

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

| | |
|----------------------------|---|
| Date of Incident: | October 9, 2018 |
| Time of Incident: | 1:00 PM |
| Location of Incident: | 1236 N. Luis Munoz Marin Drive, Chicago, IL 60622 |
| Date of COPA Notification: | December 17, 2018 |
| Time of COPA Notification: | 3:56 PM |

On October 9, 2018, Officer Kashif Khan, Star#4471, and Officer Valente Lara, Star#13954, both of the 14th District, received information from Officer Andrew Matos, Star#19771, 14th District, of hand-to-hand narcotics transactions being conducted by a male Hispanic, later identified as complainant [REDACTED] in Humboldt Park. Officer Matos observed [REDACTED] via CPD PODs engage in several hand-to-hand narcotics transactions. Armed with a location and a physical and clothing description, Officers Khan and Lara went to the location to investigate [REDACTED]. After Officer Khan spoke with him, [REDACTED] admitted to selling cannabis in the park and having the contraband on his person. After being arrested and transported to the 14th District for processing, Officer Matos informed Officer Khan that [REDACTED] possessed a 2002 silver Honda sedan involved in his narcotics activity. Officers Khan and Lara returned to the arrest location, seized the vehicle registered to [REDACTED] and transported it to the 14th District. At the District, the officers searched the vehicle and recovered suspected narcotics used in the hand-to-hand transactions. The vehicle was impounded, inventoried, and towed to a city auto pound.

II. INVOLVED PARTIES

| | |
|----------------------|--|
| Involved Officer #1: | Kashif Khan, Star# 4471, Employee ID# [REDACTED], Date of Appointment: 9/24/2007, Police Officer, UOA: 14 th District, DOB: [REDACTED]/1973, Male, Asian |
| Involved Officer #2: | Valente Lara, Star# 13954, Employee ID# [REDACTED], Date of Appointment: 9/29/2005, Police Officer, UOA: 14 th District, DOB: [REDACTED]/1979, Male, Hispanic |
| Subject #1: | [REDACTED]/1970, Male, White Hispanic |

III. ALLEGATIONS

| Officer | Allegation | Finding |
|--------------|---|------------|
| Officer Khan | It is alleged that on or around October 9, 2018, at approximately 1:00 PM, at or near 1236 N. Luis Munoz Marin Drive, Officer Khan: | |
| | 1. Stopped [REDACTED] without justification. | Exonerated |
| | 2. Detained [REDACTED] without justification. | Exonerated |
| | 3. Searched [REDACTED] without justification. | Exonerated |
| | 4. Arrested [REDACTED] without justification. | Exonerated |
| | 5. Seized the vehicle of [REDACTED] without justification. | Exonerated |
| Officer Lara | It is alleged that on or around October 9, 2018, at approximately 1:00 PM, at or near 1236 N. Luis Munoz Marin Drive, Officer Lara: | |
| | 1. Stopped [REDACTED] without justification. | Exonerated |
| | 2. Detained [REDACTED] without justification. | Exonerated |
| | 3. Searched [REDACTED] without justification. | Exonerated |
| | 4. Arrested [REDACTED] without justification. | Exonerated |
| | 5. Seized the vehicle of [REDACTED] without justification. | Exonerated |
| | 6. Searched the vehicle of [REDACTED] without justification. | Exonerated |

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
2. **Rule 10:** Inattention to duty.
3. **Rule 11:** Incompetency or inefficiency in the performance of duty.

Federal Laws

1. **4th Amendment**, U.S. Constitution

V. INVESTIGATION¹

a. Interviews

On December 17, 2018, **complainant** ██████████ ██████████ gave COPA an audio-recorded interview.² At approximately 1:00 PM, October 9, 2018, ██████████ was seated on a table in Humboldt Park waiting for friends to play dominos. He observed plainclothes CPD police officers, identified as **accused Police Officer Kashif Khan, (“Officer Khan”), Star# 4471**, and **accused Police Officer Valente Lara, (“Officer Lara”), Star#13954**, both of the 14th District, drive their unmarked CPD vehicle next to his parked car. The officers drove onto the grass, heading in his direction. They stopped and exited the vehicle, walked up to ██████████ and Officer Khan, while placing him in handcuffs, asked, “What did you just give, or sell, to the young lady?”³ ██████████ replied, “a cigarette.”⁴ ██████████ claimed fifteen minutes had passed from the time he gave the young lady a cigarette and the officers approaching him. The officers asked if he “had anything on him he shouldn’t have.”⁵ ██████████ replied a couple of bags of marijuana, three smaller Ziploc bags inside of a larger bag, for personal use. He went inside a small black nylon pouch on his front waist to retrieve the suspected four grams of marijuana and handing it to Officer Khan. ██████████ admitted buying the marijuana in another area of the park before his arrest.

