

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	December 10, 2018
Time of Incident:	10:42 PM
Location of Incident:	803 W. 82 <sup>nd</sup> St.
Date of COPA Notification:	January 29, 2019
Time of COPA Notification:	10:10 AM

On December 10, 2018, at or about 10:42 PM, Chicago Police officers performed a traffic stop on a vehicle that failed to come to a complete stop near the address in question. The driver, now known as [REDACTED] and the passenger [REDACTED] were ordered out of the vehicle. Mr. [REDACTED] was ultimately arrested for possession of cannabis and cocaine, and for resisting arrest.

On or about December 11, 2018, COPA received a Taser Deployment notification and was assigned COPA Log# 1091950. Then on or about January 16, 2019, COPA received notification from Commander Tina Skahill that a review of Tactical Response Reports and Body Worn Camera footage warranted an investigation beyond the taser deployment, and Log# 1091950 was administratively closed. After the refusal of Mr. [REDACTED] to cooperate with the investigation into his arrest and subsequent strip search, COPA requested and was granted an Affidavit Override.

The investigation into this matter uncovered, among other things, video footage which captured the strip search of Mr. [REDACTED] at the scene of the traffic stop.

**II. INVOLVED PARTIES**

Accused Officer #1:	Jeremiah Pentek, star # 16474, employee ID# [REDACTED], Date of Appointment August 31, 2015, rank PO, Unit of Assignment 22 <sup>nd</sup> Dist., DOB [REDACTED] 1989, Male, White.
Accused Officer #2:	Albert Rangel star # 5339, employee ID# [REDACTED] Date of Appointment April 1, 2013, rank PO, Unit of Assignment, 6 <sup>th</sup> Dist., DOB [REDACTED], 1984, Male, Hispanic.
Accused Officer #3:	Randy McCraney, star # 13257, employee ID# [REDACTED], Date of Appointment February 29, 2016, rank PO, Unit of Assignment 2 <sup>nd</sup> Dist., DOB [REDACTED], 1983, Male, Black.
Accused Sergeant #1:	Lawrence Darko, star # 1772, employee ID# [REDACTED], Date of Appointment April 28, 2003, rank Sergeant, Unit of Assignment 6 <sup>th</sup> Dist., DOB [REDACTED], 1978, Male, Black.

Accused Sergeant #2: Melissa Malm, star # 1490, employee ID# [REDACTED], Date of Appointment May 22, 2006, rank Sergeant, Unit of Assignment 6<sup>th</sup> Dist., DOB [REDACTED], 1981, Female, White.  
 Involved Individual #1: [REDACTED] DOB [REDACTED], 1990, Male, Black.  
 Witness Individual #1: [REDACTED] DOB [REDACTED] 3, 1989, Female, Black.

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding/ Recommendation</b>
Officer Jeremiah Pentek	It is alleged that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St.:	
	1. Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] on the street.	SUSTAINED
	2. Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] in view of persons not physically conducting the search.	SUSTAINED
	3. Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] while he had taser barbs embedded in his skin.	SUSTAINED
	4. Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] while his body worn camera was activated.	SUSTAINED
	5. Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] when he removed Mr. [REDACTED] clothing without supervisor approval.	SUSTAINED
	6. Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] when he exposed Mr. [REDACTED] buttocks to individuals not physically conducting the search.	NOT SUSTAINED
	It is alleged that on December 11, 2018, at approximately 7:41 AM, at 7808 S. Halsted St.:	

	<p>7. Officer Jeremiah Pentek violated policy when he failed to properly record the strip search in the Arrest Report for Mr. [REDACTED]</p>	<p>SUSTAINED</p>
<p>Officer Albert Rangel</p>	<p>It is alleged that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St.:</p> <p>1. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] on the street.</p> <p>2. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] in view of persons not physically conducting the search.</p> <p>3. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] while he had taser barbs embedded in his skin.</p> <p>4. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] while his body worn camera was activated.</p> <p>5. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] when he removed Mr. [REDACTED] clothing without supervisor approval.</p> <p>6. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] when he touched Mr. [REDACTED] buttocks.</p> <p>7. Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] when he exposed Mr. [REDACTED] buttocks to individuals not physically conducting the search.</p> <p>8. Officer Albert Rangel violated policy when he failed to obtain permission to strip search Mr. [REDACTED] before he began the strip search.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
<p>Officer Randy McCraney</p>	<p>It is alleged that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St.:</p> <p>1. Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] on the street.</p>	<p>SUSTAINED</p>

	<p>2. Officer Randy McCraney violated policy when he improperly strip-searched Mr. ██████ in view of persons not physically conducting the search.</p> <p>3. Officer Randy McCraney violated policy when he improperly strip-searched Mr. ██████ while he had taser barbs embedded in his skin.</p> <p>4. Officer Randy McCraney violated policy when he improperly strip-searched Mr. ██████ while his body worn camera was activated.</p> <p>5. Officer Randy McCraney violated policy when he improperly strip-searched Mr. ██████ when he removed Mr. ██████ clothing without supervisor approval.</p> <p>6. Officer Randy McCraney violated policy when he improperly strip-searched Mr. ██████ when he exposed Mr. ██████ buttocks to individuals not physically conducting the search.</p> <p>7. Officer Randy McCraney violated policy when he failed to adhere to General Order G06-01-03 "Conducting Strip Searches" when he strip searched Mr. ██████</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>NOT SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED.</p>
<p>Sergeant Melissa Malm</p>	<p>It is alleged that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St.:</p> <p>1. Sergeant Melissa Malm violated policy when she approved the strip search of Mr. ██████ to be performed on the street.</p> <p>2. Sergeant Melissa Malm violated policy when she allowed the strip search of Mr. ██████ to be performed in view of persons not physically conducting the search.</p> <p>3. Sergeant Melissa Malm violated policy when she allowed the strip search of Mr. ██████ to be conducted on scene while he had taser barbs embedded in his skin.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>

	4. Sergeant Melissa Malm violated policy when she failed to complete a Report of Strip Search form (CPD-11.251) in relation to the strip search of Mr. [REDACTED]	NOT SUSTAINED
	5. Sergeant Melissa Malm violated policy when she failed to provide Mr. [REDACTED] a copy of the Report of Strip Search form (CPD-11.251).	SUSTAINED
	6. Sergeant Melissa Malm violated policy when she approved the strip search of Mr. [REDACTED] absent the required written authorization.	UNFOUNDED
Sergeant Lawrence Darko	It is alleged that on December 11, 2018, at 7808 S. Halsted St.:	
	1.Sergeant Lawrence Darko violated policy when he failed to properly record the strip search of Mr. [REDACTED] in the Watch Incident Log.	SUSTAINED

**IV. APPLICABLE RULES AND LAWS**

Rules

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 5: Failure to perform any duty.
3. RULE 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
4. RULE 6: Disobedience of an order or directive, whether written or oral.

General Orders

1. General Order G06-01-03 (II-IV): Conducting Strip Searches.
2. General Order G03-02-04 (IV)(A): Taser Use Incidents.
3. General Order G01-03 Department Directives System.

Special Orders

1. Special Order S03-14(IV)(A)(4): Body Worn Cameras.

## V. INVESTIGATION<sup>1</sup>

### a. Interviews

#### Officer Jeremiah Pentek<sup>2</sup>

Officer Jeremiah Pentek was interviewed by COPA on February 20, 2020. According to Officer Pentek, he and his partner conducted a traffic stop at or near 7808 S. Halsted St. Officer Pentek made contact with the female driver, now known as ██████████ while Officer Albert Rangel made contact with the male front seat passenger ██████████. After he reached the vehicle, Officer Pentek observed a brown rolling paper consistent with the use of narcotics.<sup>3</sup> Ms. ██████████ handed it to him, and upon inspection Officer Pentek saw it contained a green leafy substance, suspect cannabis. Officer Pentek also believed this was likely when he first noticed the odor of cannabis.<sup>4</sup>

The officers asked both parties to step out of the vehicle. Officer Pentek felt Ms. ██████████ was settled for the moment and went over to where Officer Rangel and Mr. ██████████ stood and attempted to put him in handcuffs until the subject began to create distance between himself and the officers.<sup>5</sup> Once he attempted to flee, the officers tackled him to the ground. During a struggle, Officer Rangel discharged his taser. At this point Officer Pentek was unaware whether or not the taser barbs made contact.<sup>6</sup> When Mr. ██████████ motioned toward his waistband, Officer Pentek feared Mr. ██████████ had a weapon.<sup>7</sup> As things progressed, the officers continued to attempt an emergency handcuffing, however Mr. ██████████ still reached for his waistband. Officer Pentek believed that Officer Rangel attempted to taser Mr. ██████████ again. The officers radioed for assistance, and once additional officers arrived, they were able to handcuff Mr. ██████████.

The officers continued the investigation, and Mr. ██████████ told the officers he ran because he had outstanding warrants.<sup>8</sup> Once the officers noticed the taser barbs hit his skin, they called for an ambulance. Mr. ██████████ was placed in a squad car. A short time later, Officer Rangel took him out of the vehicle and attempted to perform a pat-down after noticing large bulges.<sup>9,10</sup> During the interview it was disclosed, based on the police report, that Officer Rangel obtained permission from Sergeant Melissa Malm to retrieve a bulge, emitting a strong odor of cannabis, from the buttocks area of Mr. ██████████ pants.<sup>11</sup> Officer Pentek stated he was not aware Sergeant Malm gave permission for the strip search until the information was relayed to him while he wrote the report.<sup>12</sup>

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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> Att. 49 and 50.

<sup>3</sup> Att. 49 at 06:10.

<sup>4</sup> Att. 49 at 15:25.

<sup>5</sup> Att. 49 at 07:18.

<sup>6</sup> Att. 49 at 11:30.

<sup>7</sup> Att. 49 at 08:08.

<sup>8</sup> Att. 49 at 09:50.

<sup>9</sup> Att. 49 at 12:40.

<sup>10</sup> Att. 49 at 16:14.

<sup>11</sup> Att. 49 at 18:20.

<sup>12</sup> Att. 49 at 31:15.

Officer Rangel then recovered narcotics from Mr. ██████ buttocks.<sup>13</sup> When asked about his participation in the strip search, Officer Pentek stated that he stood next to officer Pentek and acted as a “safety” officer, to make sure nobody got hurt.<sup>14</sup> He did not recall whether he ever touched Mr. ██████ or any of his clothing, or whether he did anything to expose his underwear or his skin. And he did not recall whether he held Mr. ██████ down in any way, however, he also said if he did, it was to be sure Mr. ██████ did not run away or kick his partner.<sup>15</sup>

Mr. ██████ was taken to the hospital to have the taser barbs addressed, and Officers Pentek and Rangel went to the district station to begin the necessary paperwork.

Officer Pentek justified the strip search by stating he believed there was a strong likelihood Mr. ██████ would destroy the evidence, which created exigent circumstances. He went on to say it did not seem reasonable to allow Mr. ██████ to be in an ambulance, with paramedics he would likely fight with.<sup>16</sup> There was also the possibility Mr. ██████ would remove the narcotics from his “rear” end and ingest them. And, he did not believe it would have been reasonable to delay the trip to the hospital to take Mr. ██████ to the station for a strip search. Although it was confirmed that Mr. ██████ was handcuffed in the ambulance, but it was believed there was still the possibility he could have gotten out of them.

Officer Pentek estimated that there were at least ten additional officers on the scene during the strip search, and he explained that Mr. ██████ was escorted to the ambulance by officers, and he was escorted in the ambulance by officers. According to Officer Pentek, it is customary that once a subject is at the hospital, they are within view of an officer at all times.<sup>17</sup>

Officer Pentek also believed that even though he had taser barbs embedded in his skin, there was still a concern Mr. ██████ would destroy or ingest the contraband.<sup>18</sup> He did not know, however, if the strip search caused a delay in getting Mr. ██████ to the hospital.

### **Officer Albert Rangel<sup>19</sup>**

Officer Albert Rangel was interviewed by COPA on February 14, 2020. Officers Rangel and Pentek conducted a traffic stop of the vehicle occupied by Mr. ██████. Officer Rangel approached the passenger side of the vehicle, spoke with Mr. ██████ and learned that he had a previous arrest for Unlawful Use of a Weapon. The officer also immediately detected the odor of cannabis.<sup>20</sup>

He had Mr. ██████ exit the vehicle, based on Mr. ██████ record and the knowledge there were reported shootings in the area, and then performed a pat-down in search of any contraband

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<sup>13</sup> Att. 49 at 10:20.

<sup>14</sup> Att. 49 at 32:10.

<sup>15</sup> Att. 40 at 34:00.

<sup>16</sup> Att. 50 at 06:35.

<sup>17</sup> Att. 50 at 10:25.

<sup>18</sup> Att. 50 at 15:40.

<sup>19</sup> Att. 46.

<sup>20</sup> Att. 46 at 06:22.

or weapons.<sup>21</sup> Officer Rangel felt a bulge at or near Mr. ██████ buttocks and could smell what he believed to be cannabis.<sup>22</sup> When Officer Rangel attempted to handcuff Mr. ██████ he broke away and attempted to flee.<sup>23</sup> At some point, about five feet away, Officer Pentek and Mr. ██████ ended up on the ground, with Officer Rangel nearby, and a struggle ensued. Officer Rangel deployed his taser, which had no effect on Mr. ██████. Mr. ██████ continued to resist, and Officer Rangel deployed the taser again, after which the officers were able to successfully handcuff Mr. ██████.<sup>24</sup> Officer Rangel called for assistance but could not recall if they arrived before or after Mr. ██████ was handcuffed.

The officers summoned an ambulance and placed Mr. ██████ in a police vehicle. Officer Rangel, who was aware he was supposed to get permission to do a strip search on scene from a supervisor, then advised Sergeant Malm that Mr. ██████ had contraband on his person and requested permission to retrieve the contraband on-scene.<sup>25, 26</sup> Once permission was granted Officer Rangel took Mr. ██████ out of the police vehicle, unbuckled his belt and undid his pants in order to give himself better access, and attempted to get him to turn around so that he could locate and remove the contraband from Mr. ██████ buttocks.<sup>27</sup> Mr. ██████ who was handcuffed, resisted, and as a result Officer Rangel had to pull down his underwear in order to recover the contraband.

Officer Rangel performed the strip search on scene because he was concerned that Mr. ██████ would remove or destroy the contraband. And even though Mr. ██████ was left alone in a police vehicle for a period of time, Officer Rangel believed despite the fact that Mr. ██████ was handcuffed, and even though an EMT and at least one police officer was present in the ambulance, there was still the possibility that Mr. ██████ could destroy evidence. He also reasoned that there was also the possibility that Mr. ██████ could be left alone in the hospital and may destroy or remove evidence then.<sup>28</sup>

The Officers on the scene recorded the strip search on their BWCs. Although Officer Rangel was aware of the policy prohibiting such, he stated that he felt the need to get this on camera because Mr. ██████ had resisted arrest and he wanted the incident to be on camera to debunk any unjust allegations of injury or planting of evidence, and for any other evidentiary value.<sup>29</sup>

### **Officer Randy McCraney<sup>30</sup>**

Officer Randy McCraney was interviewed by COPA on January 30, 2020. On December 10, 2018, Officer McCraney responded to a call for assistance. When he arrived, he used his handcuffs to secure Mr. ██████ who had already been tasered, as Officers Pentek and Rangel

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<sup>21</sup> Att. 46 at 15:20.

