



Log # 2020-0856

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On February 20, 2020 the Civilian Office of Police Accountability (COPA) received a telephone complaint from ██████████ (██████████ reporting alleged misconduct by members of the Chicago Police Department (CPD). ██████████ alleged that on February 4, 2020, Officer James St. Andrew (“Officer St. Andrew”), Officer Jan Kenar (“Officer Kenar”) and Detective Justin Mielcarz (“Detective Mielcarz”) subjected him to an unjustified strip search.² Upon review of the evidence, COPA served additional allegations that the members failed to properly document the strip search. Following its investigation, COPA did not sustain any of the findings regarding the allegations.

II. SUMMARY OF EVIDENCE³

On the day of the incident, CPD members arrested ██████████ in the parking lot of a Jewel grocery store located in the vicinity of 1224 S. Wabash Avenue.⁴ ██████████ was at the location to meet someone who wished to purchase crack cocaine from him.⁵ ██████████ stated that he intended to rip off the person that he was meeting.⁶

The Vice Case Report submitted June 20, 2019, summarized an undercover officer’s controlled narcotics purchase from ██████████ that occurred that day.⁷ The report stated that, “██████████ will not be stopped or arrested at this time because this is an ongoing narcotic investigation.”⁸ A second Vice Case Report submitted on March 13, 2020, stated that on February 4, 2020, officers went to the area of the incident to locate ██████████ who was a named offender on multiple cases where he delivered crack cocaine to an undercover officer. ██████████ was taken into custody without incident and transported to the CPD Homan Square facility, located at 1011 S. Homan, for processing.⁹ There, ██████████ stated that officers took him “inside the bullpen and they

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² One or more of these allegations fall within COPA’s jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, police reports, civilian interviews, and officer interviews.

⁴ Att. 16, Vice Case Report and Narcotic’s Supplementary Report, pg. 11.

⁵ Att. 45, Statement of ██████████ (transcript), pg. 10, ln. 4 to pg. 12, ln. 3.

⁶ Att. 45, pg. 44, lns. 12 to 22.

⁷ Att. 16, pg. 4.

⁸ Att. 16, pg. 4.

⁹ Att. 16, pg.11.

proceeded to do a thorough strip search.”¹⁰ Specifically, ██████ stated that the officers made him take off his clothes, shoes, socks and made him flap his boxers around.¹¹ Both Officer St. Andrew and Officer Kenar denied that they strip searched ██████¹² Officer Kenar stated ██████ was taken to the bullpen and recalled checking ██████ clothes and pockets.¹³ Officer St. James stated that a routine search of outer garments for weapons would have been performed on ██████ as it was for anyone brought into the facility in custody.¹⁴ COPA investigators requested lock-up area video for February 4, 2020, but the video was not available.¹⁵

While at Homan Square, and in the presence of Officer St. Andrew and Officer Kenar, ██████ agreed to act as a cooperating individual for the Chicago Police Department and was subsequently released without charging.”¹⁶ ██████ stated that at Homan Square, he agreed to work as an informant¹⁷ so that he could go home.¹⁸ ██████ stated that the officers made him sign an agreement and take a photo ID.¹⁹ He also stated that the officers did not make any threats to him.²⁰ ██████ further stated that he made up stuff in his head to tell the officers to get out of the situation.²¹

Detective Mielcarz stated that he was out of town the day of the incident and brought a completed Time Request form for that date and Attendance and Assignment (A&A) Sheets documented that he was not working on the date of the incident.²² He did participate in the effort to locate ██████ after the date of the incident.²³

III. ALLEGATION

Detective Jan Kenar:

1. Performing a strip search on ██████ without justification.
 - Not Sustained

¹⁰ Att. 45, pg. 17, lns. 15 to 16.

¹¹ Att. 45, pg. 17, lns. 17 to 23.

¹² Att. 42, Statement of Officer Kenar (transcript) pg. 13, lns. 10 to 14; Att. 44, Statement of Officer St. Andrew (transcript) pg. 19, lns. 3 to 5.

¹³ Att. 42, pg. 12, ln. 14 to pg. 13 ln. 7.

¹⁴ Att. 44, pg. 16, lns. 13 to 24.

¹⁵ Att. 40, Response to Request for Lock-Up Video.

¹⁶ Att. 16, pg. 11.

