

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 30, 2020
Time of Incident:	6:30 pm
Location of Incident:	1011 S. Homan Square
Date of COPA Notification:	February 7, 2020
Time of COPA Notification:	11:15 a.m.

Complainant [REDACTED] was arrested on January 30, 2020. Her arrest was the result of an undercover narcotics operation on January 9, 2020, wherein she sold narcotics to an undercover officer. Upon her arrest, [REDACTED] said she was taken to Homan Square where she was wrongfully strip searched. Ms. [REDACTED] subsequently complained to COPA about the incident and provided a statement.

II. INVOLVED PARTIES

Involved Officer #1:	Michael Riccio, Star #6619, Employee No. [REDACTED], DOA: September 1, 2010, Police Officer, Unit of Assignment: 189, white male
Involved Officer #2	Iwona Dziurkiewicz, Star #6524, Employee No. [REDACTED], DOA: October 16, 2017, Police Officer, Unit of Assignment 11th District, white female
Involved Individual #1:	[REDACTED] 23 years old, black female

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Iwona Dziurkiewicz	1. Performing a strip search of [REDACTED] without justification.	Sustained
	2. Failing to conduct the strip search in an area isolated from the view of others in violation of G06-01-03.	Sustained
	3. Failing to obtain written authorization to conduct a strip search in violation of G06-01-03.	Sustained

	4. Failing to complete a Report of Strip Search in violation of G06-01-03.	Sustained
Officer Michael Riccio	1. Failing to document movement of the arrestee from Homan Square to the 11th District in violation of G06-01-01. 2. Failing to include required information regarding a strip search in [REDACTED] Arrest report in violation of G06-01-03.	Unfounded Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Prohibits any misconduct which impedes the Department’s effort to achieve its policy goals or brings discredit upon the Department.

Rule 3: Prohibits any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

Rule 5: Prohibits failure to perform any duty.

Rule 8: Prohibits disrespect to or maltreatment of any person.

Rule 10: Prohibits inattention to duty.

Rule 11: Prohibits incompetency or inefficiency in the performance of duty.

General Orders

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1. Field Arrest Procedures G06-01-01 (Effective December 8, 2017 – January 1, 2022)
 2. Conducting Strip Searches G06-01-03 (Effective December 8, 2017 – Present)
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State Laws

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1. 725 ILCS 5/103-1 Rights on Arrest

V. INVESTIGATION¹

a. Interviews

The complainant, ██████████ was interviewed by COPA investigators on February 20, 2020.² In her statement, Ms. ██████ said the police illegally strip searched her when she was arrested for selling drugs. Ms. ██████ stated that two officers arrested her, then took her to Homan Square. She said both officers waited for a female officer to arrive to perform the strip search. When the female officer arrived, Ms. ██████ said the officer (now known to be Iwona Dziurkiewicz) was aggressive.

Ms. ██████ said she was taken to a cell where she noticed a camera was mounted on the wall. Ms. ██████ said Officer Dziurkiewicz told her they believed she was concealing contraband and that was the reason she had to remove her clothes. Ms. ██████ said Officer Dziurkiewicz did a pat down of her first. During the pat-down, Officer Dziurkiewicz pulled her bra away from her body and flipped it upwards, which caused her shirt to rise and exposed her breasts. Ms. ██████ said Officer Dziurkiewicz repeatedly told her to pull down her pants and underwear, but she told the officer she believed that was illegal because she had privacy rights. She said Officer Dziurkiewicz told her she did not care about her concerns, that she was just doing her job. Officer Dziurkiewicz continued to tell Ms. ██████ to pull down her pants and cough. Ms. ██████ had no choice but to finally comply, and so removed her clothing from the waist down. After the search, Ms. ██████ told Officer Dziurkiewicz that she felt violated. Ms. ██████ said other than the pat-down and grabbing her bra, the female officer did not have other physical contact with her. The search of Ms. ██████ did not result in any contraband being found. After the search, Ms. ██████ was taken from Homan Square to the 11th District for processing.

