

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	22 January 2019
Time of Incident:	12:31 p.m.
Location of Incident:	████████████████████
Date of COPA Notification:	31 May 2019
Time of COPA Notification:	03:32 p.m.

The complainant—██████████—was walking along North Hamlin Avenue. An unmarked police vehicle passed the complainant, stopped, and reversed. Several masked officers exited the vehicle and took hold of the complainant’s person. The officers advised the complainant that he was the subject of a search warrant, and they escorted him to ██████████ (the location they were authorized to search). The complainant denied living there, but officers recovered a key to the premises on his person. The officers searched the location, recovered illegal narcotics, and placed the complainant under arrest. In a letter to COPA, the complainant challenged the validity to the search warrant, but did not raise any additional allegations against the officers.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Jason Mielcarz, Star #12613, Employee #██████████, Appointed 27 March 2006, Police Officer, Unit 016, Born 1981, Male, White
Involved Individual #1:	██████████ Born 1974, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Jason Mielcarz	It is alleged that on or about 22 January 2019, at approximately 12:31 p.m., at or near ██████████ ██████████, Officer Jason Mielcarz, Star #12613, committed misconduct in that: 1. he detained the complainant without justification;	Exonerated

2. he searched the complainant's person without justification; and,	Exonerated
3. he searched the premises of [REDACTED] without justification.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 1: "Violation of any law or ordinance."**
2. **Rule 3: "Failure to implement Departmental policy."**

Special Orders

1. **Special Order S04-19, Search Warrants**

Federal Laws

1. **U.S. Const., amend. IV.**

V. INVESTIGATION

The complainant, [REDACTED] wrote a letter to COPA in May 2019.¹ COPA also received a copy of civil pleadings, dated 29 April 2019, which [REDACTED] filed in the Cook County Circuit Court.² According to [REDACTED] on 22 January 2019, an unmarked police vehicle passed him as he was walking northbound on North Hamlin Avenue. The vehicle stopped and reversed. Several masked officers exited the vehicle and took hold of Glover. One of the officers stated, "Target apprehended."³ The officers asked for his name, and he identified himself. The officers searched him and recovered a key from Glover's person.

Glover asked, "what did I do?"⁴ In response, the officers displayed a piece of paper and asked Glover whether he resided in a basement apartment at [REDACTED]. Glover denied living there, but the officers escorted him to the address anyway. There, the officers used the key they had taken from [REDACTED] to access a basement apartment which is located on the property. The officers searched the apartment and discovered "drugs."⁵ [REDACTED] continued to deny he resided in the apartment.

COPA obtained a copy of Search Warrant No. [REDACTED], dated 22 January 2019 10:20 a.m., from the Chicago Police Department. The warrant commands officers to search "a male black

¹ See att. 5.

² See att. 1.

³ Att. 5.

⁴ *Id.*

⁵ Att. 1.

named [REDACTED] and the premises of “the basement apartment located inside [the] brown brick, two story apartment building” at [REDACTED].⁶

COPA obtained a copy of the Narcotics Division Investigation Officer’s Report (Event No. 06856, Incident No. 190100, RAID No. [REDACTED]), dated 23 January 2019, from the Chicago Police Department. According to the report, as officers arrived at [REDACTED] Avenue, they immediately observed Glover walking on a nearby sidewalk. The officers immediately recognized him as “the target of the search warrant,” and detained him.⁷ The officers read the *Miranda* rights to Glover and searched his person. During the search, they recovered “one house key” in the front, right pocket of his pants.

The officers then escorted Glover to the building at [REDACTED]. There, the officers knocked on the building’s door, and announced themselves as police officers. No one answered, and, after “waiting a reasonable amount of time,” the officers used the key they recovered from Glover to enter the building.⁸ Once inside, the officers searched the building’s basement apartment and discovered “narcotics” in the apartment’s rear bedroom.⁹ Glover informed the officers the rear bedroom was his own.

Officers again searched Glover’s person and discovered two “mini ziplock bags containing suspect heroin” and eleven “mini ziplock bags containing suspect crack cocaine.”¹⁰ The officers arrested Glover and transport him to Unit 189 for further processing.

VI. ANALYSIS

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.

⁶ Search Warrant No. [REDACTED] (Jan. 22, 2019).

⁷ CPD Narcotics Division Investigation Officer’s Report (Event No. 06856, Incident No. 190100, RAID No. [REDACTED]) (Jan. 23, 2019).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Preponderance of evidence can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.¹¹ 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 satisfied.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but less demanding than “proof-beyond-a-reasonable-doubt” that applies in criminal cases.¹² 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.”¹³

A. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICERS HAD JUSTIFICATION TO DETAIN AND SEARCH THE COMPLAINANT.

The complainant alleged that the accused officers detained and searched him without justification. The evidence clearly establishes that the officers were acting under the authority of a search warrant.

Departmental reports make clear that officers had a warrant that gave them probable cause to detain and search ██████████ person. ██████████ admitted that he identified himself the officers immediately upon detention. ██████████ may perceive some defect in the court’s decision to grant the warrant, however, the validity of a judicial decision to issue a search warrant has no bearing on the legitimacy of the actions taken by the officers who merely executed in this case. Therefore, there is ample evidence to support a firm and abiding belief that the actions of the officers were lawful. **For this reason, COPA recommends a finding of EXONERATED with respect to Allegations #1 and #2 against Officer Mielcarz.**

B. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE ACCUSED OFFICERS HAD JUSTIFICATION TO SEARCH THE PREMISES OF 940 NORTH HAMLIN AVENUE.

Glover also complained about the officers’ search of the basement apartment located at 940 North Hamlin Avenue. However, the evidence again shows that the officers were acting under the authority of a search warrant. The officer’s secured a key from ██████████ for the property and ██████████ admitted that the back room was in fact, his bedroom. **For these reasons, COPA recommends a finding of EXONERATED with respect to Allegation #3 against Officer Mielcarz.**

¹¹ 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 is found to be more probably true than not).

¹² See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹³ *Id.* at ¶ 28.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Mielcarz	<p>It is alleged that on or about 22 January 2019, at approximately 12:31 p.m., at or near [REDACTED] [REDACTED] Officer Jason Mielcarz, Star #12613, committed misconduct in that:</p> <ol style="list-style-type: none"> 1. he detained the complainant without justification; 2. he searched the complainant’s person without justification; and, 3. he searched the premises of [REDACTED] [REDACTED] without justification. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

Approved:

[REDACTED]

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

6-3-2020

 Date

Appendix A

Assigned Investigative Staff

Squad#:	06
Investigator:	Joshua Hock (#55)
Supervising Investigator:	Elaine Tarver
Deputy Chief Administrator:	Angela Hearts-Glass