

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	February 15, 2017
Time of Incident:	6:45 p.m.
Location of Incident:	[REDACTED]
Date of COPA Notification:	October 10, 2017
Time of COPA Notification:	1:48 p.m.

On February 15, 2017, police officers arrested [REDACTED] after conducting a traffic stop and discovering [REDACTED] was driving on a suspended license. Police officers drove [REDACTED] vehicle to the [REDACTED] District station and completed paperwork to have it towed and impounded. The vehicle is owned by [REDACTED] father, [REDACTED], whose business partner, [REDACTED], removed the vehicle from the station before the tow truck arrived. After receiving a towing bill, [REDACTED] initiated a pro-se lawsuit against the city of Chicago for allegedly improperly towing and impounding the vehicle.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], star# [REDACTED], employee ID# [REDACTED], DOA [REDACTED], 2006, Police Officer, [REDACTED] District, DOB [REDACTED], 1968, female, spanish
Involved Officer #2:	[REDACTED], star# [REDACTED], employee ID# [REDACTED], DOA [REDACTED], 2005, Police officers, [REDACTED] District, DOB [REDACTED], 1969, male, white
Involved Individual #1:	[REDACTED], [REDACTED], 1975, male, black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED] [REDACTED]	1. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED] [REDACTED], the accused PO [REDACTED] [REDACTED] unjustifiably stopped [REDACTED] in violation of Rule 10.	Not Sustained

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.

	<p>2. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED], the accused PO [REDACTED] unjustifiably searched [REDACTED] vehicle in violation of Rule 10.</p> <p>3. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED], the accused PO [REDACTED] unjustifiably seized [REDACTED] vehicle in violation of Rule 10.</p>	<p>Exonerated</p> <p>Exonerated</p>
<p>Officer [REDACTED]</p>	<p>1. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED] the accused PO [REDACTED] unjustifiably stopped [REDACTED] in violation of Rule 10.</p> <p>2. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED], the accused PO [REDACTED] unjustifiably searched [REDACTED] vehicle in violation of Rule 10.</p> <p>3. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED], the accused PO [REDACTED] unjustifiably seized [REDACTED] vehicle in violation of Rule 10.</p>	<p>Not Sustained</p> <p>Exonerated</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 10 – Inattention to Duty

General Orders

- 1. G07-03 Vehicle Towing and Relocation Operations

Special Orders

- 1. S07-03-05 Impoundment of Vehicles for Municipal Code Violations

V. INVESTIGATION²

a. Interviews³

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 [REDACTED], who was [REDACTED] passenger at the time of this incident, declined to provide an interview for this investigation. (Att. 23)

In a conversation with COPA on June 14, 2018, ██████████⁴ related that he did not witness this incident and based the information in his pro se lawsuit on a second-hand account from his son, ██████████.⁵ During this incident, ██████████ was driving ██████████ vehicle without a license and without ██████████ knowledge or permission. After officers stopped ██████████, they cited him for driving on a suspended license and for driving without insurance. According to ██████████, the officers made his son walk home. The officers then drove ██████████ vehicle back to the station. ██████████ said that, his business partner, ██████████, went to the station and got the vehicle after the officers parked it there. ██████████ later received a bill for \$2,000.00 for towing, even though they never actually had to tow the vehicle.

In an interview with COPA on July 9, 2018, ██████████⁶ reported that on February 15, 2017, the accused officers stopped him when he pulled into the ██████████ parking lot at ██████████ and ██████████. The officers told ██████████ they stopped him because he was driving with his bright lights on, which ██████████ denied. The officers also told ██████████ they had followed him for several blocks before stopping him. ██████████ said that the officers ran his driver's license and it came back invalid due to him not paying his SR-22 that month. ██████████ recalled that the officers then called backup, including narcotics dogs,⁷ and searched his vehicle, including the glove compartment and trunk. ██████████ said the officers never asked him for consent to search the vehicle.

██████████ recalled that the officers said he was under arrest for driving with no license and for having no insurance. ██████████ explained that the vehicle is insured and that he has a license, it was just suspended for non-payment of SR-22. The officers brought ██████████ and his vehicle to the ██████████ District station, where he was given an I-bond and released. ██████████ asked if he could drive his vehicle home, but the officers said he could not drive. ██████████ told the officers he was going to bring someone to drive the vehicle home.

According to ██████████, this is the fourth time his vehicle has been taken to the ██████████ district for tow and impound. ██████████ referred to this as the ██████████ district's "modus operandi,"⁸ meaning that they take vehicles to the district for impound to collect the tow fee. ██████████ reported that all the tickets from this incident were dismissed because he provided proof of valid insurance in court.

In a statement to COPA on August 13, 2018, PO ██████████, star # ██████████,⁹ recalled that on February 15, 2017, he and his partner, PO ██████████, were on patrol when he observed a vehicle driving northbound on ██████████ with its high-beam headlights on. PO ██████████ made a U-turn to get behind the vehicle and activated his police lights. The driver, now known to be ██████████, immediately turned into a bank parking lot where the traffic stop was

⁴ Att. 22.

⁵ The lawsuit alleged that the accused officers violated ██████████ constitutional rights when his vehicle was seized and towed without justification. This case was dismissed with prejudice on June 8, 2018. Att. 11.

⁶ Att. 8.

⁷ There is no indication either in OEMC records or in the officers' interviews that any canine units were present.

⁸ Audio at 7:37.