¹⁷ In addition to the strip search related allegations, ██████ also alleged that he was coerced into being an informant after his arrest on February 4, 2020, and that officers harassed him and his girlfriend. COPA’s initial investigation revealed evidence showing these allegations to be baseless and these allegations were not brought.

¹⁸ Att. 45, pg. 22, lns. 2 to 4.

¹⁹ Att. 45, pg. 22, lns. 8 to 9.

²⁰ Att. 45, pg. 54, lns. 2 to 7.

²¹ Att. 45 pg. 21, lns. 2 to 14.

²² Att. 43, Statement of Officer Mielcarz (transcript), pg. 7, ln. 4 to pg. 8, ln. 19; Att. 31, Officer Mielcarz Request for Time; Att. 46, A & A Sheets for Unit 189.

²³ Att. 43, pg. 10 ln 22 to pg. 11, ln. 10.

2. Failing to properly document a strip search performed on [REDACTED]
 - Not Sustained

Officer James St. Andrew:

1. Performing a strip search on [REDACTED] without justification.
 - Not Sustained
2. Failing to properly document a strip search performed on [REDACTED]
 - Not Sustained

Officer Justin Mielcarz

1. Performing a strip search on [REDACTED] without justification.
 - Unfounded
2. Failing to properly document a strip search performed on [REDACTED]
 - Unfounded

IV. CREDIBILITY ASSESSMENT

This investigation revealed no evidence that caused COPA to question the credibility of the members involved. However, the investigation did reveal evidence that caused COPA to question the credibility of the statement of [REDACTED]. Specifically, [REDACTED] stated that he deliberately made information up to provide to the police after agreeing to be an informant. He also stated that on the day of the incident, he planned to participate in the drug buy for the purposes of conning someone out of money.

V. ANALYSIS²⁴

Arrestees may only be subject to a strip search if specific factors are present that establish probable cause that the search will uncover a weapon or contraband.²⁵ Also, all strip searches require written approval from the appropriate supervisor using the form, Report of Strip Search.²⁶ Failure to follow these requirements would be a violation of the 4th Amendment of the US Constitution and CPD Rules 2 and 6.

As a preliminary matter, although Officer Mielcarz participated in the effort to locate [REDACTED] after the incident, available evidence supports that Officer Mielcarz was on furlough and out of town on the day of the incident. Therefore, COPA finds all allegations relating to Officer Mielcarz to be **Unfounded**.

²⁴ For a definition of COPA's findings and standards of proof, see Appendix B.

²⁵ G06-01-03 (III)(A).

²⁶ G06-01-03(IV)(B).

With respect to the strip search allegations brought against Detective Kenar and Officer St. Andrew, there is no evidence that [REDACTED] was stripped searched by these members beyond [REDACTED] assertion that a strip search occurred. Both members denied the strip search occurred and lock-up video for the day and time of the incident was not available. Moreover, [REDACTED] weak credibility limits the weight that can be given to his assertion. As there is insufficient evidence of strip search occurring at all there is also insufficient evidence that the strip search was poorly documented. Therefore, COPA finds all allegations against Detective Kenar and Officer St. Andrew to be **Not Sustained**.

Approved:



10-30-2023

Angela Hearts-Glass
Deputy Chief Investigator

Date

Appendix ACase Details

Date/Time/Location of Incident:	February 4, 2020/7:30 pm/1224 S. Wabash and 1011 S. Homan
Date/Time of COPA Notification:	February 20, 2020/12:51 pm
Involved Member #1:	James St. Andrew, Star No. 6303, Employee No. [REDACTED], Date of Appointment: March 8, 1999, Unit of Assignment: 189, male, Black.
Involved Member #2:	Jan Kenar, Star No. 8363, Employee No. [REDACTED], Date of Appointment: October 5, 2012, Unit of Assignment: 018, male, White.
Involved Member #3:	Justin Mielcarz, Star No. 21382, Employee No. [REDACTED], Unit of Assignment: 189, male, White.
Involved Individual #1:	[REDACTED] male, Black.

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- United States Constitution, Fourth Amendment
- G06-01-03: Conducting Strip Searches (effective December 8, 2017 to present)

Appendix B

Definition of COPA's Findings and Standards of Proof

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 a proposition is proved.²⁷ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”²⁸

²⁷ 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).

²⁸ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation