

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 4, 2017
Time of Incident:	Approximately 2:17 p.m.
Location of Incident:	1202 N. California Ave., Chicago, IL 60622
Date of COPA Notification:	February 1, 2018
Time of COPA Notification:	4:14 p.m.

Complainant, [REDACTED] ([REDACTED]) alleged he was unlawfully arrested by Chicago police officers for selling loose cigarettes on Chicago Park District property. [REDACTED] was initially viewed on a POD camera conducting a transaction where he received an unknown amount of U.S. currency in exchange for loose cigarettes. After arriving on scene, the Chicago police officers found [REDACTED] in possession of open cans of beer and an open pack of cigarettes with an Indiana tax stamp. [REDACTED] was then arrested and transported to the 14th District station where he was released after signing a Recognizance Bond (I-Bond). Upon concluded this investigation, COPA recommends a finding of exonerated for all allegations.

II. INVOLVED PARTIES

Involved Officer #1:	Manuel Guzman, Star #9798, Employee ID # [REDACTED], Date of Appointment: December 2, 2002, Rank: Police Officer, Unit of Assignment: 014, DOB: [REDACTED], 1974, Male, Hispanic.
Involved Officer #2:	Alexis Soto, Star #16830, Employee ID # [REDACTED], Date of Appointment: August 29, 2005, Rank: Police Officer, Unit of Assignment: 014, DOB: [REDACTED], 1979, Male, Hispanic.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1967, Male, Hispanic.

III. ALLEGATIONS¹

Officer	Allegation	Finding / Recommendation
Officer Manuel Guzman	<p>It is alleged by ██████████ on or about October 4, 2017 at approximately 2:17 p.m. at or near 1202 N. California Ave., Chicago 60622 that Manuel Guzman #9798 committed misconduct through the following acts or omissions:</p> <p>1. Arresting ██████████ without justification.</p>	Exonerated
Officer Alexis Soto	<p>It is alleged by ██████████ on or about October 4, 2017 at approximately 2:17 p.m. at or near 1202 N. California Ave., Chicago 60622 that Alexis Soto #16830 committed misconduct through the following acts or omissions:</p> <p>1. Arresting ██████████ without justification.</p>	Exonerated

IV. APPLICABLE RULES AND LAWS

Municipal Code of Chicago (MCC)

1. 4-61-191: Certain Transactions Prohibited.²
2. 10-8-515: Soliciting Unlawful Business.³
3. 10-36-185: Enforcement of Chicago Park District Ordinances.^{4, 5}

¹ Formal allegations where not served on Officers Guzman and Soto.

² No person shall sell, offer for sale, barter or expose for sale any tobacco product except in its original factory-wrapped package. No person shall sell, offer for sale, barter, or expose for sale any cigarettes in a package containing fewer than 20 cigarettes.

³ No person may stand upon, use or occupy the public way to solicit any unlawful business; or interfere with or impede any pedestrian or anyone in a vehicle on the public way, for the purpose of soliciting any unlawful business.

⁴ The members of the Chicago Police Department shall have authority to enforce the following provisions of the Chicago Park District Code, in effect as of September 9, 1998, or as subsequently amended: Chapter VII (Use of Park) – Sections A, B(1) – (17), C(3), and D(1); Chapter VIII (Use of Harbors) – Sections A, C(1) and D; and Chapter IX (Concessions and Food Services) – Sections A, B(1), B(6), C(1)(a), C(2)(a), C(2)(e), C(3)(a) and C(3)(e).

⁵ Complainant, ██████████ was cited with being in violation of Chicago Park District Code Chapter VII B(7): Alcoholic Beverages. No alcoholic beverages shall be sold, brought within, given away, delivered or consumed on park property, except pursuant to permits or concession issued pursuant to this Code.

Federal Laws

1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.⁶

State Laws

1. 725 ILCS 5/107-2(1)(c): Arrest by Peace Officer.⁷

V. INVESTIGATION⁸**a. Interviews****█████ Interview⁹**

COPA investigators interviewed █████ on February 2, 2018.¹⁰ █████ told investigators that on October 4, 2017, at approximately 2:17 p.m., at 1202 N. California Ave., Chicago, IL 60622 he was arrested in a park located at the corner of Division St. and California Ave. A blue, unmarked police SUV entered the park and two officers approached █████. An officer took █████ handcuffed him and put him into a police vehicle that transported him to the 14th District police station.

After arriving at the police station, █████ was informed that he was arrested for selling cigarettes. However, █████ disputed he was selling cigarettes but rather informing a group of individuals about his “concept of T.A.G.” (Teenagers Against Guns). █████ believed he was arrested because he was trying to “set forward his program.” █████ manifested the “T.A.G” concept back in 1987 when he was incarcerated. He firmly believed that he has been getting harassed by police officers because of his concept of T.A.G.

█████ asserted that while at the 14th District police station he was forced to sign a piece of paper admitting he was selling cigarettes. █████ contradicted his earlier statement when he explained that he was informed why he was arrested while being transported to the 14th District. He further contradicted himself again when he later stated that he was never informed why he was arrested.

⁶ “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

⁷ “A peace officer may arrest a person when he has reasonable grounds to believe that the person is committing or has committed an offense.”

⁸ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁹ Attachment 19.

¹⁰ The alleged misconduct occurred on October 4, 2017, but █████ did not file a complaint with COPA until February 1, 2018.

██████ denied that he was selling cigarettes. On the other hand, he claimed another individual at the scene admitted to the police officers that he was the one selling cigarettes and it was not ██████ openly admitted he was smoking in the park with that individual but does not know who the individual is. Otter further explained that he got the cigarette he was smoking from this unknown individual during an exchange in the park.

Officer Guzman Interview¹¹

COPA investigators interviewed Officer Guzman on September 6, 2018. Officer Guzman told investigators that on October 4, 2017, he and his partner, Officer Soto, were monitoring POD cameras at the 14th District when they witnessed ██████ conduct a hand to hand transaction, which seemed to be an exchange of loose cigarettes for U.S. currency. Seeing this, the officers believed there to be reasonable grounds to believe that ██████ was committing a criminal offense. Officer Guzman went on to explain that this offense was the solicitation of unlawful business, which is prohibited. Officer Guzman further explained that the area where ██████ was being Chicago Park District property and a known area for criminal transactions like this to be committed. After witnessing the perceived criminal transaction, the officers got in their police vehicle, drove to where ██████ was and arrested him.

b. Digital Evidence

The body worn cameras (BWCs) begin as Officers Guzman and Soto are driving to the incident location. The officers then exit their vehicle and approach three males who are sitting on a park bench with what seems to be alcoholic beverages in black plastic bags sitting on and under the bench. The officers immediately handcuff and then arresting ██████¹² ██████ is then questioned regarding the sale of cigarettes, which he denies. He also denied drinking any alcoholic beverages. A second individual, ██████ (██████) is also handcuffed and arrested. ██████ is also questioned regarding the sale of cigarettes, which he denies.¹³ ██████ and ██████ are transported to the 14th District police station.

c. Physical Evidence

The Chicago Police Department Property Inventory Sheets (Inventory No.: 14015382, 14015374, 14015349, 14015388 and 14043362) document property and description of property recovered and inventoried in relation to the arrest of ██████ on October 4, 2017.¹⁴ Specifically, an open box of Newport cigarettes, which contained five dollars in U.S. currency, was inventoried.

¹¹ Attachment 23.

¹² See Chicago Police Department Arrest Report; Attachment 4.

¹³ ██████ seemed to be a native Spanish speaker and was questions by officers in Spanish. These Spanish speaking portions of the video were reviewed and translated by COPA Investigator Olimb.