<sup>22</sup> Att. 46 at 15:45.

<sup>23</sup> Att. 46 at 07:15.

<sup>24</sup> Att. 46 at 08:14-08:42.

<sup>25</sup> Att. 46 at 13:30.

<sup>26</sup> Att. 46 at 22:10.

<sup>27</sup> Att. 46 at 18:10-18:39, 18:50.

<sup>28</sup> Att. 46 at 28:30.

<sup>29</sup> Att. 46 at 40:35.

<sup>30</sup> Att. 31.



struggled with him. Once Mr. ██████ was back on his feet, he told officers he had a warrant.<sup>31</sup> Officer McCraney performed a pat-down on Mr. ██████ for safety reasons.

Officer McCraney performed a second pat-down on Mr. ██████ and placed him in his police vehicle until it was determined when he would be transported to the hospital. He checked Mr. ██████ waistband, legs, pockets, around back area, to include his upper leg, beltline and buttocks, where most people conceal contraband and weapons, to make sure nothing was taken inside the vehicle.<sup>32</sup> He did not feel anything but cash and maybe keys.

Officers Pentek and Rangel approached Officer McCraney about the time the ambulance arrived. Officer Rangel asked for Mr. ██████ to be taken out of the vehicle. Once he was out, Officers undid Mr. ██████ belt and asked him if he had anything else and requested that he turn around. Mr. ██████ refused to turn around. About this time, Mr. ██████ complained about the taser barb.<sup>33</sup> Officer Rangel turned Mr. ██████ around by force and started to feel around the back of Mr. ██████ pants and appeared to find something. Soon after, Mr. ██████ became resistive again and Officer McCraney grabbed his arm and waistband.<sup>34</sup> Officer McCraney also grabbed Mr. ██████ hands as he attempted to keep Officer Rangel from pulling down his pants. Suspect crack cocaine was recovered from Mr. ██████ buttocks cheeks as he was laid face down on the ground.

Once the contraband was recovered and Mr. ██████ confirmed he did not have anything else, he was taken to the ambulance to be transported to the hospital. Officer McCraney said he was aware Mr. ██████ had taser barbs embedded in his body during the search.<sup>35</sup>

### **Sergeant Melissa Malm<sup>36</sup>**

Sergeant Melissa Malm was interviewed by COPA on February 5, 2020. On December 10, 2018, Sergeant Malm responded to a call for assistance by officers on her team. When she arrived on the scene, she was notified that there was a physical altercation and a taser deployment which left barbs in Mr. ██████ skin, and which required a trip to the hospital. Officer Rangel also advised Sergeant Malm that Mr. ██████ was in possession of contraband located in his buttocks area. However, she did not know what type of contraband it was.<sup>37</sup> While Mr. ██████ was still standing, she gave Officer Rangel consent to recover said contraband.<sup>38</sup> She did not see whether or not Mr. ██████ underwear was visible before or after she gave consent. Because Mr. ██████ became combative, officers placed him in a prone position in order to retrieve the contraband.

The strip search of Mr. ██████ was approved based on his secretion of the contraband and Officer Malm's concern it would travel further up his anus and cause him to become sick.<sup>39</sup> She went on to explain that she did not know what the contraband was, but if it got into his system, it

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<sup>31</sup> Att. 31 at 09:15.

<sup>32</sup> Att. 31 at 11:30.

<sup>33</sup> Att. 31 at 20:35.

<sup>34</sup> Att. 31 at 22:35.

<sup>35</sup> Att. 31 at 28:18.

<sup>36</sup> Att. 42 and 43.

<sup>37</sup> Att. 42 at 33:55.

<sup>38</sup> Att. 42 at 13:00.

<sup>39</sup> Att. 42 at 34:35.

could cause a big problem with his health or cause a possible overdose.<sup>40</sup> She also felt it was necessary to remove the risk prior to Mr. ██████ going into the ambulance, and felt this was the best decision based on what she knew at the time, and considering Mr. ██████ lack of cooperation and combativeness. Sergeant Malm also believed his efforts to hide the contraband would injure him or one of the officers and cause further use of force incidents. She felt the risk of the drugs getting into his system, while moving from the police vehicle to the ambulance, was more important than the removal of the taser prongs. Furthermore, Sergeant Malm was not aware of any source that stated an arrestee could not be searched when they have embedded taser barbs.<sup>41</sup>

In regard to the Report of Strip Search Form, Sergeant Malm stated she filled one out on the evening in question while at the 6<sup>th</sup> District. However, she had not been able to find a copy of it and did not know what happened to it. She believed she mailed a copy to the records department, but she did not give a copy to Mr. ██████. Furthermore, the Original Case Incident Report stated in the narrative that she filled out the report.<sup>42</sup> The form she filled out was a printout of the form, not the pre-printed form in duplicate.

### **Sergeant Lawrence Darko<sup>43</sup>**

Sergeant Lawrence Darko was interviewed by COPA on February 4, 2020. On December 10 or 11, 2018, Sergeant Darko was notified by a Watch Lieutenant that a strip search had been performed. Sergeant Darko notated the strip search on the Watch Incident Log in box "O" and made mention that a complaint log number was obtained. He did not, however, enter the details of the strip search as required by General Order G06-01-03 Conducting Strip Searches. Sergeant Darko explained that this was the first time a strip search was reported to him, and he was unfamiliar with the requirements of the General Order.<sup>44</sup> He has since read the order and understood there are specific criteria required for this report regarding strip searches.

#### **b. Digital Evidence**

##### **Body Worn Camera<sup>45</sup>**

Officer Rangel and Officer Pentek arrive at the scene and parked behind a silver vehicle. Officer Pentek spoke with the driver of a vehicle, now known as ██████ as she collected her driver's license. The officer asked Ms. ██████ what the paper product in the center console was, and she handed him something that looked like a cigar. Officer Pentek asked Ms. ██████ to step out of the vehicle, and when she did, he had her step to the back of the vehicle and place her hands on the trunk. Officer Pentek then walked to the opposite side of the vehicle where officer Rangel interacted with the passenger, now known as ██████. Mr. ██████ said he did not have an ID on his person, gave Officer Rangel his name, and told him he had a previous arrest for Unlawful Use of a Weapon.<sup>46</sup> Officer Rangel performed a pat-down on Mr. ██████ after he exited the vehicle

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<sup>40</sup> Att. 43 at 00:01.

<sup>41</sup> Att. 43 at 24:00-25:15.

<sup>42</sup> Att. 42 at 06:00.

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

<sup>44</sup> Att. 40 at 15:10.

<sup>45</sup> Att. 14.

<sup>46</sup> Att. 14 33Rangel at 01:12.

and asked Mr. [REDACTED] if he had any cannabis, which he said he could smell.<sup>47</sup> Mr. [REDACTED] responded he had a little, then said he swallowed it.<sup>48</sup> Ms. [REDACTED] granted permission to Officer Pentek to look in the vehicle.<sup>49</sup> Officer Pentek and other officers searched the vehicle. As he searched, Officer Pentek told another officer how Mr. [REDACTED] kept reaching for his waistband. He also told Officer Rangel he believed Mr. [REDACTED] had something in his buttocks area.<sup>50</sup> Nothing was found in the vehicle.