Before arriving at the 14th District, the officers returned to the park to give ██████████ keys to a friend of his. The officers then returned him to the 14th District and later to Belmont and Western for processing. After being released, ██████████ returned to the park and saw his car was missing. Upon reviewing paperwork from his arrest, he saw the vehicle was impounded.

While he understands his marijuana arrest, ██████████ was not told the exact charges against him. ██████████ claims his car was impounded because the officers lied about marijuana being inside it. The marijuana he possessed was only on his person. Additionally, he denies telling the officers he sold marijuana to pay off traffic tickets owed in Florida.

On October 8, 2019, **witness Police Officer Andrew Matos, (“Officer Matos”), Star# 19771, 14th District**, gave COPA an audio-recorded interview⁶. On October 9, 2018, while monitoring **Police Observation Devices (“PODS”)** at the 14th District desk, Officer Matos observed a male Hispanic, later identified as ██████████ engaging in a narcotics transactions at or near 1236 N. Luis Munoz Marin Drive, in the area known as Humboldt Park. Neighborhood complaints recently mentioned such activity at that location. ██████████ was observed continually looking over

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

² Attachment 5

³ Attachment 5 at 5:55

⁴ Id at 7:32

⁵ Id at 12:13

⁶ Attachment 20

his shoulders, engaging in conversations, and taking U.S. currency from people on several occasions. Immediately after each time, ██████ would reach into his waistband and retrieve unknown items to give to people. Additionally, he saw ██████ enter a vehicle on several occasions, retrieve items, and place them into his waistband. Based upon his experience as a police officer, Officer Matos believed ██████ was conducting narcotics transactions. Shortly thereafter, information on the alleged narcotic activity, including a physical description of ██████ and his location, was transmitted by cellphone to Officers Khan and Lara.

Officers Lara and Khan proceeded to the location and detained ██████ inside the park. Officer Matos, via cellphone, confirmed to the officers that ██████ was the individual he saw conducting suspected narcotics transactions. From his observation through POD cameras, he saw Officers Khan and Lara pat-down ██████ place him in their CPD vehicle, and retrieve suspected narcotics from his person. ██████ was arrested by the officers and transported to the 14th District. At the District, Officer Matos informed the officers' that ██████ possessed a vehicle involved in his suspected narcotics activity. After retrieving keys from ██████ Officer Kahn and an unidentified officer returned to the arrest location to locate the vehicle. Upon finding it, Officer Kahn seized and drove the vehicle to the 14th District parking lot, where the vehicle was searched, resulting in the discovery of additional narcotics. Afterward, the officers impounded the vehicle.

On October 10, 2019, **accused Police Officer Valente Lara, (“Officer Lara”), Star# 13954**, the 14th District, gave COPA an audio-recorded interview⁷. On October 9, 2018, Officer Lara and his partner, Officer Khan, both in plainclothes and in an unmarked CPD vehicle, were near 1236 N. Luis Munoz Marin Drive, in the area known as Humboldt Park. Officer Khan had received information from Officer Matos, who was located at the 14th District, of suspected narcotics sales occurring at that location. While on the phone with Officer Matos, Officer Khan received a description of an individual, later identified as the complainant ██████ conducting suspected narcotics sales. As the officers approached the location, Officer Khan said, “there he is,”⁸ indicating ██████. The officers exited their vehicle and approached ██████. Officer Lara told ██████ “come here.”⁹ ██████ walked towards Officer Lara, who arrested him for selling narcotics. ██████ asked why he was arrested. He was told that 14th District PODS captured him making suspected narcotics sales. ██████ then admitted to making the alleged sales and having narcotics on his person. After being placed in the unmarked CPD, ██████ retrieved a black pouch, which contained suspected cannabis, from inside his front pants' waistband, and handed it to Officer Lara. The officers then transported ██████ to the 14th District for processing.

While at the 14th District, Officer Matos informed Officer Khan that the District PODS showed ██████ removing suspected narcotics from a vehicle belonging to ██████. Officers Lara and Khan returned to the arrest location to retrieve ██████ vehicle. The officers approached an

⁷ Attachment 19

⁸ Attachment 19 at 11:05

⁹ Id at 11:07

unknown individual, whom ██████ had been allowed to give his keys to at the time of his arrest. The officers received the vehicle keys and located the vehicle, which Officer Khan drove to the District. At the District, a vehicle search by the officers resulted in the recovery of additional suspected cannabis.¹⁰ ██████ vehicle was impounded and transported to a city auto pound located at 701 N. Sacramento Blvd.