¹⁴ Attachment 21.

d. Documentary Evidence

The Chicago Police Department Arrest Report (CB #: 19545899; IR #: [REDACTED]), authored by Officer Guzman, details the incident and includes a summary of why [REDACTED] was arrested. [REDACTED] was observed, via a POD view, having a hand to hand transaction of loose cigarettes for U.S. currency. Upon the officer's arrival, [REDACTED] attempted to hide a plastic bag that contained a few open cans of Bush beer. [REDACTED] was then placed into custody. An open pack of Newport cigarettes was recovered from [REDACTED].¹⁵

The arrest report of [REDACTED] indicated that officers observed [REDACTED] participate in a hand to hand transaction involving loose cigarettes. [REDACTED] received an unknown amount of U.S. currency in exchange for loose cigarettes.¹⁶

VI. ANALYSIS

COPA recommends a finding of exonerated for all allegations against the officers. A peace officer may arrest a person when he has reasonable grounds to believe that the person has committed an offense.¹⁷ An officer must have probable cause to arrest a subject. *People v. Johnson*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)). "Probable cause to arrest exists when the totality of the facts and circumstances known to a police officer would lead a person of reasonable caution to believe that the person apprehended has committed a crime, and its existence depends on the totality of the circumstances at the time of the arrest." (citing *People v. Wear*, 229 Ill. 2d 545, 563-64, 893 (2008)). Therefore, the relevant analysis is whether Officers Guzman and Soto had *reasonable*, articulable suspicion that [REDACTED] had violated any law or was about to engage in criminal activity.

Such a reasonableness standard does not require the officer to be correct in that a crime did occur. Rather, such a standard only requires their belief to be reasonable that a crime may have occurred. In the instant case, the purported reason Officers Guzman and Soto arrested [REDACTED] was because they viewed him on a POD camera having a brief conversation with an individual and exchange loose cigarettes for an unknown amount of U.S. currency while on Chicago Park District property.¹⁸ While a review of the POD video capturing the incident may have settled the differences between Officer Guzman's account of the arrest and that of [REDACTED], the POD video was unavailable.¹⁹ But even so, certain known facts and/or admissions by [REDACTED] showed that it was more likely than not the officers had a reasonable belief that [REDACTED] sold loose cigarettes in the park and/or was in possession of alcoholic beverages.

First, Officer Guzman unequivocally explained how he and Officer Soto viewed [REDACTED] commit what seemed to be a crime. Officer Guzman was able to explain the process of monitoring POD

¹⁵ Attachment 4.

¹⁶ Attachment 26.

¹⁷ 725 ILCS 5/107-2(1)(c).

¹⁸ Footage from PODs #7472, #7119 and #7473 was requested by COPA on February 2, 2018. However, the video was no longer available, as the incident occurred too long ago for video retention. Attachment 6.

¹⁹ The incident occurred on October 4, 2017. [REDACTED] registered his complaint with COPA on February 1, 2018. POD camera footage is only retained for a period of 90 days.

cameras to monitor criminal activity in detail. He was not only able to explain the process in general but with specificity in relation to the arrest of [REDACTED]. He and Officer Soto were actively monitoring a POD camera and viewed what they perceived to be criminal activity. Not only did they view a hand to hand transaction, but Officer Guzman explained through his experience working in the 14th District, that this area is known for criminal activity and that is why they were monitoring it. Second, [REDACTED] was found to be in possession of an open pack of cigarettes along with open cans of Bush beer in proximity to him. Finally, [REDACTED] himself admitted to a transaction between himself and an unknown individual where an exchange involving cigarettes occurred. To some degree, this admission by [REDACTED] validates Officer Guzman’s account, in that Officer Guzman told COPA investigators that he observed a sale of loose cigarettes and [REDACTED] also indicated there was an exchange of cigarettes that occurred. While [REDACTED] described the nature of the transaction as different, we find it plausible that the officers perceived the transaction as they did.

Given these points, COPA finds it more likely than not that the officers observed a possible criminal transaction and therefore had sufficient reasonable, articulable suspicion to arrest [REDACTED]. Accordingly, COPA recommends a finding of exonerated for all allegations against both officers.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Manuel Guzman	It is alleged by [REDACTED] on or about October 4, 2017 at approximately 2:17 p.m. at or near 1202 N. California Ave., Chicago 60622 that Manuel Guzman #9798 committed misconduct through the following acts or omissions: 1. Arresting [REDACTED] without justification.	Exonerated
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Approved: [REDACTED]

Andrea Kersten
 Deputy Chief Administrator – Chief Investigations

Date: 9/14/18