

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 3, 2018
Time of Incident:	2:30 am
Location of Incident:	XXX W. Chicago Ave., Chicago IL 60654
Date of COPA Notification:	August 6, 2018
Time of COPA Notification:	5:50 pm

The complainant, Involved Civilian 1, failed to use a turn signal as he turned from N. Orleans Street on to W. Chicago Avenue. Officers A and B, (collectively “the officers”) conducted a traffic stop on Involved Civilian 1’s vehicle. While speaking to the driver (Involved Civilian 1), Officer A observed Involved Civilian 1’s eyes were glassy and she detected the odor of alcoholic beverages. Simultaneously, Officer B observed a container of alcohol in the vehicle. Further, Body Worn Camera (BWC) footage shows that the front seat passenger (Involved Civilian 2) was not wearing a seat belt when the Officers approached the vehicle.

Officer A requested Involved Civilian 1 exit the vehicle to participate in Standardized Field Sobriety Tests (SFSTs) and Involved Civilian 1 agreed. After completing the SFSTs but prior to his arrest, Involved Civilian 1 admitted that he had consumed alcohol prior to driving the vehicle. The officers arrested Involved Civilian 1 and impounded his vehicle. During a search of the vehicle, an open partially-full bottle of Remy Martin was located driver’s door pocket.

Involved Civilian 1 was transported to 018th District Lockup where he agreed to submit to a chemical test of his breath. Involved Civilian 1’s breath test resulted in a measure of a 0.055 BAC. Involved Civilian 1 was charged with failing to use a turn signal, illegally transporting liquor, allowing a passenger to not wear a seat belt, and driving under the influence of alcohol.¹ After his release from CPD custody, Involved Civilian 1 provided a statement to COPA during which he made the allegations detailed below.

II. INVOLVED PARTIES

Involved Sergeant #1:	Sergeant A Star #XXXX/ Employee ID #XXXX DOA: XX/XX/1992 Unit: XXX DOB: XX/XX/1968 Female / White
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¹ Involved Civilian 1 was charged under 625 ILCS 5/11-501(A)(2) which prohibits operation of a motor vehicle while under the influence of alcohol and does not specify a BAC limit.

Involved Officer #1:	Officer A Star # XXXX/ Employee ID #XXXX DOA: XX/XX/2016 Unit: XXX DOB: XX/XX/1986 Female / Asian
Involved Officer #2:	Officer B Star #XXXX / Employee IF #XXXX DOA: XX/XX/2017 Unit: XXX DOB: XX/XX/1988 Male / Asian
Involved Individual #1:	Involved Civilian 1 DOB: XX/XX/1985 Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant A	1. Unlawfully ordered the arrest of Involved Civilian 1, in violation of Rule 1.	Unfounded.
Officer A	1. Unlawfully arrested Involved Civilian 1, in violation of Rule 1.	Unfounded.
	2. Improperly impounded Involved Civilian 1's vehicle, in violation of Rule 6.	Unfounded.
	3. Falsely issued Involved Civilian 1 traffic citations, in violation of Rule 1.	Unfounded.
Officer B	1. Unlawfully arrested Involved Civilian 1, in violation of Rule 1.	Unfounded.
	2. Improperly impounded Involved Civilian 1's vehicle, in violation Rule 6.	Unfounded.
	3. Falsely issued Involved Civilian 1 traffic citations, in violation of Rule 1.	Unfounded.

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 1: Prohibits violation of any law or ordinance.

2. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

General Orders

1. General Order: G07-03 – Vehicle Towing and Relocation Operation, effective November 1, 2014.

State Law

1. 625 ILCS 5/11-501- Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

Federal Laws

1. United States Constitution, Amendment IV.

V. INVESTIGATION²

a. Interviews³

In a **statement to COPA**⁴ on August 7, 2018, **Involved Civilian 1** stated the officers stopped him and informed him he was stopped for loud music. Officer A asked if Involved Civilian 1 had consumed any alcohol and Involved Civilian 1 admitted to consuming a few shots. Officer A asked Involved Civilian 1 to exit the vehicle and participate in the Standardized Field Sobriety Tests (SFSTs). According to Involved Civilian 1, he completed the SFSTs and Officer A informed him he had passed. The officers handcuffed Involved Civilian 1, but did not search him or his vehicle, and transported him to the 018th District. Once at the District, the officers placed Involved Civilian 1 in a holding cell, read his Miranda rights, and asked if he would be willing to take a breathalyzer. Involved Civilian 1 consented to completing a breathalyzer, which he claims to have passed. After completing the breathalyzer, Officer A apologized to Involved Civilian 1 for arresting him, and told him to show up for court because his case would be dismissed since he passed the breathalyzer. Officer A also informed Involved Civilian 1 that he would be released with a citation for an improper left-turn, but that Officer A needed to speak to a sergeant (possibly Sergeant A) first. After approximately an hour, Officer A returned and informed Involved A that a sergeant decided Involved A could not be released. Involved Civilian A was then processed in Lockup.

