

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	May 17, 2019 / 7:35pm / 1054 W. 63 rd Street
Date/Time of COPA Notification:	June 5, 2019 / 2:53pm
Involved Officer #1:	Steven Nisivaco, Star #18344, Employee ID # [REDACTED], Date of Appointment: 10/26/2015; Rank: PO; Unit of Assignment: 007; DOB: [REDACTED]/1986; Male, White
Involved Officer #2:	Matthew Coyle, Star #5021, Employee ID # [REDACTED], Date of Appointment: 10/31/2012, Rank: PO; Unit of Assignment: 007; DOB: [REDACTED]1986; Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED]/1984; Male, Black
Case Type:	Improper Search and Seizure

I. ALLEGATIONS

Officer	Allegation	Finding
Officer Nisivaco	It is alleged that on May 17, 2019 at approximately 7:35pm, at or around 1054 W. 63 rd Street, Officer Nisivaco:	
	<ol style="list-style-type: none"> 1. Detained [REDACTED] without justification, in violation of Rules 2 and 6. 2. Searched [REDACTED] vehicle without justification, in violation of Rule 10. 	<p>Exonerated</p> <p>Exonerated</p>
Officer Coyle	It is alleged that on May 17, 2019 at approximately 7:35pm, at or around 1054 W. 63 rd Street, Officer Coyle:	
	<ol style="list-style-type: none"> 1. Detained [REDACTED] without justification, in violation of Rules 2 and 6. 2. Searched [REDACTED] vehicle without justification, in violation of Rule 10. 	<p>Exonerated</p> <p>Exonerated</p>

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

II. SUMMARY OF EVIDENCE²

██████████ registered a complaint with COPA on June 5, 2019. In a digitally recorded statement³, ██████████ complained that Officers Nisivaco and Coyle detained him without justification, citing him for driving without a front license plate, when they approached him from the rear and could not have seen the lack of front plate⁴. ██████████ further complained that the officers searched his vehicle without justification.

After reviewing body-worn camera footage⁵ and GPS data⁶ for the officers' vehicle, COPA was able to determine that Officers Nisivaco and Coyle first observed ██████████ vehicle from the front as it passed by them at an intersection. Further, an Investigatory Stop Report⁷, an Arrest Report⁸, and an Original Case Incident Report⁹ all indicate that, upon approaching ██████████ vehicle for a field interview, Officers Nisivaco and Coyle immediately smelled cannabis emitting from the interior of the vehicle. A search of the vehicle revealed 231 grams of cannabis.

III. ANALYSIS AND CONCLUSION

COPA finds the detention, search, and eventual arrest of ██████████ to be within policy. Officers Nisivaco and Coyle had reasonable suspicion to detain ██████████ based on the traffic offense and probable cause to search ██████████ vehicle based on the odor of marijuana the officers detected from inside the vehicle. A lawful traffic stop requires "at least [an] articulable and reasonable suspicion that the particular person stopped is breaking the law," including traffic law. *United States v. Rodriguez-Escalera*, 884 F.3d 661, 667-68 (7th Cir. 2018) (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)). Articulable and reasonable suspicion means that the police "must be able to identify some 'particularized and objective basis' for thinking that the person to be stopped is or may be about to engage in unlawful activity," amounting to more than a hunch. *United States v. Miranda-Sotolongo*, 827 F.3d 663, 666 (7th Cir. 2015) (quoting *United States v. Cortez*, 449 U.S. 411, 417 (1981)). ██████████ was operating a car without a front license plate, which provided a sufficient legal basis for the traffic stop. The subsequent search of the vehicle was premised on the smell of marijuana that the officers detected. Under the "automobile exception" to the search warrant requirement, "law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize." *People v. James*, 163 Ill. 2d 302, 312 (Ill. 1994) (citing *Carroll*

²COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

³ Att. 5.

⁴ ██████████ does admit that the vehicle he was driving did not have a front license plate at the time of the stop.

⁵ Atts. 14 and 15.

⁶ Att. 13.

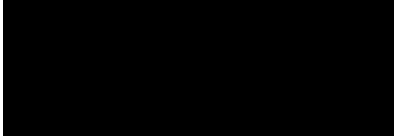
⁷ Att. 12.

⁸ Att. 1.

⁹ Att. 2.

v. United States, 267 U.S. 132 (1925)). The odor of marijuana clearly provides the justification for the vehicle search. Therefore, COPA finds the allegations against both officers to be **Exonerated**.

Approved:



November 26, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	4
Investigator:	Kerri Wyman
Supervising Investigator:	James Murphy-Aguilu
Deputy Chief Administrator:	Andrea Kersten