On October 10, 2019, **accused Police Officer Kashif Khan, (“Officer Khan”), Star# 4471**, 14th District, gave COPA an audio-recorded interview¹¹. On October 9, 2018, Officer Kahn and his partner, Officer Lara, both in plainclothes and in an unmarked CPD vehicle, were near 1236 N. Luis Munoz Marin Drive, in the area known as Humboldt Park. Officer Khan received information, via cellphone, from Officer Matos, that PODs at the 14th District showed a male Hispanic, identified as the complainant ██████ making hand-to-hand narcotics sales at that location. Upon arrival at the scene, the officers approached ██████ to conduct an interview. After the stop, ██████ admitted to the selling of cannabis, leading to his being handcuffed and placed under arrest. After being placed in the unmarked CPD vehicle’s rear seat, ██████ removed a pouch from his crotch area, giving it to Officer Khan. After transporting ██████ to the 14th District for processing, Officer Matos informed Officer Khan of a vehicle ██████ used in conducting his narcotics sales at or near 1236 N. Luis Munoz Marin Drive. Reviewing the POD video at the 14th District, Officer Khan observed ██████ retrieving items from the vehicle. Upon Officer Matos confirming the vehicle, a 2002 silver Honda Civic, belonged to ██████ Officers Lara and Khan returned to 1236 N. Luis Munoz Marin Drive to locate the silver Honda Civic. Once at the location, the officers approached an individual whom ██████ had requested to hold his keys after his arrest. The person voluntarily surrendered the keys to the officers, which contained keys to ██████ vehicle. Officer Khan drove the vehicle back to the 14th District, where he and Officer Lara conducted a vehicle search. The officers recovered four clear ziplock baggies of suspected cannabis under the vehicle’s right-center console from the activity. The contraband was inventoried.¹² ██████ vehicle was impounded at the 14th District and later taken to a city tow yard.

b. Digital Evidence

Officer Khan’s body-worn camera video (BWC)¹³ from October 9, 2018, shows him and Officer Lara approaching a group of four males, either sitting or standing at or near a picnic table in Humboldt Park. The officers approach a Hispanic male in a gray t-shirt and gray or black shorts, identified as ██████ sitting at the picnic table. Officer Khan handcuffs ██████ asking him, “What are you serving?”¹⁴ Initially, ██████ tells Officer Khan cigarettes. After further questioning from Officer Khan, ██████ admits to selling cannabis. ██████ admits he has one or two bags of

¹⁰ Id at 20:54 and Attachment 6

¹¹ Attachment 17

¹² Attachment 6, Inventory# ██████

¹³ Attachment 24

¹⁴ Id at 2:09

cannabis in his crotch area. Officer Khan does an outer pat-down of his crotch area. Officer Lara walks [REDACTED] several steps to their unmarked CPD vehicle, telling him he is under arrest. Officer Khan walks toward the front passenger seat and, over his cellphone's speaker, receives confirmation from Officer Matos that the individual in custody was the person he saw on CPD POD performing hand-to-hand narcotics transactions. While en route to the 14th District, [REDACTED] tells Officer Lara he was in Humboldt Park selling cannabis because of a \$356 ticket he received while in Florida.¹⁵

Officer Lara's BWC video on October 9, 2018,¹⁶ shows him and Officer Khan approaching [REDACTED] in Humboldt Park. After an initial question by Officer Khan and [REDACTED] confirmation he was selling cannabis, Officer Lara tells [REDACTED] he is under arrest. Officer Lara walks him to the unmarked CPD vehicle. [REDACTED] asks Officer Lara if he can give his keys to an unidentified male to lock his bicycle. After [REDACTED] surrenders his keys to the unidentified male, Officer Lara seats him in the unmarked CPD vehicle's rear seat. [REDACTED] then reaches into his crotch area and hands Officer Lara, a black pouch containing suspected cannabis.¹⁷ While sitting in the back seat of an unmarked CPD vehicle, [REDACTED] told Officer Lara he was selling the cannabis to pay a \$356 ticket he had received¹⁸ in Florida and had two days to pay it.¹⁹

