against **Officer Ramos**, that it is alleged that on October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Esteban Ramos arrested

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<sup>40</sup> Att. 43.

██████████ without justification, in violation of Rule 2, the Fourth Amendment, and Section 6 of the Illinois Constitution, is not supported by the evidence and is **EXONERATED**.

Based on the evidence, there is no question Mr. ██████████ was indeed selling his merchandise in front of the Giordano's at the address in question and was behaving in a disorderly manner and/or breaching the peace.

Not only was there cellphone video that captured Mr. ██████████ sell a passerby a knit hat, it also captured Mr. ██████████ admit he was selling his merchandise. The police report, attested to by an arresting officer, stated officers heard Mr. ██████████ tell a citizen that a hat cost \$8.00.

Cellphone video and Body Worn Camera video also captured Mr. ██████████ as he yelled at Mr. ██████████ and caused a general disturbance. Furthermore, based on the narrative of the arrest report, Mr. ██████████ refused to leave the area and to cease selling his merchandise despite repeated orders to do so by police officers. Therefore, there is no violation of State or Federal Law, or CPD Rules or Regulations regarding this allegation, and the arrest is deemed lawful.

COPA finds that **Allegation #2**, that it is alleged that on October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Esteban Ramos failed to properly inventory or return Mr. ██████████ property causing him to be unable to retrieve his property, in violation of Rules 2 and 40, and S07-01-01, is not supported by the evidence and is **UNFOUNDED**.

Based on the interviews of both Officer Ramos and Officer Petralia, and the second BWC video of FTO Beranek, Officer Ramos was not involved in the inventorying of Mr. ██████████ property.

#### **Officer Lauren Petralia**

COPA finds that **Allegation #1**, that it is alleged that on October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Lauren Petralia arrested ██████████ without justification, in violation of Rule 2, the Fourth Amendment, and Section 6 of the Illinois Constitution, is not supported by the evidence and is **EXONERATED**.

The facts and analysis for this allegation are consistent with those of Allegation #1 for Officer Ramos. Therefore, there is no violation of State or Federal Law, or CPD Rules or Regulations regarding this allegation, and the arrest is deemed lawful.

COPA finds that **Allegation #2**, that it is alleged that on October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Lauren Petralia failed to properly inventory or return Mr. ██████████ property causing him to be unable to retrieve his property, in violation of Rules 2 and 40, and S07-01-01, is not supported by enough evidence to prove or disprove the allegation and is **NOT SUSTAINED**.

It has been determined that there is insufficient evidence to either prove or disprove the allegation. Officer Petralia stated in her interview with COPA that she inventoried the property in question as trained by FTO Beranek. And, even though S07-01-01 does not demand that each item of a voluminous amount of inventory be individually listed, it is unclear what the usual custom

and practice is for inventorying this type of property. There is no indication that Mr. [REDACTED] would not be able to retrieve his property provided he followed the protocol outlined in S07-01-01.

### **FTO Stephen Beranek**

COPA finds that **Allegation #1**, that it is alleged that on October 29, 2017 at approximately 4:35 PM at the 18th District, PO Stephen Beranek refused to allow [REDACTED] to use the restroom causing him to urinate on himself, in violation of Rules 2 and 8, is not supported by enough evidence to prove or disprove the allegation and is **NOT SUSTAINED**.

It has been determined there is insufficient evidence to either prove or disprove the allegation. The credibility Mr. [REDACTED] is diminished based on his behavior in the BWC videos of FTO Beranek and the video shot by the Giordano's employee. Mr. [REDACTED] presented as combative and was untruthful as to whether he was selling his merchandise. Officer Ramos presented as credible in his recorded interview. Officer Petralia recalled little of the incident.

Officer Ramos stated FTO Beranek asked Officer Ramos to let Mr. [REDACTED] out so he could use the restroom, but that before he did so Mr. [REDACTED] "Just went." Officer Petralia first stated the cell Mr. [REDACTED] occupied had a "bathroom."<sup>41</sup> However, later in the interview Officer Petralia said she did not recall whether or not Mr. [REDACTED] was in a cell with a bathroom. FTO Beranek stated Mr. [REDACTED] was in a cell with a toilet and never asked him to use the bathroom. It is important to note that Mr. [REDACTED] stated in his interview he had been handcuffed to his cell.

The only consistency between the three officers is that they do not recall noticing that Mr. [REDACTED] clothing was wet, nor did Mr. [REDACTED] ever mention his clothing was wet or that he needed a fresh pair of pants.

COPA finds that **Allegation #2**, that it is alleged that on October 29, 2017 at approximately 4:35 PM at the 18th District, Officer Beranek verbally abused [REDACTED] when he said, "Nigger, we not going to inventory all this stuff, it's stolen", in violation of Rules 2, 8, and 9, is not supported by enough evidence to prove or disprove the allegation and is **NOT SUSTAINED**.

The credibility issues for this allegation are consistent with those mentioned for Allegation #1.

While Mr. [REDACTED] alleges that FTO Beranek made such a statement, FTO Beranek denies it. Given Mr. [REDACTED] lack of credibility, and the lack of corroboration for this allegation, there is insufficient evidence to prove the allegation by a preponderance.

## **VIII. CONCLUSION**

Based on the analysis set forth above, COPA makes the following findings:

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<sup>41</sup> It is a toilet rather than a bathroom.

| Officer                 | Allegation  | Finding                                   |
|-------------------------|---|---|
| Officer Esteban Ramos   | <p>1. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Esteban Ramos arrested [REDACTED] without justification, in violation of Rule 2, the Fourth Amendment, and Section 6 of the Illinois Constitution.</p> <p>2. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Esteban Ramos failed to properly inventory or return Mr. [REDACTED] property causing him to be unable to retrieve his property, in violation of Rules 2 and 40, and S07-01-01.</p>     | <p>Exonerated</p> <p>Unfounded</p>        |
| Officer Lauren Petralia | <p>1. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Lauren Petralia arrested [REDACTED] without justification, in violation of Rule 2, the Fourth Amendment, and Section 6 of the Illinois Constitution.</p> <p>2. On October 29, 2017 at approximately 4:35 PM at or near 730 N. Rush Street, Officer Lauren Petralia failed to properly inventory or return Mr. [REDACTED] property causing him to be unable to retrieve his property, in violation of Rules 2 and 40, and S07-01-01.</p> | <p>Exonerated</p> <p>Not Sustained</p>    |
| FTO Stephen Beranek     | <p>1. On October 29, 2017 at approximately 4:35 PM at the 18th District, PO Stephen Beranek refused to allow [REDACTED] to use the restroom causing him to urinate on himself, in violation of Rule 2.</p> <p>2. On October 29, 2017 at approximately 4:35 PM at the 18th District, Officer Beranek verbally abused [REDACTED] when he said, "Nigger, we not going to inventory all this stuff, it's stolen", in violation of Rules 2 and 9.</p>  | <p>Not Sustained</p> <p>Not Sustained</p> |

Approved:



Angela Hearts-Glass  
*Deputy Chief Investigator*

4-29-2021

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Date

Appendix A

Assigned Investigative Staff

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|                                    |                     |
|------------------------------------|---------------------|
| <b>Squad#:</b>                     | 12                  |
| <b>Investigator:</b>               | Frances Lee #68     |
| <b>Supervising Investigator:</b>   | Andrew Dalkin       |
| <b>Deputy Chief Administrator:</b> | Angela Hearts-Glass |