

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 23, 2019
Time of Incident:	5:37 PM
Location of Incident:	7613 S. Loomis Blvd. Chicago, IL 60620
Date of COPA Notification:	June 28, 2019
Time of COPA Notification:	9:30 AM

Chicago Police Department (CPD) Officers Michael Scanlon and Jordan Smith initiated a traffic stop of [REDACTED] because the temporary license plate displayed on the back of his vehicle was not registered. Upon stopping [REDACTED] the officers informed him that the temporary license plate was not registered to the vehicle. [REDACTED] told the officers he had just purchased the vehicle the day prior. The officers ran the vehicle’s Vehicle Identification Number (VIN) and discovered the vehicle was registered to Hertz Rental Car. The officers then requested that [REDACTED] exit the vehicle. [REDACTED] initially refused to do, but he eventually exited the vehicle.

The officers detained [REDACTED] so they could further investigate the registration discrepancies. Officer Scanlon announced that he was going to search the vehicle for rental paperwork, and he proceeded to remove a folder of paperwork from the open glove compartment. Upon review of the paperwork, Officer Scanlon noted it was Hertz Rental Car paperwork and an executed sales agreement for the vehicle. The officers confirmed the sale of the vehicle, then released [REDACTED] and provided him with an Investigatory Stop Receipt. After releasing [REDACTED] and upon returning to the 006th District Station, Officer Scanlon discovered that he had inadvertently retained [REDACTED] identification. While [REDACTED] was registering his complaint at the district station, his driver’s license was returned.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Michael Scanlon / Star #15504 / Employee ID # [REDACTED] / DOA: October 31, 2016 / Unit: 006 / Male / White.
Involved Officer #2:	Officer Jordan Smith / Star #17346 / Employee ID # [REDACTED] / DOA: December 14, 2015 / Unit: 006 / Male / White.
Involved Individual #1:	[REDACTED] / Male / Black.

III. ALLEGATIONS

Officer	Allegation	Finding
Officers Scanlon and Smith	1. Racially profiling ██████████ 2. Made, caused to be made, adopted, approved and/or attested to false, misleading, inaccurate, incomplete and/or inconsistent statement(s) in the Investigatory Stop Report (██████████ related to the stop and search of ██████████ red Chevrolet Impala (VIN: ██████████) on June 23, 2019, at approximately 17:37 in the vicinity of 7613 S. Loomis Blvd. in that he “conducted a search of the vehicle due to the odor of cannabis.”	Unfounded Not Sustained
Officer Scanlon	3. Intentionally failed to return ██████████ drivers license and proof of insurance.	Not Sustained

IV. INVESTIGATION

a. Interviews

On June 29, 2019, ██████████ provided a statement to COPA.¹ ██████████ stated that Officers Scanlon and Smith pulled him over in his vehicle, then informed him there was a lot of crime in the area and that was a good enough reason to initiate the stop. ██████████ provided his license and insurance, which came back clear, but there was a problem with the vehicle’s VIN and the temporary license plate. ██████████ explained to the officers that he had recently purchased the vehicle and the information might not be in the system yet. ██████████ requested a supervisor because he did not feel comfortable.

As additional CPD members arrived at the scene, ██████████ was asked to exit his vehicle and threatened with arrest if he failed to comply. ██████████ asked why he needed to exit the vehicle, and he was told that the license plates were registered to a rental car. ██████████ exited his vehicle, at which point he was handcuffed, searched, and placed in the rear of a CPD vehicle. While ██████████ was in the rear of the CPD vehicle, Officers Scanlon and Smith searched ██████████ vehicle. Sergeant (Sgt.) Schulz then arrived at the scene, and ██████████ explained to the sergeant that he believed the officers racially profiled him. In response, Sgt. Schulz said, “I don’t give a fuck.”² ██████████ then asked Sgt. Schulz for his badge number, which he provided.

The officers released ██████████ and he left the location. Shortly thereafter, however, ██████████ realized the officers had not returned his driver’s license and proof of insurance. ██████████ went to

¹ Att. 2.

² The body worn camera (BWC) footage does not show Sgt. Schultz responding in this manner; rather, Sgt. Schultz inquired further as to why ██████████ believed he was racially profiled. Att. 2 at 03:55; see Att. 9 at 04:35.

the 006th District Station to register a complaint. While making his complaint, the desk sergeant returned his driver's license and provided him with a log number; however, the sergeant could not locate [REDACTED] proof of insurance.

