

SUMMARY REPORT OF INVESTIGATION

Date/Time/Location of Incident #1:	January 5, 2020 / 11:35 am / 4000 S. Martin Luther King Drive, Chicago, IL 60653.
Date/Time/Location of Incident #2:	January 5, 2020 / 12:00 pm / 5101 S. Wentworth Avenue, Chicago, IL 60609.
Date/Time of COPA Notification:	January 6, 2020 / 01:01 am.
Involved Sergeant #1:	Sergeant Charlie Johnson / Star#869 / Employee ID# [REDACTED] / DOA: October 28, 2002 / Unit: 002/003 / Male / Black.
Involved Officer #1:	Officer Larry Lanier / Star#16195 / Employee ID# [REDACTED] / DOA: August 25, 2014 / Unit: 002/376 / Male / Black.
Involved Officer #2:	Officer Levon London / Star#18569 / Employee ID# [REDACTED] / DOA: January 17, 2017 / Unit: 002/166 / Male / Black.
Involved Individual #1:	[REDACTED] / Male / Black.
Case Type:	03Q – Improper Detention.

I. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Incident #1		
Sergeant Charlie Johnson and Officers Larry Lanier and Levon London	1. Detaining Mr. [REDACTED] without justification.	Exonerated.
	2. Arresting Mr. [REDACTED] without justification.	Exonerated.
Officers Larry Lanier and Levon London	3. Searching Mr. [REDACTED] without justification.	Exonerated.
	4. Searching Mr. [REDACTED] without justification.	Exonerated.
Incident #2		
Sergeant Charlie Johnson	3. striking Mr. [REDACTED] without justification.	Not Sustained.
	4. “Choking” Mr. [REDACTED] without justification.	Not Sustained.

5. Strip searching Mr. [REDACTED] without justification.	Unfounded.
6. "Dragging" Mr. [REDACTED] without justification.	Not Sustained.
7. Failing to obtain written approval for a strip search.	Unfounded.
8. Failing to complete a Report of Strip Search.	Unfounded.
9. Failing to provide Mr. [REDACTED] with a copy of the Report to Strip Search.	Unfounded.

II. SUMMARY OF EVIDENCE

After receiving a citizen complaint about narcotics sales at a location on the 4300 block of S. St. Lawrence Ave., members of the 002nd District Tactical Team established surveillance of the area. While conducting surveillance Sgt. Charlie Johnson observed Mr. [REDACTED] complete a hand-to-hand transaction while seated in a white Grand Prix bearing Illinois license plate [REDACTED] and leave the location being surveilled. Sgt. Johnson relayed his observations to the members of his team, including Officer Larry Lanier and Levon London (the Officers). Officer Lanier observed the vehicle and conducted a traffic stop. Upon approaching the vehicle, the Officers detected the distinct odor of burnt cannabis emitting from the vehicle and observed remnants of consumed cannabis and an open contain of alcohol, specifically Remy Martin, next to front passenger seat. After making these observations, the occupants of the vehicle were requested to exit.¹ Upon exiting the vehicle Clark and [REDACTED] were detained, while the Officers completed a search of the vehicle. While the Officers were searching the vehicle, a name check was completed on [REDACTED] and it was learned he had failed to properly register as a gun offender. Upon learning of [REDACTED] failure to register, Officer Eric Laster searched [REDACTED]. During this search he discovered an object secreted in [REDACTED] pants near his buttocks.² Officer Laster remarked to [REDACTED] and the Officers about his discovery during the search and that he believed it to be narcotics. [REDACTED] responded by clenching his buttocks and legs together while refusing to be searched. Clark and the vehicle were released while [REDACTED] was transported to the 002nd District Station.

Upon arrival at the station [REDACTED] was clear he was not willing to submit to a custodial search, even after Lieutenant Wallace explained that a custodial search was required after his arrest.³ After [REDACTED] continued refusal, Sgt. Johnson arrived at the station to assist in a completing a custodial search of [REDACTED]. As Sgt. Johnson attempted to search [REDACTED] twice attempted to kick Sgt. Johnson. In response to [REDACTED] attempted kicks, Sgt. Johnson instructed his officers to restrain [REDACTED] on the ground. Once [REDACTED] was placed on the ground his arms and legs were restrained while Sgt. Johnson lowered [REDACTED] pants exposing two pair of underwear the outer most of which was on backwards and contained a packaged object slightly protruding

¹ Ms. Akia Clark was the driver and [REDACTED] was the front seat passenger.

² Initially, [REDACTED] claimed the object discovered by Officer Laster was his "nuts" but later claimed it was "hemorrhoids." Att. 65 at 07:32; Att. 29 at 02:25.

