

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	September 10, 2017
Time of Incident:	12:30 a.m.
Location of Incident:	██████████
Date of COPA Notification:	September 21, 2017
Time of COPA Notification:	12:50 a.m.

On September 10, 2017, ██████████ (“██████████” who was having a dispute with his girlfriend’s father, ██████████ (“██████████” called The Chicago Police Department to ██████████. Upon arrival Field Training Officer Clarence McCoy (“Officer McCoy”), star #4647 and Probationary Police Officer Charles O’Connor (“Officer O’Connor”), star #8546 spoke with ██████████ and ██████████. After speaking with ██████████ and his father (over the phone), Officer McCoy allowed ██████████ to drive away from the scene. Minutes later, Chicago Police Officers in the 25th District attempted to pull over ██████████². The stop resulted in ██████████ being shot and killed by Officer Jesse Oeinck.³ COPA finds that Officer McCoy failed to take proper police action, and allowed an intoxicated person to operate a vehicle, COPA also finds that Officer McCoy failed to follow radio procedure.

II. INVOLVED PARTIES

Involved Officer #1:	MCCOY, Clarence, star# 4647, employee ID# ██████████ Date of Appointment: 09/27/2004, Field Training Officer, Unit 011, DOB: ██████████/1972, Male, Black
Involved Officer #2:	OCONNOR, Charles, star# 8546, employee ID# ██████████ Date of Appointment: 08/29/2016. Police Officer, Unit 044, DOB: ██████████/1984, Male, White
Involved Individual #1:	██████████ Juan, DOB: ██████████/1998, Male, White-Hispanic

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.

² Att. 8

³COPA reviewed this incident as a companion to log 1086683, as the events are close in time and proximity to the officer involved shooting and death of ██████████

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Clarence McCoy	1. Failed to take appropriate police action regarding ██████████ in violation of Rules 2, 5 and 6. 2. Failed to follow radio procedures in violation of Rules 5 and 6.	SUSTAINED/ 30 SUSTAINED/ 30

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 6: Disobedience of an order or directive, whether written or oral.

General Orders

1. G04-01 – Preliminary Investigations⁴

Illinois Laws

1. 625 ILCS 5/11-501.1
2. 235 ILCS 5/6-20 (e)

V. INVESTIGATION⁵

a. Interviews

Civilian Witness Interview

An interview of witness ██████████ was taken at ██████████ on October 4, 2017 by COPA. ██████████ declined to be recorded. In summary, ██████████ stated that his daughter hosted a party in the backyard with friends for her birthday on the evening of September 10, 2017. ██████████ stated that at some time during the evening, he and his wife observed a silver Honda Pilot double-parked in front of their house with the hazard lights flashing and were unaware the vehicle belonged to ██████████. ██████████ stated that he had not met ██████████ prior to this incident. ██████████ stated that he observed ██████████

⁴ Effective October 15, 2015; Rescinded October 15, 2017

⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

in the backyard and believed him to be intoxicated due to his slurred speech and smell of his breath. ██████ stated that ██████ called for the police and ██████ accused him of taking his car keys and jacket. ██████ stated that he told Officer McCoy several times that ██████ should not drive because he was intoxicated. ██████ stated that Officer McCoy was not helpful and was very abrasive towards him.⁶