On July 14, 2020, **COPA interviewed Officer Smith.**³ Officer Smith recalled stopping a red Chevy Impala, driven by [REDACTED] because the attached license plate did not match the vehicle. Upon initial contact with [REDACTED] Officer Smith saw [REDACTED] acting in a nervous manner by shaking, looking around, and requesting a sergeant, and the officer detected an odor of burnt cannabis.⁴ Officer Smith obtained [REDACTED] driver's license, returned to the CPD vehicle, and completed a check that revealed the driver's license was valid. Officer Smith returned to [REDACTED] vehicle and informed Officer Scanlon that [REDACTED] driver's license was valid.

Officer Scanlon then returned to the CPD vehicle to conduct a check of the vehicle's VIN. While at the CPD vehicle, Officers Smith and Scanlon discussed [REDACTED] behavior and criminal history; however, they did not discuss the presence of the odor of burnt cannabis.⁵ The VIN check revealed [REDACTED] vehicle was registered to Hertz Rental Car. Officer Scanlon then called for additional units, and the officers returned to [REDACTED] vehicle and requested he exit. Initially, [REDACTED] refused and requested a supervisor; however, he eventually exited the vehicle and was handcuffed. Once in handcuffs, an officer conducted a protective pat down of [REDACTED] because of a bulge observed in his pants pocket.⁶ The officers then secured [REDACTED] in the rear of a CPD vehicle. At that point, Officer Smith approached and conducted a plain view search of [REDACTED] driver's side area and looked underneath the seat.⁷

Officer Smith denied racially profiling [REDACTED] Officer Smith also confirmed that [REDACTED] was not in possession of contraband or anything illegal. Officer Smith could not recall whether [REDACTED] driver's license and proof of insurance were returned, but he stated that Officer Scanlon had managed the paperwork regarding the stop.

On July 14, 2020, **COPA interviewed Officer Scanlon.**⁸ Officer Scanlon stated essentially the same information as Officer Smith as to why the officers stopped and detained [REDACTED] then searched his vehicle. Specifically, Officer Scanlon confirmed that he too detected the odor of burnt cannabis when he initially approached the vehicle.⁹ Officer Scanlon also confirmed that he observed a bulge in [REDACTED] in his left pocket once [REDACTED] exited the vehicle.¹⁰ Finally, Officer Scanlon explained that he inadvertently retained [REDACTED] driver's license and discussed the issue with more experienced CPD members once he returned to the district station.¹¹ They advised

³ Atts. 10, 13.

⁴ Att. 13, pgs. 14 to 15.

⁵ Officer Smith explained that he and Officer Scanlon did not verbally discuss the presence of the odor of burnt cannabis because they had already non-verbally confirmed they both detected it. Att. 13, pgs. 15 to 16.

⁶ Att. 13, pg. 13.

⁷ Officer Smith explained he conducted the search because he detected the odor of burnt cannabis when he initially approached the vehicle. Att. 13, pg. 14.

⁸ Atts. 11, 12.

⁹ Officer Scanlon explained that there was no discussion about the odor of burnt cannabis because he used non-verbal cues to alert Officer Smith to the odor. Att. 12, pgs. 15, 20 to 21.

¹⁰ Att. 12, pgs. 14 to 15.

¹¹ Att. 12, pgs. 17 to 18

Officer Scanlon to leave [REDACTED] driver's license at the station desk to see if [REDACTED] would come to collect it; if not, Officer Scanlon planned to return it to [REDACTED] address or mail it to him. Officer Scanlon further explained that, when [REDACTED] was at the station, the desk sergeant asked Officer Scanlon if he was in possession of [REDACTED] proof of insurance. Officer Scanlon searched his person and CPD vehicle but did not locate the proof of insurance, and he believed he left it with the other paperwork discovered during the search of [REDACTED] vehicle.¹²