Officer Rangel asked Mr. [REDACTED] if he was “joking” anything because he could smell cannabis, and Mr. [REDACTED] responded that he swallowed it.<sup>51</sup> When the officers attempted to handcuff Mr. [REDACTED] he began to struggle and successfully broke away from the officers for a short period of time. The officers caught Mr. [REDACTED] and then attempted to handcuff Mr. [REDACTED] again, but he resisted as officers ordered him to give them his hands as his girlfriend yelled, “just don’t shoot him.”<sup>52</sup> Mr. [REDACTED] broke free again and the Officer Rangel tasered Mr. [REDACTED] who was now on the ground.<sup>53</sup>

Assistance was called, and once they arrived Officer McCraney was able to handcuff and then search Mr. [REDACTED] who claimed he had a warrant, but did not have a gun.<sup>54</sup> Sergeant Malm, now on the scene, told Mr. [REDACTED] that he was under arrest.<sup>55, 56</sup> Mr. [REDACTED] told the officers, who continued to search him, “unbuckle my pants, take my pants down, I don’t got nothing.”<sup>57</sup> Officers Perez and Smith were behind Mr. [REDACTED] looking at his lower back and said something to the effect that they were not going to take it off because he needed to go to the hospital. Mr. [REDACTED] said he had one in his stomach, too, referring to the taser barbs.<sup>58</sup> Mr. [REDACTED] told the officers the barbs were hurting him, and asked Officer Perez and Officer McCraney to lift his shirt. They responded something to the effect that they had to wait for ambulance to get there. Officer McCraney then walked Mr. [REDACTED] over to his police vehicle, found some cash during what appeared to be a thorough search, then put Mr. [REDACTED] into the back seat.<sup>59</sup>

A short time later, Officer Pentek walked over to the police vehicle occupied by Mr. [REDACTED] and Officer Rangel told him he was going to the hospital. Officer Rangel then removed the wires from the taser barbs that were embedded in his skin.<sup>60</sup> The ambulance arrived and Sergeant Malm told one of the EMTs Mr. [REDACTED] had taser barbs in him.<sup>61</sup> Mr. [REDACTED] exited the police vehicle and

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<sup>47</sup> Att. 14 32Pentek at 01:05, 33Rangel at 02:00.

<sup>48</sup> Att. 14 33Rangel at 02:20.

<sup>49</sup> Att. 14 32Pentek at 01:20.

<sup>50</sup> Att. 14 32Pentek at 10:47.

<sup>51</sup> Att. 14 32Pentek at 01:15, 33Rangel at 02:20.

<sup>52</sup> Att. 14 32Pentek at 01:39, 33Rangel at 02:30. Officer Rangel’s camera became deactivated at this point (02:56). It was reactivated soon after.

<sup>53</sup> Att. 14 32Pentek at 02:19.

<sup>54</sup> Att. 14 30McCraney at 00:01-02:16.

<sup>55</sup> Att. 14 30 McCraney at 01:50.

<sup>56</sup> Att. 14 26 Malm at 01:15. (Shortly thereafter Sergeant Malm deactivated her BWC. It appeared as though she was with Officer Rangel. She reactivated a short time later.)

<sup>57</sup> Att. 14 30 McCraney at 02:30.

<sup>58</sup> Att. 14 30 McCraney at 02:55.

<sup>59</sup> Att. 14 30 McCraney at 06:25.

<sup>60</sup> Att. 14 32Pentek at 11:50.

<sup>61</sup> Att. 14 19 Malm at 02:14.

complained about the taser barbs by saying, “ooh, shit, right there in the front.”<sup>62, 63</sup> Officer Rangel began to unbuckle Mr. ██████ belt and unzip his pants, and told him he was going to get whatever he had on him.<sup>64</sup> He then asked Mr. ██████ to turn around. Mr. ██████ refused to do so and said that he did not have anything else on him.<sup>65</sup> Officer Rangel, with the assistance of Officer Pentek, pulled down Mr. ██████ pants, exposing his underwear, then put his hand down the back of Mr. ██████ underwear.<sup>66</sup> After feeling around, he said, “It’s right there, it in his ass, he’s got it clinched.”<sup>67</sup> Mr. ██████ became upset and Officer Rangel said, “He’s clenching he’s got it, hey Sarge, he’s got it,” to which she replied “alright.”<sup>68, 69</sup> Mr. ██████ began to scream about the officer being in his “ass” as Officer Rangel pulled down Mr. ██████ pants exposing his buttocks, to which Sergeant Malm responded that he had “dope in there”.<sup>70, 71, 72</sup> Mr. ██████ resisted and officers placed Mr. ██████ face down on the ground, still protesting at the top of his lungs about the officer being in close proximity to his buttocks while Officers Rangel and McCraney pulled down his underwear.<sup>73, 74</sup> At that point, Sergeant Malm said, “Bring him into the hospital, if he’s gotta go to the hospital have them...” and then she stopped.<sup>75</sup> The officers continued with the strip search and BWC again captured the exposure of Mr. ██████ buttocks and the recovery of a white object lodged between his buttock cheeks.<sup>76, 77</sup> Several uninvolved officers and what appeared to be two EMTs can be seen near the location of the strip search, watching the search.<sup>78, 79, 80, 81</sup>

Officers then escorted Mr. ██████ to the ambulance where he was hand-cuffed to a stretcher.<sup>82</sup> Sergeant Malm assigned Officer Perez and another officer to ride with Mr. ██████ in the ambulance, and then stated she wanted two officers to ride in the ambulance, preferably someone with a taser.<sup>83</sup> Once inside the ambulance, an EMT said that Mr. ██████ had two barbs on the front of his body and one on the back.<sup>84</sup>

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<sup>62</sup> Att. 14 18Rangel at 00:30.

<sup>63</sup> Att. 14 30McCraney at 09:09.

<sup>64</sup> Att. 14 18Rangel at 00:30.

<sup>65</sup> Att. 14 32Pentek at 12:05.

<sup>66</sup> Att. 14 18Rangel at 01:00.

<sup>67</sup> Att. 14 18Rangel at 00:55.

<sup>68</sup> Att. 14 32Pentek at 12:50.

<sup>69</sup> Att. 14 19Malm at 03:15.

<sup>70</sup> Att. 14 18Rangel at 01:20.

<sup>71</sup> Att. 14 30McCraney at 09:50.

<sup>72</sup> Att. 14 19Malm at 03:20.

<sup>73</sup> Att. 14 30McCraney at 10:10.

<sup>74</sup> Att. 14 19Malm at 03:45.

<sup>75</sup> Att. 14 19Malm at 03:39.

<sup>76</sup> Att. 14 18Rangel at 01:50.

<sup>77</sup> Att. 14 30McCraney at 10:20.

<sup>78</sup> Att. 14 32Pentek at 12:40 and 14:00.

<sup>79</sup> Att. 14 30McCraney at 09:25.

<sup>80</sup> Att. 14 19Malm at 03:50.

<sup>81</sup> Att. 14 17Kordas at 1:00.

<sup>82</sup> Att. 14 16Lupo at 00:35.

<sup>83</sup> Att. 14 19Malm at 05:24-06:07.

<sup>84</sup> Att. 14 15Perez at 01:50.

**Forensic Photos of Mr. [REDACTED] Injuries<sup>85</sup>****c. Documentary Evidence**

On or about January 29, 2019, Log# 1092508 was initiated by BIA Commander Tina Skahill based on a review of the BWC and Tactical Response Reports related to this matter. COPA received the **To/From Memos** from the **Force Review Unit** requesting the matter be referred to COPA for further investigation.<sup>86</sup>

On July 3, 2019, COPA was granted an **Affidavit Override** by the Chicago Police **Department**, authorizing the continued investigation into this matter, without a signed affidavit.<sup>87</sup>

On March 20, 2019, Mr. [REDACTED] signed a **Refusal to Talk With COPA Form** which was forwarded to COPA by ASA Amber K. Miller.<sup>88</sup>

[REDACTED] **Original Case Incident Report (RD#: JB548224)**, in summary, revealed that on December 10, 2018, at approximately 10:42 pm, Officers Jeremiah Pentek and Albert Rangel observed the vehicle driven by Ms. [REDACTED] fail to stop at a stop sign. The officers curbed the vehicle and detected the odor of fresh cannabis as they approached the vehicle, and noticed an empty unrolled brown cigar wrapper, commonly used in relation to cannabis. Officer Rangel approached the front seat passenger, [REDACTED] who disclosed that he had a previous arrest for UUW.

