

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 8, 2018
Time of Incident:	8:30 am
Location of Incident:	XXXX W. Washington Blvd., Chicago, IL
Date of COPA Notification:	March 12, 2018
Time of COPA Notification:	10:08 am

On March 8, 2018, officers from the 11th District responded to a traffic accident at or around XXXX W. Washington Boulevard. The accident involved a moped driven by the complainant, Subject 1. Responding officers discovered Subject 1’s driver’s license was suspended. Officer B and Officer C detained Subject 1 and transferred him to the 11th District station. Officer B took possession of Subject 1’s cellular phone prior to handcuffing him for transport. Subject 1 received four traffic citations before being released from the station.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer A, Star #XXXX, Employee ID#XXXX, Appointment Date XX XX 2001, Unit 007, Female, Hispanic, Birth Date XX XX 1969.
Involved Officer #2:	Police Officer B, Star #XXXX, Employee ID#XXXXX, Appointment Date XX XX 1998, Unit 011, Male, Hispanic, Birth Date XX XX 1972.
Involved Officer #3:	Police Officer C, Star #XXXX, Employee ID#XXXXX, Appointment Date XX XX 2017, Unit 008, Male, Hispanic, Birth Date XX XX 1991.
Involved Civilian #1:	Subject 1, Male, Black, Birth Date XX XX 1977.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. On March 8, 2018, at approximately 8:30 am, in the vicinity of XXXX W. Washington Blvd, Officer A made unnecessary physical contact with the complainant, Subject 1, in violation of Rule 9.	Unfounded

V. INVESTIGATION¹

a. Interviews

In a **statement to COPA**² on April 12, 2018, Subject 1 stated he was involved in a traffic accident while riding his moped near XXXX W. Washington Boulevard. Subject 1 related that when Officer A arrived at the accident scene, she accused him of “almost killing that woman and her baby,” in reference to the other civilian motorist involved in the accident. Subject 1 indicated he began filming the accident scene with his cellular phone to protect his own interests relative to the traffic accident. Subject 1 stated that Officer A asked him to stop filming and subsequently slapped the phone out of his hand when he did not comply.

Subject 1 stated that he was aware that his driver’s license was suspended but he did not think he needed one to operate a moped. Subject 1 also admitted that he lied to responding officers about having picture identification on him when it was requested. Subject 1 recalled his phone being removed from his hand right before he was handcuffed and detained for driving on a suspended license. Subject 1 indicated he does have a passcode lock activated on his phone to prevent strangers from accessing it. However, Subject 1 stated he was actively filming video with the phone as it was removed from his hand, thereby making the device accessible to others. Subject 1 related that videos he accumulated at the accident scene were no longer on the cellular device when it was returned to him following his detention.

In a **statement to COPA**³ on June 6, 2018, Officer B recalled arriving at the traffic accident scene and being informed of Subject 1’ driver’s license suspension. Officer B recalled volunteering to be the “paper car,” thereby taking responsibility for the drafting of the traffic accident report and issuing of citations to Subject 1. Officer B stated that standard procedure entails transporting an offender to the station if they are operating a motor vehicle without a valid driver’s license. Officer B recalled taking the phone from Subject 1’ hand before placing him in handcuffs for transport. Officer B recalled placing the cellular phone on top of the PDT machine in the squad car used to transport Subject 1. Officer B related that the phone remained in Subject 1’ view for the duration of the estimated five-minute ride to the station. Once at the station, Officer B recalled placing the phone on a desk located within Subject 1’ reach. Officer B explained that he only handcuffed one of Subject 1’ hands to the bench, leaving Subject 1’ other hand free to access the phone. He recalled Subject 1 utilizing this arrangement to make several phone calls. Officer B stated he never accessed Subject 1’ cellular phone or deleted any media from it. He stated that he is not aware of anyone else accessing or deleting media from Subject 1’ phone. He stated that no other officer had possession or access to the phone at the station or at any other time.

In a **statement to COPA**⁴ on June 6, 2018, Officer C related that he never took possession of Subject 1’ cellular telephone. Officer C stated he never deleted any media from Subject 1’ cellular phone. Officer C further stated he never witnessed or had knowledge of any other officer accessing or deleting anything from Subject 1’ phone.

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 Att. 12.

³ Att. 22.

⁴ Att. 24

b. Digital Evidence⁵

Body Worn Camera (BWC) footage,⁶ depicts Officer A questioning Subject 1 about the status of his driver's license and the registration of his moped. Subject 1 begins using his phone to film the scene. Though Officer A requests that Subject 1 take a step back from her, she never tells him he cannot film. She also references her own body worn camera and reminds him that she is filming the scene herself. Officer A never makes physical contact with Subject 1 or his cellular phone in the footage. Additionally, Subject 1 never makes any statements or comments indicating that anyone made physical contact with him or his phone.

The footage also depicts Officer B removing the phone from Subject 1's hand right before he is handcuffed. In his statement to COPA, Subject 1 related he was actively filming with the phone when it was taken from him. However, footage shows he is not holding the device in a position conducive to filming when it is taken from him. Rather, the phone is clutched in Subject 1's hand and his arm is lying flat at his side. The phone is directed towards his pant leg and not the scene around him. Though it is not held in a position typically conducive to film, the phone's screen is not visible enough in the footage to conclusively determine if it is in active camera mode. Though the footage depicts Officer B removing the phone from Subject 1's hand, it does not depict Officer B, Officer C, or any other responding officer accessing Subject 1's phone.

c. Documentary Evidence

Illinois Traffic Crash Report XXXXXXXX,⁷ conveys that Subject 1 was driving on a suspended Illinois driver's license and that his vehicle was unregistered and uninsured.