Officer Lara's second BWC video²⁰ shows his searching a 2002 silver Honda Civic belonging to [REDACTED] in the 14th District parking lot. Officer Lara is observed recovering a large Ziploc baggie containing unknown smaller Ziploc baggies of suspected cannabis during the search from underneath the right front console.²¹

c. Documentary Evidence

On October 9, 2018, Officer Khan completed a **CPD Original Case Incident Report (OCIR)**.²² The report states on October 9, 2018, Officer Matos observed live, via CPD POD camera, a male Hispanic suspect, identified as complainant [REDACTED] wearing a white tank top t-shirt and either gray or black khaki shorts, on a bicycle with a distinctive rear blue tire rim, conducting a hand-to-hand transaction with an unknown Hispanic male. [REDACTED] received an unspecified amount of U.S. currency from the unidentified Hispanic male, who, in return, received an unknown item from [REDACTED] waistband/crotch area. Based on this observation, Officer Matos believed a narcotics transaction had occurred. Officer Matos contacted Officers Khan and Lara and directed them to the site of activity in Humboldt Park. While the officers proceeded to the location, Officer Matos observed, via CPD POD, another suspected hand-to-hand narcotics

¹⁵ Id at 10:58

¹⁶ Attachment 25

¹⁷ Id at 3:53

¹⁸ Id at 5:19

¹⁹ Id at 10:53

²⁰ Attachment 26

²¹ Id at 16:40

²² Attachment 7

transaction between ██████ and an unknown black male. Upon the officers' arrival, they observed a male, identified as ██████ fitting Officer Matos' description standing inside Humboldt Park. The officers detained ██████ who freely admitted to selling cannabis. The officers arrested ██████ after his identity was confirmed by Officer Matos, as the individual he observed via CPD POD in hand-to-hand narcotics transactions. While in the the backseat of the officers' squad car, ██████ removed a black Tumi pouch from his crotch area and handed it to Officer Lara. Inside the Tumi pouch were three clear Ziploc baggies containing a green leaf-like substance of suspected cannabis. While en-route to the 14th District, ██████ told the officers he sold the cannabis to pay for an expensive ticket issued in Florida.

At the District, Officers Khan and Matos observed, via CPD POD, the two hand-to-hand narcotics transactions conducted by ██████ in Humboldt Park. The officers saw ██████ go into a parked silver Honda sedan, bearing IL registration plates ██████, exit, and appear to place unknown items, believed to be cannabis, into his crotch area for future sale. After confirming the vehicle is registered to ██████ Officers Khan and Lara returned to the arrest location, secured and transported it to the 14th District. As the officers searched the vehicle, Officer Lara recovered a Ziploc baggie containing four Ziploc baggies of a green crushed leaf-like substance of suspected cannabis from underneath the right side of the center console. The alleged narcotics was inventoried. ██████ was impounded, inventoried, and towed to the city auto pound at 701 N Sacramento Blvd..

On October 9, 2018, Officer Khan completed a **CPD Impoundment/Seizure Report**²³ regarding the impound of a 2002 silver Honda Civic Sedan in violation of *MCC 7-24-225*, Unlawful Drugs in Vehicle Within 500 feet of a Park/School. The vehicle is listed as registered to the arrestee ██████

On December 14, 2018, based on the preponderance of the evidence, the **Department of Administrative Hearings** found ██████ violated *MCC 7-24-225*, Unlawful Drugs in Vehicle Within 500 feet of a Park/School, resulting in penalties storage and tow fees of \$5,420.²⁴

VI. ANALYSIS

For each Allegation, COPA must make one of the following findings:

1. Sustained - where it is determined a preponderance of the evidence supports the Allegation;
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

²³ Attachment 9

²⁴ Id

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 is 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.

1. Investigatory Stop, Detention, Searching, and Arrest of ██████████

The Fourth Amendment of the United States Constitution and the Illinois Constitution of 1970 guarantees individuals’ right to be free from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. Police-citizen encounters are categorized into three tiers: (1) an arrest of a citizen, which must be supported by probable cause; (2) a temporary investigative seizure conducted according to *Terry v. Ohio*, 392 U.S. 1 (1968) and 725 ILCS 5/107- 14, which must be supported by reasonable, articulable suspicion of criminal activity; and (3) a consensual encounter, which does not implicate any Fourth Amendment interests. *People v. McDonough*, 239 Ill. 2d 260, 268 (2010).

Reasonable Articulable Suspicion is an objective legal standard that is less than probable cause, but more substantial than a hunch or general suspicion. Reasonable Articulable Suspicion depends on the totality of the sworn member’s circumstances and the reasonable inferences drawn based on the sworn member’s training and experience.²⁵ Based upon information relayed by Officer Matos, Officers Khan and Lara proceeded to 1239 N. Luis Munoz Marin Drive. Armed with a physical and clothing description and information relayed to them regarding Officer Matos’ observation of suspected hand-to-hand narcotics transactions at that location, Officers Khan and Lara approached a male Hispanic, identified as ██████████ to conduct a temporary investigative stop under *Terry v. Ohio*, 392 U.S. 1 (1968) and 725 ILCS 5/107- 14.