Both Ms. [REDACTED] and Mr. [REDACTED] were ordered out of the vehicle, at which time Officer Rangel was able to detect a strong odor of fresh cannabis emitting from the rear waistband of Mr. [REDACTED]. He also felt a small bulge in the rear of Mr. [REDACTED] pants. When officers attempted to handcuff Mr. [REDACTED] he broke free from the officers and attempted to flee. Officer Rangel tasered Mr. [REDACTED] when he continued to attempt to flee, hitting him in the stomach, however it had no effect. The taser was deployed a second time after further attempts to flee, and again, it had no effect. This time Mr. [REDACTED] was hit in the back.

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<sup>85</sup> Att. 26.

<sup>86</sup> Att. 10.

<sup>87</sup> Att. 28.

<sup>88</sup> Att. 36.

Mr. ██████ was subsequently placed into custody, with the assistance of additional officers, and a search of Mr. ██████ “rear pants area” was conducted with permission from Sergeant Melissa Malm. Officer Rangel performed the search because he feared Mr. ██████ would destroy the evidence while in transit to the hospital. One clear plastic bag containing suspect crack cocaine and one clear plastic bag containing suspect cannabis were recovered. Mr. ██████ was taken to St. Bernard Hospital, treated and released.

The report also mentioned that an additional search recovered \$1605 in cash, Sergeant Malm filled out CPD form 11.521 (Report of Strip Search), and Officer Albert Rangel was the reporting officer.<sup>89</sup>

██████████ **Arrest Report**, in summary, is consistent with the Original Case Incident Report with a few exceptions. In this report, attested to by Officer Pentek, “numerous large bulges” were observed on Mr. ██████ at some point. There was also mention that Mr. ██████ moved his hands toward his waistband as officers attempted to detain and handcuff him. And this report more specifically stated that Sergeant Malm gave Officer Rangel permission to retrieve contraband from “in between the offenders butt cheeks.”<sup>90</sup>

The **Detective Supplemental Report** related to this case is consistent with the Original Incident Report, Arrest Report, and Body Worn Camera footage. As an addition, there is also the summary of an interview with ██████████ the driver of the vehicle, who’s description of the event was consistent with the afore mentioned reports, and she also said she was not sure what occurred during the course of Mr. ██████ getting out of the vehicle but remembered that Mr. ██████ and the officers were “tussling” and that Mr. ██████ was tasered twice. The detective also interviewed Mr. ██████ who said, in summary, that the officers could feel and found narcotics in his buttocks, and that he panicked and found himself resisting arrest when he turned to the left a little hard and made a strong shoulder gesture as if he was going to run. This report was drafted by Detective Mark Mendez #20031.<sup>91</sup>

The **Tactical Response Report** for **Officer Pentek** stated, among other things, that the subject, Mr. ██████████ was the passenger of a vehicle stopped for a traffic violation. He suffered non-fatal minor injuries as a result of two taser deployments administered in response to Mr. ██████ attempts to flee. Other tactical responses used during this event were, among others, emergency handcuffing, take down, verbal direction and the use of additional unit members. It was also mentioned that Officer Pentek suffered minor injury to his left knee and hand. Mr. ██████ was taken to St. Bernard Hospital.<sup>92</sup>

The **Tactical Response Report** for **Officer Rangel** is consistent with that of Officer Pentek, but also mentioned that a third five second cycle was attempted using the taser, but when it did not produce the desired effect, Officer Rangel applied pressure point technique to Mr. ██████ nose while awaiting assistance.<sup>93</sup>

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<sup>89</sup> Att. 2.

<sup>90</sup> Att. 3.

<sup>91</sup> Att. 20.

<sup>92</sup> Att. 5

<sup>93</sup> Att. 6.

The St. Bernard Hospital **Medical Records** for ██████████ disclosed that he was tasered twice in the abdomen and once at right side of back. Mr. ██████████ denied any additional trauma. He also denied, among other things, loss of consciousness, headaches, or dizziness. The three taser prongs were removed. Mr. ██████████ was medically cleared and released into the custody of CPD in stable condition.<sup>94</sup>

The **Watch Incident Log**, drafted by Sergeant Lawrence Darko, dated the First Watch on December 11, 2018, has a double x (xx) marking at option “O. Strip Searches Authorized.” In the narrative section, there is a notation, “F, C, O & D. Complaint Log Number obtained.”<sup>95</sup>

## 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

“Strip Search” means having an arrested person remove or arrange some or all of his clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts or undergarments of such person. *725 ILCS 5/103-1 Rights on Arrest, General Order G06-01-03.*

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<sup>94</sup> Att. 23.

<sup>95</sup> Att. 27.

**Officer Jeremiah Pentek**

COPA finds **Allegation #1**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. [REDACTED] on the street, is supported by a preponderance of the evidence and is **Sustained**.

General Order G06-01-03 stated that “Strip searches will ordinarily be conducted in a police lockup facility. If it is necessary for an arrestee to be strip searched outside the lockup in any police facility, prior written approval must be obtained from the member’s immediate supervisor. When it is imperative that a strip search be conducted in the field, a field supervisor must be contacted for approval.

During his interview with COPA, Officer Pentek justified performing the strip search on the street by claiming there was a strong possibility that Mr. [REDACTED] would destroy the evidence, would ingest the evidence, or would fight the paramedics during transport, thus creating exigent circumstances. Exigent circumstances are present when a reasonable person would believe that entry (or some other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts. *US v. Howard, 961 f2d 1265, 1267 (7<sup>th</sup> Cir. 1992).*

Given the totality of the circumstances in this case, it is unreasonable to believe Mr. [REDACTED] who was injured at the time, could have destroyed or ingested the evidence before a more proper strip search could have been performed, and there is no evidence Mr. [REDACTED] would have fought with the paramedics considering the likely reason he initially tried to escape, his possession of narcotics, was resolved. Furthermore, Mr. [REDACTED] was handcuffed and surrounded by no less than ten police officers and sergeants while on scene, was escorted to the hospital by two officers, and handcuffed to a gurney during transport.

CPD policy also renders Officer Pentek’s justification unreasonable. It is policy for two officers to be assigned when transporting an arrestee and that any sworn member responsible for the movement of an arrestee, in addition to the required custodial search, will be responsible for searches of all places the arrestee will have access to, both prior and after the arrestee has been placed in that area. The search of the area will ensure the arrestee is not able to access or discard any prohibited items. Areas to be searched include, but are not limited to hospital treatment areas, rooms in Department facilities and Department vehicles. *General Order G06-01-02 Restraining Arrestees*. Based on BWC footage, two officers were, in fact, assigned to accompany Mr. [REDACTED] to the hospital.

It must also be mentioned that BWC captured officers place Mr. [REDACTED] alone in a police vehicle, without concern, for a short period of time. It seemed reasonable to conclude that this would have been the most opportune time for Mr. [REDACTED] to destroy or ingest any contraband on his person, if he was so inclined, since nobody was watching him.



Because there is no reasonable evidence that exigent circumstances existed at the time the officers performed the strip search on Mr. ██████ requiring he be strip searched on the street, this allegation is Sustained.

COPA finds **Allegation #2**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. ██████ in view of persons not physically conducting the search, is supported by a preponderance of the evidence and is **Sustained**.