Citation XXXXXXXX,⁸ was issued to Subject 1 for disregarding a stop sign.

Citation XXXXXXXX,⁹ was issued to Subject 1 for not having a registered vehicle.

Citation XXXXXXXX,¹⁰ was issued to Subject 1 for operating an uninsured motor vehicle.

Citation XXXXXXXX,¹¹ was issued to Subject 1 for driving on a suspended or revoked license.¹²

VI. ANALYSIS

⁵ CPD provided six files of Body Worn Camera footage and three of those files did not relate to this incident. CPD also provided two files of In-Car Camera footage and neither related to this incident.

⁶ Att. 34.

⁷ Att. 6.

⁸ Att. 7 is a printout of a Case Inquiry from the Circuit Court Clerk for this citation.

⁹ Att. 8 is a printout of a Case Inquiry from the Circuit Court Clerk for this citation.

¹⁰ Att. 9 is a printout of a Case Inquiry from the Circuit Court Clerk for this citation.

¹¹ Att. 10 is a printout of a Case Inquiry from the Circuit Court Clerk for this citation.

¹² 625 ILCS 5/1-148.2 defines a moped as a "motor-driven" cycle, thereby requiring a valid driver's license for operation on a public street.

COPA recommends a finding of **Unfounded** for the allegation that Officer A made unnecessary physical contact with Subject 1 in violation of Rule 9. Footage from Officer A's body worn camera directly refutes the allegation. Officer A never makes physical contact with Subject 1 in the footage. Furthermore, Subject 1 stated that Officer A made physical contact because he disobeyed her request to stop filming with his phone. The footage establishes Officer A never made such a request. Therefore, COPA finds that it is more likely than not that the alleged contact never occurred.

COPA recommends a finding of **Unfounded** for the allegation that Officer B accessed Subject 1's cellular phone without consent or a search warrant in violation of Rules 1 and 6. Officer B stated he never accessed Subject 1's cellular phone and there is no documentary or digital evidence that contradicts or discredits his recollection. However, there are multiple inconsistencies that discredit Subject 1's recollection of events. Digital evidence contradicts Subject 1's account of having his phone physically slapped out of his hand. It also contradicts his account of being told not to film at the scene. In his statement to COPA, Subject 1 admitted he knew his license was suspended at the time he was operating the moped. Though he claimed he did not believe he needed the license, he admitted to lying to the officers about having any photo identification on him. As Subject 1's statement lacks credibility and there is no other evidence to support his allegation, COPA finds it more likely than not that the conduct never occurred.

COPA recommends a finding of **Unfounded** for the allegation that Officer B deleted digital media generated on Subject 1's cellular phone without consent or a search warrant. Officer B stated he did not delete digital media from Subject 1's phone. There is no documentary or digital evidence to otherwise support Subject 1's allegation. The previously mentioned unreliability of Subject 1's recollection of events and the lack of any supplementary evidence support COPA's finding that the conduct more likely than not never occurred.

COPA recommends a finding of **Unfounded** for the allegation that Officer C accessed Subject 1's cellular phone without consent or a search warrant in violation of Rule 1. Officer C stated he never accessed or even possessed Subject 1's cellular phone and there is no documentary or digital evidence to the contrary. Both the previously mentioned unreliability of Subject 1's statement and the lack of any supplementary evidence support COPA's finding that the conduct more likely than not never occurred.

COPA recommends a finding of **Unfounded** for the allegation that Officer C deleted digital media generated on Subject 1's cellular phone without consent or a search warrant. Officer C stated he did not delete digital media from Subject 1's cellular phone. There is no documentary or digital evidence to otherwise support Subject 1's allegation. Both the previously mentioned unreliability of Subject 1's statement and the lack of any supplementary evidence support COPA's finding that the conduct did not occur.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	1. On March 8, 2018, at approximately 8:30 am, in the vicinity of XXXX W. Washington Blvd, Officer A made unnecessary physical contact with the complainant, Subject 1, in violation of Rule 9.	Unfounded
Officer B	<p>1. On March 8, 2018, at or after approximately 8:30 am, in the vicinity of XXXX W. Washington Blvd. and / or at the 11th District Station, Officer B accessed the complainant, Subject 1’ cellular phone without consent or a search warrant, in violation of Rules 1 and 6.</p> <p>2. On March 8, 2018, at or after approximately 8:30 am, in the vicinity of XXXX W. Washington Blvd. and / or at the 11th District Station, Officer B removed digital media generated on the complainant, Subject 1’ cellular phone without consent or a search warrant, in violation of Rules 1 and 6.</p>	<p>Unfounded</p> <p>Unfounded</p>
Officer C	<p>1. On March 8, 2018, at or after approximately 8:30 am, in the vicinity of XXXX W. Washington Blvd. and / or at the 11th District Station, Officer C accessed the complainant, Subject 1’ cellular phone without consent or a search warrant, in violation of Rules 1 and 6.</p> <p>2. On March 8, 2018, at or after approximately 8:30 am, in the vicinity of XXXX W. Washington Blvd. and / or at the 11th District Station, Officer C removed digital media generated on the complaint, Subject 1’ cellular phone without consent or a search warrant, in violation of Rules 1 and 6.</p>	<p>Unfounded</p> <p>Unfounded</p>

Approved:

Deputy Chief Administrator A – Chief Investigator Date

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Deputy Chief Administrator:	Deputy Chief Administrator A