Upon his release, Involved Civilian 1 learned he was issued citations for improper turn signal, illegal transportation of alcohol, driving under the influence of alcohol, and a passenger not wearing a seat belt. Involved Civilian 1 denied committing any traffic violations or possessing an open container of alcohol. Additionally, Involved Civilian 1 was insistent that his passengers, Involved Civilian 2 (front seat passenger) and Involved Civilian 3 (rear seat passenger), were

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Involved Civilian 2 and Involved Civilian 3 initially agreed to provide statements to COPA, however Involved Civilian 2 never scheduled an appointment and Involved Civilian 3 failed to appear for a scheduled appointment.

⁴ Att. 7.

wearing seatbelts. Finally, Involved Civilian 1 believed he was arrested because he embarrassed Officer A by passing the STFTs.

b. Digital Evidence

BWC footage⁵ captures the traffic stop of Involved Civilian 1's vehicle and Officer A informing Involved Civilian 1 that he was stopped because of the volume of his music and his failure to use a turn indicator when he made a left hand turn.⁶ Additionally, the footage captures Involved Civilian 2 seated in the front passenger without a fastened seatbelt.⁷ Further, the footage captures Officer B, informing Officer A that he observed an open bottle of alcohol in the vehicle.⁸ As Officer A returns to the CPD vehicle, she remarks that Involved Civilian 1 had glassy-eyes and may be intoxicated from alcohol consumption.⁹

Additional, footage captures Involved Civilian 1 completing the SFSTs. During the Horizontal Gaze Nystagmus Test (HGN), Involved Civilian 1 tracks the stylus with his head, and had to be reminded to keep his head still.¹⁰ During the Walk-and-Turn (WNT), Involved Civilian 1 began prior to being instructed to start.¹¹ Additionally, during the WNT Involved Civilian 1 stepped off the line twice, lifted his hands for balance twice, conducted an improper turn, and took an improper number of steps.¹² During the One-Leg-Stand, Involved Civilian 1 swayed slightly back and forth.¹³ After administering the SFSTs, the officers discuss Involved Civilian 1's performance, their ability to detect an acholic beverage emitting from him, the presence of a container of alcohol in the vehicle, their belief he was drinking alcohol, and the fact they believed his BAC maybe close to the *per se* illegal limit.¹⁴ After the officers' discussion but prior to his arrest, Involved Civilian 1 admitted to consuming alcohol.¹⁵

Once Involved Civilian 1 was arrested, Involved Civilian 2 and Involved Civilian 3 were asked to exit the vehicle, and informed that the vehicle was being impounded.¹⁶ A search of the

⁵ Att. 22.

⁶ Relevant portions from 00:50 to 01:00 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21.

⁷ Relevant portions from 00:30 to 00:36 of file Officer B – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21.

⁸ Relevant portions from 01:40 to 01:43 of file Officer B – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21.

⁹ Relevant portions from 01:30 to 01:50 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21.

¹⁰ Relevant portions from 03:28 to 03:33 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21 and 02:27 to 02:37 of file Officer C – 2 – AXON_Body_2_Video_2018-08-03_0234 of Att. 21.

¹¹ Relevant portions from 04:53 to 04:56 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21 and 03:54 to 03:58 of Officer C – 2 – AXON_Body_2_Video_2018-08-03_0234 of Att. 21.

¹² These actions were recorded on the BWC but not specifically noted on the Alcohol/Drug Influence Report. Relevant portions from 05:33 to 06:18 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21 and 04:34 to 05:18 of file Officer C – 2 – AXON_Body_2_Video_2018-08-03_0234 of Att. 21.

¹³ This action was recorded on the BWC but not specifically noted on the Alcohol/Drug Influence Report. Relevant portion from 05:27 to 06:23 of file Officer C – 2 – AXON_Body_2_Video_2018-08-03_0234 of Att. 21.