b. Digital Evidence

Body Worn Camera (BWC) footage¹³ recorded by the officers depicts essentially the same information that the officers provided to COPA. The footage does not contain any conversation about the odor of burnt cannabis coming from [REDACTED] vehicle. However, it shows that after [REDACTED] was handcuffed and patted down, he was secured in the rear of a CPD vehicle.¹⁴ The video further confirms that the search of [REDACTED] vehicle was limited in scope to a visual inspection around and under the front seats of the passenger compartment, and to the paperwork located in the open glove compartment.¹⁵

c. Documentary Evidence

[REDACTED] Investigative Stop Report (ISR)¹⁶ contains essentially the same information as provided by the officers in their statements and captured on BWC. Additionally, the ISR details that the officers searched [REDACTED] vehicle after detecting the odor of burnt cannabis. It also states that, once [REDACTED] exited the vehicle, the officers observed a bulge in his pants pocket and subjected him to a protective pat down.

Portable Data Terminal (PDT) messages¹⁷ confirm that the temporary license plate attached to [REDACTED] vehicle was not registered with the State of Illinois.¹⁸ The messages also show that the VIN searched by the officers was registered to Hertz Renal Company.¹⁹

V. 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;

¹² Att. 12, pg. 24.

¹³ Atts. 7 and 8.

¹⁴ Att. 7 at 09:31 to 10:31; Att. 8 at 09:37 to 10:30.

¹⁵ Officer Scanlon recovered a Bill of Sale from the paperwork located in the open glove compartment. Att. 7 at 10:38 to 11:32; Att. 8 at 10:54.

¹⁶ Att. 6.

¹⁷ Att. 5.

¹⁸ Att. 5, pg. 2.

¹⁹ Att. 5, pg. 5.

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 a proposition is proved.²⁰ For example, if the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred 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 offense.²¹ 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.”²²

VI. ANALYSIS AND CONCLUSION

COPA finds Allegation #1 against Officers Smith and Scanlon, that they racially profiled ██████ is **unfounded**. Here, ██████ was operating a vehicle with a license plate that was not registered to the vehicle, which provided ample reason for the officers to stop ██████. Additionally, once the officers stopped ██████ and completed a VIN check, they discovered the vehicle was not registered to ██████ but to Hertz Rental Car. This constituted further justification for ██████ temporary detention. Upon further investigation, the officers confirmed ██████ assertions that he had recently purchased the vehicle and the registration information had not been processed yet. There is no objective evidence that the officers stopped or detained ██████ based on his race.

COPA finds Allegation #2 against Officers Smith and Scanlon, that they provided false information in the Investigatory Stop Report (ISR), is **not sustained**. While CPD members are prohibited from making false reports, in this case, there is no indication that the officers’ description of smelling burnt cannabis inside the vehicle was false. Although the officers did not verbally discuss the odor of cannabis during the stop, that does not mean they did not smell the odor of cannabis. In fact, both officers told COPA they detected the odor when they approached ██████ vehicle, and they have developed a series of non-verbal gestures to communicate covertly, so as to not to arouse suspicion of citizens. Based on this information, COPA finds there is insufficient evidence to determine whether the officers actually detected an odor of cannabis in the vehicle, as reported in the ISR; therefore, this allegation is **not sustained**.

COPA finds Allegation #3 against Officer Scanlon, that he intentionally failed to return ██████ driver’s license and proof of insurance, is **not sustained**. While it is undisputed that Officer Scanlon failed to return ██████ driver’s license at the conclusion of the traffic stop,

²⁰ 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).

²¹ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

²² *Id.* at ¶ 28.

Officer Scanlon asserted that this failure was inadvertent. He explained that he consulted with more experienced CPD members and developed a plan to return [REDACTED] driver's license. In fact, that plan was a success, as [REDACTED] recovered his driver's license when he registered this complaint at the 006th District Station. Further, with regard to the proof of insurance, there is no evidence, apart from [REDACTED] statement, that Officer Scanlon retained the insurance. In fact, the proof of insurance [REDACTED] provided appeared to be a full sheet of paper²³ and could have been intermingled with the rental and purchased agreements reviewed during the traffic stop. Since there is no indication that Officer Scanlon intended to retain [REDACTED] driver's license or proof of insurance, this allegation is **not sustained**.

Approved:

[REDACTED]

Steffany Hreno
Director of Investigations.

May 1, 2023

Date

²³ Att. 7 at 03:51; Att. 8 at 03:32.