Police Interviews

The recorded statement of **Probationary Police Officer Charles O'Connor** was taken at COPA on October 20, 2017. During the interview, COPA and Officer O'Connor watched Officer McCoy's body worn camera footage, COPA referred to that footage in the framing of its questioning. Officer O'Connor stated that when he arrived at the scene, ██████ ("█████ did not appear intoxicated, he did not smell of alcohol, and his speech was not slurred. Officer O'Connor stated that he was in the yard and the gangway looking for ██████ keys and jacket which ██████ claimed were taken from him. Officer O'Connor stated that as he walked to the front of the house to join Field Training Officer Clarence McCoy, he was stopped by ██████. Through translation from a male friend of ██████ (not identified), ██████ related he was concerned he would be evicted by the landlord because ██████ called the police. Officer O'Connor stated that ██████ concern enforced that ██████ was the victim in this situation. Officer O'Connor stated that he did not overhear Officer McCoy's phone conversation with ██████ father, but later believed that ██████ father would pick him up and decide what to do with his vehicle. Officer O'Connor stated that he heard Officer McCoy call for him, when he reached the front of the house ██████ had pulled away in his vehicle. Officer O'Connor stated that he and Officer McCoy entered their vehicle and drove northbound on Kedvale Avenue, then westbound on Augusta Avenue in search of ██████ car. Officer O'Connor stated that at some point he performed a U-turn and drove back eastbound on Augusta Avenue. While driving, Officer O'Connor stated that there was a 10-1⁷ callout over the radio.

Officer O'Connor stated that he received DUI training in the academy, but has not made any DUI arrests, and has not made traffic stops in which the driver was suspected of being under the influence of alcohol. Officer O'Connor stated that he ran the plate of the vehicle ██████ was driving and thought that the 10-1 call he heard over the radio while they were in the vehicle was related to ██████ vehicle because the call was on the same block as ██████ address. Officer O'Connor stated that Officer McCoy directed him to find ██████ car because he was a possible victim.⁸

The recorded statement of **Field Training Officer Clarence McCoy** was taken at COPA on February 2, 2018, regarding his duties and response to a call for service at ██████. Officer McCoy stated that he encountered ██████ in the front yard area of the residence located at ██████. He stated that ██████ appeared emotional, was talkative and appeared that he wanted to cry. Officer McCoy stated that he believed ██████ was emotional due to the issues with his girlfriend. Officer McCoy stated that ██████ claimed he had a fight with his girlfriend's family and that someone took his keys. Officer McCoy stated that ██████ could have meant either a physical fight or an argument but was not sure. When asked about any statements of physical contact made by ██████ Officer McCoy stated that he did not recall ██████ making any claim that he was punched in the chest. Officer McCoy stated that he did not initially believe that ██████ was intoxicated but was later informed by people on scene that ██████ had been drinking. Officer McCoy stated that ██████ only exhibited slurred speech at the time, and he could not see his eyes due to the lighting conditions.

Officer McCoy stated that he spoke to ██████ father on ██████ phone and his father said that he was on the way to pick up ██████. Officer McCoy stated that ██████ received his keys from an unidentified

⁶ Att. 14

⁷ 10-1 is the code that is called out over the radio when officers need assistance.

⁸ Atts. 12 and 24

male who found them in the Honda Pilot. Officer McCoy stated that he expected [REDACTED] to wait for his father because [REDACTED] agreed to do so. Officer McCoy stated that he saw [REDACTED] enter the Honda Pilot and pull away and he lost sight of the vehicle. Officer McCoy stated that he and Officer O'Connor then entered their police vehicle, and he did not regain sight of [REDACTED] car. Officer McCoy stated that he could not tell how fast [REDACTED] was driving when he pulled away. Officer McCoy stated that once [REDACTED] entered his vehicle, he became a suspect of a DUI⁹ and the officers were searching for him. Officer McCoy stated that he and Officer O'Connor were not chasing [REDACTED] but attempting to locate him.

COPA asked Officer McCoy a series of questions related to his decisions on the night of the incident. Officer McCoy stated that the responses to domestic situations such as this one is different in every case, and he viewed [REDACTED] as the victim in this situation. Officer McCoy stated that since [REDACTED] called 911, he and Officer O'Connor were there to service him as the complainant. When asked why he did not detain [REDACTED] Officer McCoy stated that he had no reason to detain [REDACTED] based on the circumstances, and believed they were to remain on scene until [REDACTED] father arrived. Officer McCoy acknowledged that underage intoxication¹⁰ is a crime, however Officer McCoy stated that [REDACTED] age was not considered as a basis to detain him for underage intoxication. Officer McCoy stated that he made arrangements for [REDACTED] father to pick him up, and believed it was not proper to attempt to arrest [REDACTED] because he was the victim. Officer McCoy stated that in retrospect more effort could have been made by him to prevent [REDACTED] from entering his vehicle. Officer McCoy stated that he could not have predicted that [REDACTED] would enter his car and leave as [REDACTED] made no indication that was going to do so. When asked about any statements that he made after [REDACTED] got into his Honda Pilot, Officer McCoy stated that he did not recall stating anything referencing writing¹¹ [REDACTED] but if he did, he could have been referring to a traffic citation or ANOV.¹² Upon questioning by COPA, Officer McCoy stated that he could have held onto [REDACTED] keys. Officer McCoy stated that he was investigating the call for service when [REDACTED] entered the Honda Pilot, and the investigation ended when [REDACTED] left the scene.