Accused Officer, Michael Riccio, was interviewed by COPA investigators on July 29, 2021.³ In his statement, Officer Riccio said he was responsible for assisting in the arrest of ██████████ and transporting her to the station to be processed. He did not recall the specific nature of the assignment. He said he had no knowledge about the controlled-buy which took place before Ms. ██████ arrest, nor was he involved in it. Officer Riccio said he only assisted Officer Ryan McCarthy in the arrest of Ms. ██████ and did not know much else about the situation. He said the 11th district is usually where they take arrestees and process them. He said the standard procedure is for male arrestees to be searched by male officers and female arrestees to be searched by female officers. He also stated that it is not standard protocol for an arrestee to be strip searched, but it is standard procedure to do a general search which is usually a pat down. Officer Riccio said that strip searches must be approved by a sergeant. He said he did not know if Ms. ██████ was strip searched because he was only responsible for taking her to the station. Officer Riccio also said he did not give any orders for her to be strip searched. He said once he and Officer McCarthy realized no female officers were at Homan Square, they radioed to have one come there. He did not know the female officer who performed the search, nor had he ever met her previously. He said Officer McCarthy instructed the female officer to search ██████ and that was all his involvement.

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

² Att. 1.

³ Att. 13.

Officer Riccio said he did not have any information about why her transfer was not included in the arrest report. He said that he had never seen a movement log on arrest reports and that is generally information he would not fill out. He also said he was not assigned a BWC because the Department did not have them at the time of the incident. He did not recall procuring any contraband from Ms. [REDACTED] nor was there any resistance from her. Officer Riccio reiterated that his involvement was moving Ms. [REDACTED] upstairs and requesting the female officer. He said a typical search consists of removing shoelaces, belts, shoes, socks and making sure the arrestee does not have any contraband. It does not involve taking off clothes or ordering them to do so.

Officer Riccio said the search should have been on the arrest report, but it was not. He said his partner was the one to help escort Ms. [REDACTED] to be searched and he didn't remember meeting the female Officer Dziurkiewicz. He recalled there is surveillance in the holding cells and hallways that are always monitored.

Officer Riccio also said he has never done or ordered a strip search himself and that they would never be performed in a holding cell but somewhere more private. He also did not know why there was a 21-day period between the narcotics raid and the arrest of Ms. [REDACTED]

Accused Officer, Iowna Dziurkiewicz, was interviewed by COPA investigators on October 6, 2021.⁴ Officer Dziurkiewicz said she was dispatched to Homan Square on the date of the incident to perform a search because there were no female officers available. She met with both arresting officers but did not get either of their names or recall what they looked like. She said one of the arresting officers directed her to do a search of Ms. [REDACTED]. Officer Dziurkiewicz said she was informed that Ms. [REDACTED] had been arrested for selling narcotics. Officer Dziurkiewicz said she performed the search of Ms. [REDACTED] in a regular cell and did not notice whether there was a security camera in it or not. She first performed a pat down of Ms. [REDACTED] and checked her waistband and pant legs. After the pat down, Officer Dziurkiewicz asked Ms. [REDACTED] to remove her clothing from her lower body including her underwear. Officer Dziurkiewicz said she told Ms. [REDACTED] to go to the corner, squat, and cough. She said she did this because she wanted to make sure Ms. [REDACTED] was not concealing any contraband. Officer Dziurkiewicz did not recover any contraband from the search of Ms. [REDACTED]. After the search was completed, Officer Dziurkiewicz informed Officers Riccio and McCarthy and left.

Further clarifying the reason for the search, Officer Dziurkiewicz said she was told that Ms. [REDACTED] had drugs on her person. She said she has seen arrestees sneak drugs into lockup and end up hurting themselves or overdosing. Officer Dziurkiewicz said she did not get approval to do a strip search and was not aware that what she was doing amounted to a strip search. Officer Dziurkiewicz said no one could see her and Ms. [REDACTED] from where she performed the search.

After being shown General Order G06-01-03, Conducting Strip Searches, Officer Dziurkiewicz acknowledged that a strip search involved the removal of any clothing which would reveal an individual's under garments. She also recognized that what she did at the time was a strip search. She said she did not speak to any supervisors at any point during the incident.