¹⁴ Relevant portions from 07:29 to 07:58 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21 and 06:32 to 07:00 of file Officer C – 2 – AXON_Body_2_Video_2018-08-03_0234 of Att. 21.

¹⁵ Relevant portions from 08:07 to 08:14 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21 and 07:10 to 07:16 of file Officer C – 2 – AXON_Body_2_Video_2018-08-03_0234 of Att. 21.

¹⁶ Involved Civilian 1 referred to himself as the “designated driver” for the evening, despite admitting that he had been drinking alcohol. Involved Civilian 3 told the officers that they (meaning him, Involved Civilian 2, and Involved Civilian 1) had been at a club prior to the traffic stop. COPA's presumption is that Involved Civilian 3 and Involved Civilian 2 were both drinking alcohol.

vehicle revealed an open bottle of Remy Martin in the driver's door pocket.¹⁷ Officers D and B drove Involved Civilian 1's vehicle to the 018th District and impounded it.

Once at the 018th District, Officer A read Involved Civilian 1 his Miranda Rights. Involved Civilian 1 verbally acknowledged he understood his rights and agreed to answer Officer A's questions without counsel. During questioning, Involved Civilian 1 admitted he had been drinking shots of Cognac at a bar prior to the traffic stop. Involved Civilian 1 was unable to recall the location where he was stopped.¹⁸

c. Documentary Evidence¹⁹

Involved Civilian 1's Arrest Report²⁰ details that the officers stopped Involved Civilian 1 for failing to use a turn signal and while speaking to him observed that he was confused and had glassy eyes. Additionally, the officers detected the odor of an alcoholic beverage emitting from his person. Further, the officers observed the front seat passenger (Involved Civilian 2) was not wearing a seat belt and there was an open container of alcohol inside the vehicle. Based on the observations, the officers asked Involved Civilian 1 to exit the vehicle and complete SFSTs. During the SFSTs, Involved Civilian 1 exhibited several cues of impairment. Involved Civilian 1 was arrested and transported to the 018th District. Once at the district, Involved Civilian 1 was read the Warning to Motorist form and the 20-minute observation period began. After the observation period was complete, Involved Civilian 1 submitted to a test of his breath which resulted in a 0.055 BAC. Involved Civilian 1 was Mirandized by Officer A and answered the Alcohol Influence Report questions. Involved Civilian 1 was charged with driving under the influence of alcohol, failing to use a signal as required, illegally transporting alcohol in the passenger compartment, and allowing a passenger to not wear a seat belt. Since Involved Civilian 1 was arrested for driving under the influence, his vehicle was impounded.

Involved Civilian 1's Alcohol/Drug Influence Report²¹ details that Officer A observed Involved Civilian 1 in the driver's seat of a vehicle and observed that his breath had a moderate odor of an alcoholic beverage, his speech was confused, and his eyes were glassy. Additionally, the report details that during the HGN Involved Civilian 1 had a lack of smooth pursuit, and distinct nystagmus at maximum deviation in both eyes. Additionally, the report details during the WNT Involved Civilian 1 began the test prior to being instructed to begin. Further, the report details that after being Mirandized, Involved Civilian 1 admitted to consuming two shots of Cognac and that he submitted to a test of his breath that resulted in a 0.055 BAC.

Involved Civilian 1's Breathalyzer Results²² detail that a sample of his breath was taken at 3:28 am and resulted in a BAC measure of 0.055. The sample was taken by Officer C. Officer C's certification was valid at the time Involved Civilian 1's sample was collected.²³

¹⁷ Relevant portions from 13:36 to 13:47 of file Officer A – 2 – AXON_Body_2_Video_2018-08-03_0242 of Att. 21.

¹⁸ Relevant file Officer C – 3 – Axon_Body_2_Video_2018-08-03_0439 of Att. 21.

¹⁹ Investigatory Stop Reports were completed for both Involved Civilian 2 and Involved Civilian 3. Atts. 24 and 25.

²⁰ Att. 9.

²¹ Pgs. 3 and 4 of Att. 26.

²² Pg. 2 of Att. 26.

²³ Pg. 30. of Att. 26.