COPA inquired as to Officer McCoy's training and experience with respect to persons under the influence. Officer McCoy stated that he has previously encountered intoxicated persons while serving as a police officer. Officer McCoy stated that he made DUI arrests in the past but did not know how Illinois law codified the requisite alcohol concentration of intoxicated individuals under the age of 21. Officer McCoy stated that typical signs of intoxication are being talkative, having bloodshot eyes, and slurred speech. Officer McCoy stated that he has made two DUI arrests in that past thirteen years, with the most recent arrest being approximately two years prior to the interview. Officer McCoy stated that he received DUI training in the Academy approximately twelve years prior to the interview. Officer McCoy also stated that he attended a refresher DUI course at the academy approximately a month to a month and a half after this incident.

When asked about his radio procedures after he and Officer O'Connor left the residence at 928 N. Kedvale, Officer McCoy stated that because he and Officer O'Connor were looking for [REDACTED] he did not radio in their location because there was no destination to give dispatch to update them. Officer McCoy stated that he could have updated dispatch but was unaware of a policy that requires officers to update dispatch in the event they are looking for a vehicle, or for the purposes of officer safety. Officer McCoy stated that the officers from the 25th District¹³ who encountered [REDACTED] could not have benefitted from any information given to his radio zone because the 25th District would not have heard his broadcast. Officer McCoy stated that the 25th District, and the 15th District are on different radio zones and officers do not

⁹ Driving while under the influence, 625 ILCS 5/11-501

¹⁰ 235 ILCS 5/6-20 (e)

¹¹ 13m:05s, Att. 6

¹² Administrative Notice of Ordinance Violation

¹³ Officers McCoy and O'Connor were officers working in the 15th District, [REDACTED] residence [REDACTED] and the location of the eventual shooting, was in the 25th District.

know what happens in the other districts. Officer McCoy stated that the only time officers are made aware of what happens in another radio zone is when a 10-1 is broadcast. Officer McCoy stated that he did not assume that [REDACTED] was returning home and did not have a direction of flight to give dispatch. Officer McCoy stated that he has not experienced dispatchers passing on information to another radio zone except in emergencies.¹⁴

Digital Evidence

Body-worn camera video obtained from Officer McCoy documents the incident¹⁵ As depicted, Officer McCoy speaks to [REDACTED] as he and Officer O'Connor arrive on Kedvale Avenue. [REDACTED] Honda Pilot is shown double-parked in the street with its hazard lights flashing. Throughout the video [REDACTED] is crying. [REDACTED] makes the accusation that someone at the party took his jacket and keys and repeatedly states he wants to leave. [REDACTED] is depicted holding his chest and complaining that he was punched. Throughout the video, [REDACTED] repeatedly tells Officer McCoy that [REDACTED] is underage, has been drinking, and was driving.¹⁶ Officer McCoy asks [REDACTED] age and [REDACTED] responds that he is nineteen years old¹⁷. An unidentified male presents [REDACTED] with his jacket and keys, and states the items were found inside the Honda Pilot. Officer McCoy then tells [REDACTED] to take his keys and leave.¹⁸ [REDACTED] is viewed speaking to his father from a cell phone and states to Officer McCoy that his parents are on the way. Officer McCoy takes the phone and asks [REDACTED] father if he is on the way, and states, "he can't drive, he's drunk, he's been drinking."¹⁹ Officer McCoy is depicted in front of the house speaking with the unidentified male and [REDACTED] is viewed walking towards the Honda Pilot. Officer McCoy calls out to [REDACTED] to stop, but [REDACTED] enters the vehicle and pulls away. Officer McCoy then calls for Officer O'Connor and they leave the scene.²⁰