All strip searches conducted under this section shall be performed by persons of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search. *725 ILCS 5/103-1 Rights on Arrest, General Order G06-01-03 Conducting Strip Searches.*

BWC captured the scene during Mr. ██████ strip search and revealed there were not only two EMTs but several officers, not involved in the strip search, who viewed the strip search as it happened, in violation of State law and CPD policy. Furthermore, as discussed above, there were no exigent circumstances to provide an exception, therefore, this allegation is Sustained.

COPA finds **Allegation #3**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. ██████ while he had taser barbs embedded in his skin, is supported by a preponderance of the evidence and is **Sustained**.

CPD policy stated that, “In the event that an arrestee required immediate medical care, the arrestee will be transported to the nearest approved emergency room, as delineated by Department directive entitled “Approved Medical Facilities,” prior to any further arrest processing. *General Order G06-01-01 Field Arrest Procedures.* Once the scene is safe and as soon as practical, whenever an individual is injured, complains of injury, or requests medical attention, Department members will immediately request appropriate medical aid for the injured person, and will treat injured persons, whether another officer, a member of the public, or a subject, with dignity and respect. *General Order G03-02 Use of Force.* And, immediately upon gaining control and restraining the subject, deploying member will avoid placing additional stress on the subject. *General Order G03-02-04 Taser Use Incidents.*

Mr. ██████ expressed, on several occasions as captured on BWC, that the three taser prongs embedded in his skin were causing him pain. And, although Mr. ██████ asked for minor clothing adjustments to make him more comfortable, no assistance was forthcoming. In fact, Officer Rangel only unbuttoned Mr. ██████ pants, near where one of the barbs was embedded, as a precursor to performing the strip search. What is worse is that the ambulance and EMTs arrived on scene at least several minutes before the strip search was conducted and could have either rendered medical aid to Mr. ██████ right then and there or could have taken him to the hospital to receive the necessary medical assistance.

However, the most egregious acts performed by these department members were exposing Mr. ██████ bare body to a group of CPD and non-CPD members who were not involved in the strip

search while Mr. █████ screamed in protest of being exposed and performing what turned out to be a physically rough strip search on a person whom they knew to be injured and in pain. For these reasons, this allegation is Sustained.

COPA finds **Allegation #4**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. █████ while his body worn camera was activated, is supported by a preponderance of the evidence and is **Sustained**.

The BWC will not be activated to record in connection with strip searches. *Special Order S03-14 (IV.4)*. Because Officer Pentek's BWC was activated and recorded the strip search of Mr. █████ this allegation is Sustained.

COPA finds **Allegation #5**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. █████ when he removed Mr. █████ clothing without supervisor approval is supported by a preponderance of the evidence and is **Sustained**.

If it is necessary for an arrestee to be strip searched outside of the lockup in any police facility, prior written approval must be obtained from the watch operations supervisor or member's immediate supervisor. When it is imperative that a strip search be conducted in the field, a field supervisor must be contacted for approval. *General Order G06-01-03 Conducting Strip Searches*.

Officer Pentek and Officer Rangel are captured on BWC as they pulled down the back of Mr. █████ pants, exposing his underwear, as they searched for contraband. Based on BWC footage, this was done before obtaining supervisor approval. Therefore, this allegation is Sustained.

COPA finds **Allegation #6**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Jeremiah Pentek violated policy when he improperly strip-searched Mr. █████ when he exposed Mr. █████ buttocks to individuals not physically conducting the search, is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**.

All strip searches conducted under this section shall be performed by persons of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search. *725 ILCS 5/103-1 Rights on Arrest, General Order G06-01-03*.

Because it is unclear, based on BWC and Officer Pentek's statement, if Officer Pentek was involved with the strip search beyond exposing Mr. █████ underwear, this allegation is Not Sustained.

COPA finds **Allegation #7**, that on December 11, 2018, at approximately 7:41 AM, at 7808 S. Halsted St., Officer Jeremiah Pentek violated policy when he failed to properly record the strip search in the Arrest Report for Mr. █████ is supported by a preponderance of the evidence and is **Sustained**.

Whenever a request is made to conduct a strip search of an arrestee, the following information will be entered in both the narrative portion of the automated Arrest Report and the Watch Incident Log: the name of the arrestee, the name of the officers making the arrest, a list of specific factors justifying the strip search, whether the strip search was approved or disapproved, the name of the person approving or disapproving, if approved, the name of the person(s) conducting the search and what was discovered as a result of the strip search. *General Order G06-01-03 Conducting Strip Searches.*

Officer Pentek was the attesting officer on the Arrest Report for Mr. ██████. However, he failed to include some of the required information, for instance, a list of specific factors justifying the strip search, the name of the officer(s) making the request, and the name of the person(s) conducting the search. In fact, there is no mention at all that a “strip search” was conducted.

Because the narrative section of the arrest report did not contain all of the required information, this allegation is Sustained.

#### **Officer Albert Rangel**

COPA finds **Allegation #1**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. ██████ on the street, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #1 for Officer Pentek and is Sustained.

COPA finds **Allegation #2**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. ██████ in view of persons not physically conducting the search, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #2 for Officer Pentek and is Sustained.

COPA finds **Allegation #3**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. ██████ while he had taser barbs embedded in his skin, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #3 for Officer Pentek and is Sustained.

COPA finds **Allegation #4**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. ██████ while his body worn camera was activated, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #4 for Officer Pentek and is Sustained.

COPA finds **Allegation #5**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] when he removed Mr. [REDACTED] clothing without supervisor approval, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #5 for Officer Pentek and is Sustained.

COPA finds **Allegation #6**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] when he touched Mr. [REDACTED] buttocks, is supported by a preponderance of the evidence and is **Sustained**

“Strip search” means having an arrested person remove or arrange some or all of his or her clothing to as to permit a *visual (emphasis added)* inspection of the genitals, buttocks, anus, female breasts or undergarments of such person. *General Order G06-01-03 Conducting Strip Searches.*

Officer Rangel placed his hands upon Mr. [REDACTED] buttocks, and then reached between his buttocks cheeks to recover contraband. By definition, a strip search is correctly executed by having the subject remove or arrange his or her own clothing thus allowing for a visual inspection. Because there were no exigent circumstances allowing for alteration of this policy, this allegation is Sustained.

COPA finds **Allegation #7**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he improperly strip-searched Mr. [REDACTED] when he exposed Mr. [REDACTED] buttocks to individuals not physically conducting the search, is supported by a preponderance of the evidence and is **Sustained**.

All strip searches conducted under this section shall be performed by persons of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search. *725 ILCS 5/103-1 Rights on Arrest, General Order G06-01-03 Conducting Strip Searches.*

Officer Rangel pulled down Mr. [REDACTED] pants and exposed his underwear in order to locate suspect contraband between Mr. [REDACTED] buttocks cheeks. And even though he then knew where the contraband was located, he then took it one step further and pulled down Mr. [REDACTED] underwear, exposing Mr. [REDACTED] buttocks to himself and all of the officers standing in the vicinity, while ignoring Mr. [REDACTED] screams in protest of his buttocks being exposed and his attempts to cover his bare buttocks with his own hands.

Because there were no exigent circumstances or other lawful authority to perform this strip search in a manner that violated policy, this allegation is Sustained.

COPA finds **Allegation #8**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Albert Rangel violated policy when he failed to obtain permission to strip search Mr. [REDACTED] before he began the strip search, is supported by a preponderance of the evidence and is **Sustained**

General Orders (GO) are directives that establish critical policies directly related to the core values and functions of the Department or the broad organizational policies and key practices relating to those core values. Individual members will be knowledgeable concerning all Department and unit-level directives which apply to their positions, duties and responsibilities. As a guideline, with respect to General Orders, members need to maintain a level of knowledge that is sufficient for them to immediately recall and apply the key policy and procedural elements of these directives. *General Order G01-03 Department Directives System*. Every peace officer or employee of a police department conducting a strip search shall obtain written permission of the police commander or an agent thereof designated for the purposes of authorizing a strip search. *General Order G06-01-03 Conducting Strip Searches*.