⁴ Att. 14.

Officer Dziurkiewicz concluded her statement by saying nothing that she did was out of malice, and she did not mean to make Ms. ██████ feel like her dignity was taken away. She said she was sorry about the incident that took place and did not realize at the time how serious it was.

b. Physical Evidence

Eleven bags of a white powdery substance (suspect heroine) were recovered from the controlled purchase of narcotics (controlled-buy) which was executed 21 days before the arrest of Ms. ██████⁵ The suspect narcotics were inventoried and sent to the Illinois Crime Lab for testing.

c. Documentary Evidence

The Arrest Report of ██████ documents her arrest on January 30, 2020.⁶ The report states Ms. ██████ was placed into custody after being positively identified as the subject who sold an undercover officer heroin on January 9, 2020. The report notes there was no BWC worn at the time of her arrest.

The Vice Case Report and Narcotics Supplementary Reports⁷ document the details of the controlled-buy on January 9, 2020, which lead to Ms. ██████ subsequent arrest on January 30, 2020.

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 reviewed complied with 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 conduct complied

⁵ Att. 7.

⁶ Att. 4.

⁷ Att. 7.

with Department policy 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. 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

Allegations against Officer Dziurkiewicz

COPA recommends a finding of **Sustained** for **Allegations 1–4** against Officer Dziurkiewicz in that: (1) she conducted a strip search of ██████████ without justification; (2) the area where the strip search was conducted was not isolated from the view of others; (3) she did not obtain written authorization to conduct a strip search; and (4) she did not complete a Report of Strip Search.

Under Illinois law and CPD General Order G06-01-03 (Conducting Strip Searches), which incorporates Illinois statutory language, a strip search is defined as having an arrested person "remove or arrange some or all of his or her clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person." 725 ILCS 5/103. Department members can only conduct a strip search where specific factors are present which establish probable cause that the search will uncover a weapon or contraband. G06-01-03. The search must be performed by someone of the same sex as the arrestee and the search cannot be observed by anyone not conducting the search. *Id.* Further, a peace officer conducting a strip search must obtain written authorization from a supervisor to conduct the search. *Id.* Also, under Illinois law, "[e]very peace officer or employee of a police department conducting a strip search shall... [p]repare a report of the strip search." 725 ILCS 5/103; CPD General Order G06-01-03(II)(A)(4)(b).

In this case, Officer Dziurkiewicz acknowledged that she ordered Ms. ██████████ to remove her underwear, squat, and cough. These actions meet the definition of a strip search. Officer Dziurkiewicz stated in her COPA interview that Officers Riccio and McCarthy told her to search Ms. ██████████ and that Ms. ██████████ arrest was related to narcotics sales and that she could be concealing drugs. She inferred from what Officers Riccio and McCarthy told her that she should ask Ms. ██████████ to disrobe to facilitate looking for any hidden narcotics because she had seen arrestees sneak drugs into lockup and end up hurting themselves or overdosing. However, these facts do not rise to the level of probable cause. Moreover, Officer Dziurkiewicz admitted that she was not instructed to strip search Ms. ██████████. After being presented with the General Order during her COPA interview, Officer Dziurkiewicz conceded that what she had done was a strip search, although she did not realize it then. Because Officer Dziurkiewicz did, in fact, perform a strip search, and it was without probable cause, the search was not justified.

Additionally, Officer Dziurkiewicz failed to conduct the strip search in a location isolated from the view of others. Here, the strip search was conducted in a holding cell, which Ms. ██████████

indicated was in view of Officer McCarthy. Also, the cell had live surveillance cameras which were monitored by staff.

Finally, because Officer Dziurkiewicz did not know she was conducting a strip search, she failed to obtain the required authorization from a supervisor, and failed to write a report of the strip search.

As such, COPA recommends a finding of **Sustained** for **Allegations 1- 4 against Officer Dziurkiewicz**.

Allegations against Officer Riccio

COPA recommends a finding of **Unfounded** for **Allegation 1 against Officer Riccio** in that he was not required to document the movement of the arrestee.