³ [REDACTED] refusal was more than mere non-compliance. Rather, [REDACTED] threatened to defecate on himself, told the Officers they would have to "beat his ass" to search him and expressed that he was going to be generally difficult during any search of his person. Att. 29 at 03:25 and 10:45.

from the underwear.⁴ Sgt. Johnson used a knife to make a small incision in the outermost pair of underwear and recovered the object, which was determined to be suspect heroin. Once the suspected narcotics were recovered, ██████ was placed on his feet and sat on a bench. While seated on the bench, ██████ attempted to harm himself by banging his head on the table while alleging that he had been sexually assaulted. Based on ██████ allegations, he was transported to St. Bernard hospital where it was determined that he had no indications of a sexual assault.⁵

During his statement to COPA, ██████ alleged that he lost consciousness while being subjected to a strip search, choked, and dragged across the floor.⁶

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** 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.

⁴ Att. 47, pgs. 7 to 10.

⁵ COPA notes that ██████ denied to medical staff that he lost consciousness. Att. 44, pg. 4. Additionally, ██████ stated to medical staff "I don't need a rape kit" while receiving treatment for his alleged of sexual assault. Att. 44, pg. 5. Further, ██████ complained of wrist pain to his left wrist, however examination revealed no signs of injury, but he was provided a splint "due to *possibility* of occult scaphoid fracture." Att. 44, pgs. 5 and 6 (emphasis added.)

⁶ COPA notes that on January 15, 2020, ██████ made allegations against Officers Lanier and Laster for an unrelated traffic stop and subsequent arrest, and during that investigation it was determined ██████ account of events did not accurately reflect what was captured by the surveillance footage. *See* Log 2020-0243.

IV. ANALYSIS AND CONCLUSION

COPA finds that Allegations #1 and 2 against all the accused and Allegations #3 and 4 against Officers Lanier and London are **exonerated**. Department members are permitted to detain a person when there is reasonable articulable suspicion that person is about to commit, is committing, or has committed a criminal offense.⁷ This detention is an Investigatory Stop. Additionally, in instances in which an officer smells marijuana, the officer has probable cause to conduct a search of a vehicle; further, this principle has been extended to include searches of the driver and passengers of that vehicle.⁸ Additionally, an officer must have probable cause to arrest a subject.⁹ “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.”¹⁰ The reasonable basis of any arrest “should be considered from the perspective of a reasonable officer at the time” of the arrest.¹¹ Finally, “Department members [who] tak[e] an individual into custody ... [are] responsible for conducting a thorough search ... to prevent escape or injury.”¹² The search Department members are required to complete is a custodial search which is in part intended “to keep contraband ... out of jail, to preserve any possible evidence...”¹³

Here, Sgt. Johnson was conducting surveillance of an identified narcotics sale’s location when he observed ██████ engage in hand-to-hand transaction and leave in a white Grand Prix. Sgt. Johnson relayed his observations to the Officers, who located the vehicle and stopped it. Once the vehicle was stopped both the Officers observed an open container of alcohol and a distinct odor of burnt cannabis. Based on these observations the Officers completed a search of the vehicle and located remnants of consumed cannabis. Simultaneously, other members completed a name check of ██████ and learned he was not in compliance with gun offender registration.¹⁴ ██████ was taken into custody and subjected to a search of his person during which it was discovered he had an object secreted in his pants near his buttocks. Sgt. Johnson’s observations combined with the Officers’ observations created a reasonable articulable suspicion that ██████ was involved in criminal activity, specifically the purchase, use, and transport of narcotics. Additionally, the Officers’ detection of burnt cannabis created probable cause to search ██████ vehicle. Further, once it was learned that ██████ had failed to properly register as a gun offender, probable cause was present for his arrest. Finally, ██████ arrest allowed any member to complete a custodial search of his person. Thus, all the decisions to detain ██████ search his vehicle, arrest ██████ and search his person were all reasonable and proper.

COPA finds that Allegations #3, 4, and 6 against Sgt. Johnson are **not sustained**. During our investigation COPA was unable to locate any evidence, other ██████ statement and Sgt. Johnson’s and the Officers’ statements, to support or refute the allegations.

⁷ S04-13-09 II (A)

⁸ *People v. Zayed*, 2016 IL App (3rd) 140780 (2016).

⁹ *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

¹⁰ S04-13-09 II(D).

¹¹ S04-13-09 II(D).

¹² G06-01-02 IV(B).

¹³ G06-01-02 IV(A).

¹⁴ COPA notes that the discovery of the open container of alcohol and cannabis remnants also established independent probable cause to arrest ██████