Officer Rangel failed to adhere to G06-01-03 when he failed to obtain written permission from Sergeant Malm *before* he began to remove Mr. [REDACTED] clothing, demonstrating a lack of immediate recall application of key policy and procedural elements of said order. BWC captured Officer Rangel unbuckle and unzip Mr. [REDACTED] pants, and then pull them down in the back so he could feel whether there was contraband between Mr. [REDACTED] buttocks cheeks. Once he located the contraband, he then told Sergeant Malm it was there, and she responded with an “alright.” Therefore, this allegation is Sustained.

#### **Officer Randy McCraney**

COPA finds **Allegation #1**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] on the street, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #1 for Officer Pentek and is Sustained.

COPA finds **Allegation #2**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] in view of persons not physically conducting the search, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #2 for Officer Pentek and is Sustained.

COPA finds **Allegation #3**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] while he had taser barbs embedded in his skin, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #2 for Officer Pentek and is Sustained.

COPA finds **Allegation #4**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] while his body worn camera was activated, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #4 for Officer Pentek and is Sustained.

COPA finds **Allegation #5**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] when he removed Mr. [REDACTED] clothing without supervisor approval, is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**.

Although Officer McCraney participated in the strip search, it is not clear, based on BWC, whether he removed any of Mr. [REDACTED] clothing prior to obtaining supervisor approval. Therefore, this allegation is Not Sustained.

COPA finds **Allegation #6**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he improperly strip-searched Mr. [REDACTED] when he exposed Mr. [REDACTED] buttocks to individuals not physically conducting the search, is supported by a preponderance of the evidence and is **Sustained**.

The analysis for this allegation is consistent with that for Allegation #7 for Officer Rangel and is Sustained.

COPA finds **Allegation #7**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Officer Randy McCraney violated policy when he failed to adhere to General Order G06-01-03 "Conducting Strip Searches" when he strip searched [REDACTED] is supported by a preponderance of the evidence and is **Sustained**.

General Orders (GO) are directives that establish critical policies directly related to the core values and functions of the Department or the broad organizational policies and key practices relating to those core values. Individual members will be knowledgeable concerning all Department and unit-level directives which apply to their positions, duties and responsibilities. As a guideline, with respect to General Orders, members need to maintain a level of knowledge that is sufficient for them to immediately recall and apply the key policy and procedural elements of these directives. *General Order G01-03 Department Directives System.*

All strip searches will be conducted by a member of the same gender, in a secure area, and isolated from the view of others. *General Order G06-01-03 Conducting Strip Searches.*

Officer McCraney violated G06-01-03 when, among other things, he strip searched Mr. ██████ in view of people not involved in the search and in an area that was not secure, therefore this allegation is **Sustained**.

### **Sergeant Melissa Malm**

COPA finds **Allegation #1**, alleged that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Sergeant Melissa Malm violated policy when she approved the strip search of Mr. ██████ to be performed on the street, is supported by a preponderance of the evidence and is **Sustained**.

Although Sergeant Malm was not involved in the physical part of the strip search of Mr. ██████ she was the supervisor who approved its execution. During her COPA interview Sergeant Malm reasoned that she approved the immediate strip search because she was concerned the contraband would travel further up Mr. ██████ anus and cause him to become sick. She went on to explain that she did not know what the contraband was, but if it got into his system, it could cause a big problem with his health or cause a possible overdose.

This reasoning is unpersuasive. The only thing known before the strip search was initiated was that Officer Rangel detected a strong odor of cannabis near the rear of Mr. ██████ pants. And, it is unlikely cannabis would have caused the harm described by Sergeant Malm. Furthermore, the contraband was not in his anus, it was merely between his buttock's cheeks. But had it been, officers would likely not have been able to tactilely locate the contraband during a pat-down or other custodial search. That would have required a body cavity search, a search warrant, and medical personnel. And it is unreasonable to believe that an object simply placed between someone's buttock's cheeks could migrate into the anus on its own, or without putting forth significant effort.

The remaining analysis for this allegation is consistent with that of Allegation #1 for Officer Pentek and is Sustained.

COPA finds **Allegation #2**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Sergeant Melissa Malm violated policy when she allowed the strip search of Mr. ██████ to be performed in view of persons not physically conducting the search, is supported by a preponderance of the evidence and is **Sustained**.

Although Sergeant Malm approved the execution of the strip search of Mr. ██████ but was not physically involved, the analysis for this allegation is consistent with Allegation #2 for Officer Pentek and is Sustained.

COPA finds **Allegation #3**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Sergeant Melissa Malm violated policy when she allowed the strip search of Mr. ██████ to be conducted on scene while he had taser barbs embedded in his skin, is supported by a preponderance of the evidence and is **Sustained**.

Although Sergeant Malm approved the execution of the strip search of Mr. [REDACTED] but was not physically involved, the analysis for this allegation is consistent with Allegation #2 for Officer Pentek and is Sustained.

COPA finds **Allegation #4**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Sergeant Melissa Malm violated policy when she failed to complete a Report of Strip Search form (CPD-11.251) in relation to the strip search of Mr. [REDACTED] is not supported by enough evidence to sufficiently prove or disprove the allegation and is **Not Sustained**.

All strip searches, regardless of location, require written approval from the appropriate supervisor using the Report of Strip Search (CPD-11.521). *General Order G06-01-03 Conducting Strip Searches*.

Sergeant Malm told investigators that she filled out the Report of Strip Search form but used a computer print-out of the form rather than a pre-printed copy in duplicate. The Original Case Incident Report also made mention that Sergeant Malm filled out this report. However, neither Sergeant Malm's search nor efforts by COPA to locate a copy of the form were successful. Sergeant Malm was unsure as to what she did with the form at the time she filled it out, or what happened to it. Although it is reasonable to conclude the person responsible for drafting a document in relation to an arrest is responsible for forwarding it to the correct department or person, in this case, it is also reasonable to believe it is possible the form may have been misplaced by someone other than Sergeant Malm, and this allegation is Not Sustained.

COPA finds **Allegation #5**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Sergeant Melissa Malm violated policy when she failed to provide Mr. [REDACTED] a copy of the Report of Strip Search form (CPD-11.251), is supported by a preponderance of the evidence and is **Sustained**.

Every peace officer or employee of a police department conducting a strip search shall prepare a report of the strip search. The report shall include the written authorization, then name of the person subjected to the search, the names of the persons conducting the search and the time, date and place of the search. A copy of the report shall be provided to the person subject to the search. *General Order G06-01-03 Conducting Strip Searches*.

Sergeant Malm admitted in her COPA interview that she did not provide Mr. [REDACTED] with a copy of the report of the strip search, therefore, this allegation is Sustained.

COPA finds **Allegation #6**, that on December 10, 2018, at approximately 10:42 PM, at 803 W. 82nd St., Sergeant Melissa Malm violated policy when she approved the strip search of Mr. [REDACTED] absent the required written authorization, is not supported by the evidence and is **Unfounded**.

Every peace officer or employee of a police department conducting a strip search shall obtain the written of the police commander or an agent thereof designated for the purposes of authorizing a strip search in accordance with this section.



When it is imperative that a strip search be conducted in the field, a field supervisor must be contacted for approval.

In this case, Sergeant Malm was not the officer conducting the strip search, but the supervisor that approved it. Therefore, this allegation is Unfounded.

### **Sergeant Lawrence Darko**

COPA finds **Allegation #1**, that on December 11, 2018, at 7808 S. Halsted St., Sergeant Lawrence Darko violated policy when he failed to properly record the strip search of Mr. [REDACTED] in the Watch Incident Log, is supported by a preponderance of the evidence and is **Sustained**.