Involved Civilian 1's Citations²⁴ detail he was issued citations for an improper turn signal (TNXXXXX), illegal transportation of alcohol (TNXXXXX), driving under the influence of alcohol (TNXXXXX), and a passenger not wearing a seat belt (TNXXXXX).

A **Vehicle Impound / Seizure Report**²⁵ details that Involved Civilian 1's vehicle was impounded from the 018th District parking lot due to his arrest.

VI. ANALYSIS

COPA recommends a finding of **Unfounded** for the allegations that the officers unlawfully arrested Involved Civilian 1 and that Sergeant 1 unlawfully ordered the arrest of Involved Civilian 1. A peace officer may arrest a person when he or she has reasonable grounds to believe that the person has committed an offense.²⁶ Here, upon stopping Involved Civilian 1, Officer A detected an order of an alcoholic beverage and observed Involved Civilian 1 to have glassy-eyes. Additionally, Involved Civilian 1 admitted to consuming alcohol prior to driving. Further, Involved Civilian 1 exhibited several cues of impairment while completing the SFSTs. Finally, prior to arresting Involved Civilian 1, the officers discussed his performance during the SFSTs, the presence of an open container of alcohol in Involved Civilian 2's vehicle, the order of an alcoholic beverage coming from Involved Civilian 1, and their belief he was under the influence of alcohol. Based on all this the officers reasonably believed that Involved Civilian 1 had committed the offense of operating a vehicle while under the influence of alcohol. Therefore, the officers' decision to arrest Involved Civilian 1 for DUI was lawful and proper. Further, since the Involved Civilian 1's arrest was based on probable cause, Sergeant A alleged order to arrest Involved Civilian 1 was also proper. Finally, the Officers' belief that Involved Civilian 1 was under the influence of alcohol was confirmed by his breathalyzer test which resulted in a 0.055 BAC.²⁷

COPA recommends a finding of **Unfounded** for the allegation that the Officers improperly impounded Involved Civilian 1's vehicle. Section IV(G) of G03-07, permits an officer to impound a vehicle when the driver is arrested and prohibits an officer from releasing a vehicle to a person who may be intoxicated. Here, the officers lawfully arrested Involved Civilian 1 for DUI. Given the nature of the arrest and the fact an open container of alcohol was observed in the vehicle, it was reasonable for the officers to elect to impound Involved Civilian 1's vehicle rather than to release it to Involved Civilian 3 or Involved Civilian 2. Therefore; the Officers action were proper.

COPA recommends a finding of **Unfounded** for the allegations that the officers falsely issued Involved Civilian 1 traffic citations. Despite Involved Civilian 1's insistence, the BWC footage directly shows that Involved Civilian 2 was not wearing a seat belt, there was an open container of alcohol in the vehicle, and Involved Civilian 1 was operating a vehicle under the influence of alcohol. Further, Officer A clearly informed Involved Civilian 1 that he was stopped

²⁴ Atts. 12 and 20.

²⁵ Att. 15.

²⁶ 725 ILCS 5/107-2(1)(c)

²⁷ 625 ILCS 5/11-501(a)(1) prohibits a person from driving when their BAC is above a .08. However, the section Involved Civilian 1 was charged under, 625 ILCS 5/11-501(a)(2), prohibits driving while "under the influence of alcohol" generally. COPA finds by the preponderance of the evidence the involved officers had probable cause to suspect Involved Civilian 1 was under the influence of alcohol at the time of his arrest.

for failing to use his turn signal. Therefore, COPA finds that the Officers lawfully issued traffic citations for the violations Involved Civilian 1 committed.

Based on a review of the available footage and based on Involved Civilian 1’s admissions of alcohol consumption to COPA, there is no evidence that suggests Sergeant A or the involved officers acted outside of the applicable laws and CPD orders and rules. Accordingly, it is not necessary for the involved members to address the allegations.

VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Sergeant A	1. Unlawfully ordered the arrest of Involved Civilian 1, in violation of Rule 1.	Unfounded.
Officer A	1. Unlawfully arrested Involved Civilian 1, in violation of Rule 1.	Unfounded.
	2. Improperly impounded Involved Civilian 1’s vehicle, in violation of Rule 6.	Unfounded.
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	3. Falsely issued Involved Civilian 1 traffic citations, in violation of Rule 1.	Unfounded.

Approved:

 Deputy Chief Administrator – Chief Investigator A
Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	X
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Deputy Chief Administrator:	Deputy Chief Administrator A
Attorney:	Attorney A