A Terry stop is an investigative detention analogous to a seizure. As such, “they must be limited in scope and duration...which must be temporary and last no longer than necessary to effectuate the purpose of the stop.” *People v. Johnson*, 408 Ill. App. 3d 107, 113 (2d Dist. 2010)

²⁵ Special Order S04-13-09, *Investigatory Stop System*, Chicago Police Department

(citing *Florida v. Royer*, 460 U.S. 491, 500 (1983)). Officer Khan's BWC video shows he asked ██████████ "What are you serving?"²⁶ Initially, ██████████ tells Officer Khan cigarettes. After further questioning from Officer Khan, ██████████ admits to selling cannabis. ██████████ admits he has one or two bags of cannabis in his crotch area. Additionally, after being placed in the officers' unmarked CPD vehicle, Officer Lara's BWC video shows ██████████ voluntarily surrendering to him a small black pouch containing suspected cannabis.²⁷ Because of his admissions and voluntary surrender of the small black pouch containing suspected cannabis, Officers Khan and Lara possessed probable cause to arrest ██████████. Based on clear and convincing evidence, COPA **exonerates** Officers Khan and Lara of the allegations of stopping, detaining, searching, and arresting ██████████ without justification.

2. Seizure and Search of Vehicle

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 v. United States*, 267 U.S. 132 (1925)). "When officers have such probable cause, the search may extend to 'all parts of the vehicle in which contraband or evidence could be concealed, including closed compartments, containers, packages, and trunks.'" *United States v. Richards*, 719 F.3d 746, 754 (7th Cir. 2013) (citing *United States v. Williams*, 627 F.3d 247, 251 (7th Cir. 2010)). A seizure of property occurs when there is some meaningful interference with an individual's possessory interests in that property." *United States v. Jacobsen*, 466 U.S. 109, 113 (1984). Law enforcement may seize property when they have probable cause to believe there is criminal evidence.

After his arrest, ██████████ was transported to the 14th District. While processing ██████████ Officer Matos and Khan reviewed a CPD POD video showing his movements inside a 2002 silver Honda Civic Sedan. The CPD POD shows ██████████ enter and exit the vehicle and appear to place unknown items, believed to be cannabis, into his crotch area for future sale. The officers then confirmed the vehicle was registered to ██████████. Having probable cause to believe the said vehicle contained evidence of criminal activity, Officers Khan and Lara returned to the arrest location. The officers retrieved the keys from the unidentified male ██████████ had requested be given them upon his arrest. Having probable cause, after transporting the vehicle to the 14th District, Officers Khan and Lara searched the vehicle, during which time Officer Lara discovered a Ziploc baggie containing smaller ziplock bags of suspected cannabis. The officers impounded, inventoried, and had the vehicle towed to a city auto pound.²⁸ Based on clear and convincing evidence, COPA **exonerates** Officers Khan and Lara of the allegations of seizing and searching the vehicle of ██████████ without justification.

²⁶ Attachment 24 at 2:09

²⁷ Attachment 25 at 3:53

²⁸ Attachment 7

VII. CONCLUSION

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

| Officer | Allegation | Finding |
|----------------|--|---|
| Officer Khan | <p>It is alleged that on or around October 9, 2018, at approximately 1:00 PM, at or near 1236 N. Luis Munoz Marin Drive, Officer Khan:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] without justification. 2. Detained [REDACTED] without justification. 3. Searched [REDACTED] without justification. 4. Arrested [REDACTED] without justification. 5. Seized the vehicle of [REDACTED] without justification. 6. Searched the vehicle of [REDACTED] without justification. | <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> |
| Officer Lara | <p>It is alleged that on or around October 9, 2018, at approximately 1:00 PM, at or near 1236 N. Luis Munoz Marin Drive, Officer Lara:</p> <ol style="list-style-type: none"> 1. Stopped [REDACTED] without justification. 2. Detained [REDACTED] without justification. 3. Searched [REDACTED] without justification. 4. Arrested [REDACTED] without justification. 5. Seized the vehicle of [REDACTED] without justification. 6. Searched the vehicle of [REDACTED] without justification. | <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p> |

Approved:

[REDACTED]

3-4-2022

Angela Hearts-Glass
Deputy Chief Investigator

Date