Whenever a request is made to conduct a strip search of an arrestee, the following information will be entered in both the narrative portion of the automated Arrest Report and the Watch Incident Log: the name of the arrestee, the name of the officers making the arrest, a list of specific factors justifying the strip search, whether the strip search was approved or disapproved, the name of the person approving or disapproving, if approved, the name of the person(s) conducting the search and what was discovered as a result of the strip search. *General Order G06-01-03 Conducting Strip Searches*.

The Watch Incident Log drafted by Sergeant Lawrence Darko, dated the First Watch on December 11, 2018, has a double x (xx) marking at option “O. Strip Searches Authorized.” In the narrative section, there is a notation, “F, C, O & D. Complaint Log Number obtained.” However, the above required information was not included in the log. Sergeant Darko stated that this was his first reported strip search, and he was not familiar with the requirement set out in the pertinent General Order. He also stated that he has since reviewed *General Order G06-01-03 Conducting Strip Searches* and is now aware of what is required. Although it is commendable Sergeant Darko took it upon himself to review the GO, this allegation is Sustained.

## **VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS<sup>96</sup>**

### **a. Officer Jeremiah Pentek**

#### **i. Complimentary and Disciplinary History**

- a.** The following is a summary of disciplinary incidents for Officer Pentek:

No disciplinary history, as of December 14, 2021.

- b.** The following is a summary of the complimentary history of Officer Pentek:

1. 2019 Crime Reduction Award (1); 2. Annual Bureau Award of Recognition (1); 3. Attendance Recognition Award (2); 4.

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<sup>96</sup> Att. 52.

Department Commendation (1); 5. Emblem of Recognition – Physical Fitness (1); 6. Honorable Mention (62); 7. Joint Operations Award (2); 8. Life Saving Award (3) and 9. Problem Solving Award (1).

## **ii. Recommended Penalty, by Allegation**

COPA recommends 10 days of Suspension for Officer Pentek. Officer Pentek has sustained finding for allegations 1-4, 6 and 7. Officer Pentek assisted with the strip search of Mr. ██████ held the taser prongs and exposed Mr. ██████ naked buttocks to people not involved in the search. Officer Pentek also failed to properly document the search.

### **b. Officer Albert Rangel**

#### **i. Complimentary and Disciplinary History**

**a.** The following is a summary of disciplinary incidents for Officer Rangel:

No disciplinary history, as of December 14, 2021. SPAR History: Log# 563320, Incident Date: March 22, 2021, Completed Date: November 13, 2021 – No Disciplinary Action/005-Court Appearance Violation and Log# 561276, Incident Date: December 17, 2020, Completed Date: June 16, 2021 – Reprimand/016-Failure to perform assigned tasks.

**b.** The following is a summary of the complimentary history of Officer Rangel:

1. 2019 Crime Reduction Award (1); 2. Annual Bureau Award of Recognition (1); 3. Attendance Recognition Award (2); 4. Department Commendation (2); 5. Honorable Mention (71); 6. Honorable Mention Ribbon Award (1); 7. Joint Operations Award (1); 8. Police Officer of the Month Award (1); 9. Superintendent's Honorable Mention (1) and 10. Traffic Stop of the Month Award (1).

#### **ii. Recommended Penalty**

COPA recommend 12 days of Suspension for Officer Rangel. Officer Rangel has sustained findings for all allegations 1-8. Officer Rangel initiated the strip search of Mr. ██████ on a public way. Officer Rangel forcibly turned Mr. ██████ over to pull down his pants and underwear. Mr. ██████ naked buttocks were exposed to others on scene who were not involved in the strip search. Officer Rangel did not receive proper approval for the strip search he believe was necessary due to exigent circumstances. Officer Rangel also failed to properly document the strip search.

### **c. Officer Randy McCraney**

#### **i. Complimentary and Disciplinary History**

a. The following is a summary of disciplinary incidents for Officer McCraney:

No disciplinary history, as of December 14, 2021. SPAR History: Log#563439, Incident Date: November 8, 2021, Completed Date: December 10, 2021 – Reprimand/016 – Failure to perform assigned tasks.

b. The following is a summary of the complimentary history of Officer McCraney:

1. 2019 Crime Reduction Award (1); 2. Annual Bureau Award of Recognition (1); 3. Attendance Recognition Award (2); 4. Department Commendation (1); 5. Emblem of Recognition – Physical Fitness (2); 6. Honorable Mention (27) and 7. Military Service Award (1).

## ii. Recommended Penalty

COPA recommends a penalty of 10 days Suspension for Officer McCraney. Officer McCraney fully participated in an authorized strip search of Mr. ██████ in a public way, while others observed who were not part of the strip search procedure. Officer McCraney assisted in this unauthorized search of Mr. ██████

## d. Sergeant Melissa Malm

### i. Complimentary and Disciplinary History

a. The following is a summary of disciplinary incidents for Sergeant Malm: No disciplinary history, as of December 14, 2021.

b. The following is a summary of the complimentary history of Sergeant Malm:

1. 2009 Crime Reduction Award (1); 2. 2019 Crime Reduction Award (1); 3. Annual Bureau Award of Recognition (1); 4. Attendance Recognition Award (3); 5. Complimentary Letter (1); 6. Department Commendation (10); 7. Deployment Operations Center Award (1); 8. Emblem of Recognition – Physical Fitness (4); 9. Honorable Mention (116); 10. Honorable Mention Ribbon Award (1); 11. Joint Operations Award (1); 12. Life Saving Award (1); 13. NATO Summit Service Award (1); 14. Presidential Election Deployment Award 2008 (1); 15. Problem Solving Award; 16. Special Commendation (1) and 17. Unit Meritorious Performance Award (1).

### ii. Recommended Penalty, by Allegation

COPA recommends a Reprimand for Sergeant Melissa Malm. Sergeant Malm has multiple sustained findings for allegations 1-3 and 5 – Sustained. Sergeant Malm allowed the strip search of Mr. ██████ to occur on the public way while other officers and EMT personnel watched. Although Sergeant Malm is held to a higher standard than the officers the mitigating factor that this investigation did not come to closure within 18 months is taken into consideration.

**e. Sergeant Lawrence Darko**

**i. Complimentary and Disciplinary History**

**a.** The following is a summary of disciplinary incidents for Sergeant Darko: No disciplinary history, as of December 14, 2021.

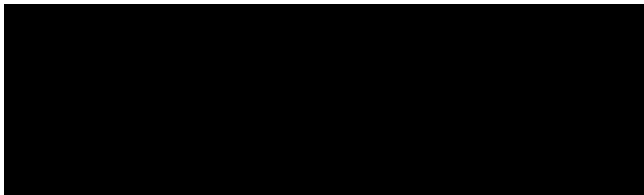
**b.** The following is a summary of the complimentary history of Sergeant Darko:

- 1. 2004 Crime Reduction Ribbon (1); 2. 2009 Crime Reduction Award (1); 3. 2019 Crime Reduction Award (1); 4. Annual Bureau Award of Recognition (1); 5. Attendance Recognition Award (3); 6. Complimentary Letter (3); 7. Department Commendation (7); 8. Deployment Operations Center Award (2); 9. Emblem of Recognition – Physical Fitness (15); 10. Honorable Mention (51); 11. NATO Summit Service Award (1); 12. Other Awards (1); 13. Presidential Election Deployment Award 2008 (1); 14. Special Commendation (1) and 15. Unit Meritorious Performance Award (1).

**ii. Recommended Penalty, by Allegation**

COPA recommends a penalty of Violation Noted for Sergeant Darko. It was Sergeant Darko’s responsibility to document the strip search of Mr. ██████ in the Watch Log, which he failed to do.

Approved:



Angela Hearts-Glass  
*Deputy Chief Investigator*

8-29-2022

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Date