General Order G06-01-01 (Field Arrest Procedures) outlines procedures to be followed by Department members when arresting individuals. Included in those procedures are rules for initial arrest processing and documenting the movement of an arrestee.

The relevant portion states:

When an arrestee is transported to the district of arrest or a facility listed in II-C-1-a, the:

1. arresting officer will:
 - a. without unnecessary delay, complete the CLEAR Automated Arrest Record at the facility and electronically submit the arrest report to the watch operations lieutenant (WOL) or Homan Square Facility (HSF) designated supervisor.
 - b. if necessary, after initial approval of probable cause to arrest is obtained:
 - (1) request the watch operations lieutenant (WOL) or Homan Square Facility (HSF) designated supervisor to authorize the movement of the arrestee to the requested holding facility...
2. watch operations lieutenant (WOL) will:
 - a. review all the required arrest documentation.
 - b. approve initial probable cause or release arrestees without charging...
 - c. record any subsequent arrestee movement in the CLEAR Automated Arrest System.
 - d. as appropriate, approve final probable cause and take any necessary actions. *Id.*

From this excerpt it is clear under subsection 2 that it is the Watch Operations Lieutenant or equivalent Homan Square Facility Supervisor who is responsible for documenting and authorizing movement of an arrestee from one facility to another. Although the arresting officer completes the automated arrest record in CLEAR, the supervisor is responsible for ensuring the arrestee's movement is recorded. As such, COPA finds **Allegation 1 against Officer Riccio to be Unfounded**.

COPA recommends a finding of **Not Sustained** for **Allegation 2 against Officer Riccio** regarding whether he failed to include required information about a strip search in Ms. [REDACTED] arrest report.

General Order G06-01-03 prescribes that whenever a strip search is requested, “...information will be entered in both the narrative portion of the automated Arrest Report and the Watch Incident Log” regarding the details of the search and what was discovered as a result of the search. *Id.*

In this case, Officer Riccio was the attesting officer on Ms. [REDACTED] arrest report, but only requested a female officer to perform a search, not a strip-search. Officer Dziurkiewicz admitted that neither officer asked her to do a strip-search and she took it upon herself to do it. Therefore, Officer Riccio would have had no reason to know a strip-search had been done to include in the arrest report. Based on the foregoing, COPA recommends a finding of **Not Sustained** for Allegation 2 against Officer Riccio.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Iwona Dziurkiewicz

i. Complimentary and Disciplinary History

Officer Dziurkiewicz has one sustained complaint from a 2019 personnel violation – neglect of duty, for which she was given a 2-day suspension. Her complimentary history consists of: seven Honorable Mentions for outstanding service, a 2019 Crime Reduction Award, and an Emblem of Recognition – Physical Fitness.⁸

ii. Recommended Penalty

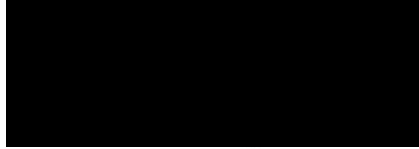
In mitigation, COPA will consider that Officer Dziurkiewicz was honest and forthcoming in her interview. She admitted that she conducted a strip search, and that she did not realize that it was a strip search at the time. She did not try to conceal her actions and was apologetic and remorseful. Also in mitigation, COPA will consider Officer Dziurkiewicz’s Complimentary History.

In aggravation, COPA will consider that a conducting a strip search is a serious event which can be a very embarrassing and humiliating. The severity of the privacy invasion must be considered in rendering a penalty, as well as the motivations of the officer in performing the search. Officer Dziurkiewicz explained that she did have reasoning behind why she asked Ms. [REDACTED] to disrobe, but she should have spoken to a supervisor before conducting a search that was out of the ordinary and obviously placing the subject in a very vulnerable position. Also in aggravation, COPA will consider Officer Dziurkiewicz’s past sustained complaint.

⁸ Att. 2

Based on the preceding, COPA recommends a 30-day suspension and retraining in this area.

Approved:



3/17/2023

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date