In-car camera video obtained from Beat 1114R documents Officers McCoy and O'Connor responding to the 10-1 call on Laramie Avenue.²¹ As depicted, the vehicle is seen navigating through traffic. Officers McCoy and O'Connor are heard conversing out of view.

In the **Audio recordings of the 911 calls**²² made by [REDACTED] obtained from OEMC, [REDACTED] is heard asking about his car keys and stating that he wants to leave. The 911 call taker asks [REDACTED] if he has been drinking²³, and he denies that he has.

b. Documentary Evidence

OEMC Event queries obtained document the call for service to [REDACTED] and the traffic stop involving [REDACTED] silver Honda Pilot.²⁵

Post Mortem Report containing the Toxicology results measured [REDACTED] blood alcohol concentration at 0.165 g/100 mL.²⁶

¹⁴ Atts. 21,22,25,26

¹⁵ Att. 6

¹⁶ This is translated to the officer from Spanish to English on scene by an unknown person

¹⁷ 06m:10s, Att. 6

¹⁸ 08m:35s, Att. 6

¹⁹ 08m:45s, Att. 6

²⁰ Att. 6

²¹ Att. 6

²² Att. 16

²³ 01m:28s, Att. 16

²⁴ Att. 7

²⁵ Att. 8

²⁶ Att. 17

VI. ANALYSIS

Based upon the investigation, COPA determines that Officer McCoy failed to take police action as specified in General Order 04-01-III-B-4 in that he failed to prevent a crime from being committed knowing that there was imminent risk of harm to [REDACTED] and the public.

COPA's investigation revealed that in his interaction with the Officers, [REDACTED] exhibited behavior consistent with that of an intoxicated person. In addition, Officer McCoy was also informed that [REDACTED] was intoxicated and that he was not of legal age to consume alcohol. Therefore, COPA finds that there was sufficient evidence and information provided to Officer McCoy that any other reasonable officer would have taken appropriate police action and taken steps to prevent [REDACTED] from leaving the area.

As depicted in the body-worn videos, [REDACTED] exhibits signs of intoxication which is corroborated by [REDACTED] repeatedly telling Officer McCoy that [REDACTED] is intoxicated and underage, and that he had been driving. Officer McCoy then verified that [REDACTED] was nineteen. [REDACTED] is captured stating he was punched, and then depicted holding his chest and crying, indicating that he was the possible victim of a battery. [REDACTED] repeatedly tells Officer McCoy that he wants his keys so he can leave. An unidentified male appears with [REDACTED] keys and jacket which he stated were found in [REDACTED] Honda Pilot. The unidentified male placed the keys and jacket on the ground in front of [REDACTED] to which Officer McCoy told [REDACTED] to take his keys and leave. [REDACTED] called his father from his cell phone. Officer McCoy took the cell phone and is captured telling [REDACTED] father that [REDACTED] is intoxicated and needs to be picked up. Officer McCoy then followed [REDACTED] to the front of the house. During this time, Officer McCoy witnessed [REDACTED] walking towards the car, and by his own admission, failed to take action aside from calling out to him to turn the car off and stop. Officer McCoy acknowledges that he could have made more of an effort to intervene and could have held [REDACTED] keys to prevent him from driving.

COPA finds that there was at least reasonable suspicion to detain him based on the information provided to the officers by [REDACTED] that [REDACTED] operated the vehicle that was double parked in the street while intoxicated, and that without intervention, [REDACTED] would reoffend by reentering and operating the vehicle.

Based on the investigation, COPA also finds that Officer McCoy failed to follow radio procedures as specified in General Order 04-01-IV-A in that he failed to locate, identify, and interview the complainant/witness, obtain a description of the offender(s) and, when appropriate, alert other police units by sending a flash message; failed to inform the dispatcher that they were leaving the scene, furnish the exact location of their intended destination, if possible, and if the intended destination could not be furnished, maintain continuous radio contact with the dispatcher and report any change in location until available for a subsequent assignment.

As depicted in the body-worn camera video²⁷ and Zone 10 radio transmissions,²⁸ Officer McCoy failed to update the dispatcher that they left the scene and were actively looking for [REDACTED]. Both Officers McCoy and O'Connor stated that they drove North on Kedvale Avenue and west on Augusta Avenue to find [REDACTED] and Officer McCoy acknowledged that once [REDACTED] entered the car, he was a DUI suspect.

²⁷ Att. 6

²⁸ Att. 15

Officer McCoy stated that he had no intended location to report to dispatch, yet the order requires that officers maintain continuous radio contact until available for another assignment. As depicted in the event query #00375,²⁹ the call for service was then closed from the vehicle's computer instead of over the radio.³⁰

Officer McCoy's failure to update dispatch that they were in search of an intoxicated individual who had driven away from the location of the call for service created a danger to community, motorists, residents, including law enforcement. A reasonable officer in Officer McCoy's position would have taken care to inform dispatch that [REDACTED] was intoxicated and was seen leaving the address in a silver Honda Pilot. In addition, Officer McCoy failed to adequately or appropriately document what occurred when he chose to close the event from the vehicle's computer.

Officer McCoy could not have predicted the unfortunate result of [REDACTED] leaving the area on the night in question. However, he was aptly knowledgeable that [REDACTED] was exhibiting signs of intoxication and as a trained law enforcement officer knew the danger posed by such an intoxicated person operating a vehicle. COPA finds that given the same set of circumstances a reasonable officer with similar experience, position of authority, and training would have taken the proper police action and intercepted or attempted to prevent [REDACTED] from leaving.

COPA concludes that Officer McCoy's inactions and lack of knowledge of the General Orders, increased the risk to [REDACTED] and the public. COPA refers to the Rules and Regulations of the Chicago Police Department, the Oath of Office, and the Department's Core Values in that these created an affirmative duty to take police action in this instance. As stated in I-B-18 of the Rules and Regulations, Officer McCoy had the individual responsibility for the safety of the community, as well as conducting himself in a manner to achieve the goals and policies of the Department. As stated in General Order 01-01-CORE VALUES-A-2, Officer McCoy had an obligation to take action.

In addition, Officer McCoy's position as a Field Training Officer requires him to be knowledgeable of the General Orders to serve as an instructor to Probationary Police Officers. It also demands that he be held and that he hold himself to a higher standard.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

- a. **Officer McCoy** – Officer McCoy has an extensive complimentary history and only two violations.

i. Complimentary and Disciplinary History

Problem Solving Award	1
Attendance Recognition Award	3
Presidential Election Deployment Award 2008	1
Department Commendation	5
Honorable Mention	42
Complimentary Letter	1

²⁹ Att. 7

³⁰ Officers can create, edit, and close events from the police computer equipped in the vehicle.

NATO Summit Service Award 1
 Life Saving Award 2
 2009 Crime Reduction Award 1

Court Appearance Violation Reprimand
 Indebtedness to the City 1 Day Off

ii. Recommended Penalty:

Allegation No. 1, COPA recommends a 30-day suspension

Allegation No. 2, COPA recommends a 30-day suspension

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Clarence McCoy	1. Failed to take appropriate police action regarding [REDACTED] in violation of Rules 2, 5 and 6. 2. Failed to follow radio procedures in violation of Rules 5 and 6.	SUSTAINED/ 30 SUSTAINED/ 30

Approved:

[REDACTED Signature]

Sydney Roberts
 Chief Administrator

12/10/18
 Date

Appendix A

Assigned Investigative Staff

Squad#:	10
Investigator:	Anthony Smajo
Supervising Investigator:	Erica Sangster
Deputy Chief Administrator:	Andrea Kersten