⁹ Att. 28.

conducted. PO [REDACTED] recalled that [REDACTED] also had a passenger, now known to be [REDACTED], in the vehicle and that PO [REDACTED] felt nervous conducting the traffic stop because his partner, PO [REDACTED], is a small female. PO [REDACTED] said he called for backup almost immediately and approximately three cars responded.

PO [REDACTED] recalled that he and PO [REDACTED] continued with the traffic stop as backup arrived. PO [REDACTED] was unable to recall the specifics of the stop but recalled that the officers discovered that [REDACTED] driver's license was suspended so they took him into custody. PO [REDACTED] conducted a search of the vehicle because the vehicle was being impounded. PO [REDACTED] reported he did a routine search for valuables and contraband which is standard prior to impounding a vehicle. PO [REDACTED] recalled that [REDACTED] was free to go and left the scene. PO [REDACTED] could not recall who specifically transported [REDACTED] vehicle to the [REDACTED] District station.

PO [REDACTED] said that he could not recall the specifics of what the officers did at the [REDACTED] District station with [REDACTED]. He explained that typically when someone is I-bonded, they are brought to the station where the tickets and paperwork are completed before the individual is released. [REDACTED] vehicle was seized because of the invalid license and the officers requested a tow to impound the vehicle from the station. PO [REDACTED] was unaware that [REDACTED] vehicle was not present when the tow company arrived to take it, but said it was possible that [REDACTED] removed the vehicle. PO [REDACTED] explained that the tow truck company checks a box on the tow form indicating that the vehicle was not there when they came to tow it. This is so that the city can appropriately bill the impounded party.

In a statement to COPA on October 15, 2018, PO [REDACTED], star # [REDACTED],¹⁰ provided essentially the same account of the traffic stop as PO [REDACTED] did. PO [REDACTED] completed three traffic citations. She explained the impound procedure by saying that the officers complete a form and call the tow company to impound the vehicle. They also give a form to the driver explaining the tow retrieval procedure. PO [REDACTED] explained that when they finished processing [REDACTED] during this incident, they returned all his property to him, including his keys, and he was free to go. PO [REDACTED] did not know how [REDACTED] left the station and did not see him drive his vehicle from the station. If someone took a vehicle that had been seized for impoundment before the tow truck came, the city doubles the fine.

b. Digital Evidence

Any in-car camera recordings from this incident were purged before they were requested in July 2018. The [REDACTED] District did not have body-worn cameras on the date of this incident.¹¹

c. Documentary Evidence

On February 15, 2017, [REDACTED] received three traffic tickets:¹² [REDACTED] Head Lamp Use, [REDACTED] Driving on a Suspended or Revoked License, and [REDACTED] Operating

¹⁰ Att. 30.

¹¹ Att. 9.

¹² Att. 12.

Uninsured Motor Vehicle. The disposition “303 judgement on forfeiture” was entered on August 31, 2017.¹³

COPA attempted to obtain the **Tow Initiation Report**¹⁴ and was unsuccessful.

VI. LEGAL STANDARD

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 the conduct reviewed complied with 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 has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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. *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.

VII. ANALYSIS

██████████ alleged that the accused officer stopped him for no reason. PO ██████████ and PO ██████████ both stated that they stopped ██████████ because he was driving with his high-beam headlights on, which ██████████ denied doing. The only known witness to this incident, ██████████, did not cooperate with this investigation. COPA therefore has no way of proving whether ██████████ bright lights were on, which would give the officers probable cause to stop him. Therefore, the allegation that PO ██████████ and PO ██████████ unjustifiably stopped ██████████ is **Not Sustained**.

¹³ ██████████ driving abstract lists convictions for Driving During a Suspension/Revocation and Violation of Operating Uninsured Motor Vehicle. (Att. 26)

¹⁴ Att. 32.

██████████ reported that the officers called for backup, took him into custody, and searched his vehicle, including the glove compartment and the trunk. ██████████ said the police never asked him for consent to search the vehicle. PO ██████████ reported he did a routine search for valuables and contraband which is standard prior to impounding a vehicle. An inventory search is allowable under CPD General Order G07-03, Vehicle Towing Procedures, which directs officers to “remove and inventory personal property found within the vehicle. If keys are in the vehicle, personal property within a locked glove compartment or trunk will be removed and inventoried.” The search described by both officers and ██████████ fits the inventory search. Therefore, the allegation that PO ██████████ and PO ██████████ unjustifiably searched the vehicle is **Exonerated**.

All parties agreed that during this traffic stop, the accused officers discovered that ██████████ was driving on a suspended license, for which he was arrested and the vehicle was taken to be impounded. Special Order S07-03-05, Impoundment of Vehicles for Municipal Code Violations lists “Impoundment” as the action to be taken when someone is “driving with a Revoked or Suspended License.” Therefore, the allegation that PO ██████████ and PO ██████████ unjustifiably seized ██████████’ vehicle is **Exonerated**.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer ██████████	1. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the ██████████, the accused PO ██████████ unjustifiably stopped ██████████. 2. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the ██████████ the accused PO ██████████ unjustifiably searched ██████████ vehicle. 3. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the ██████████, the accused PO ██████████ stifiably seized ██████████ vehicle.	Not Sustained Exonerated Exonerated
Officer ██████████	1. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the ██████████, the accused PO ██████████ unjustifiably stopped ██████████. 2. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the ██████████, the accused PO ██████████	Not Sustained Exonerated

[REDACTED] unjustifiably searched [REDACTED] vehicle.
3. It is alleged that on February 15, 2017, at approximately 6:45 p.m., at or near the [REDACTED] [REDACTED] the accused PO [REDACTED] [REDACTED] unjustifiably seized [REDACTED] vehicle.

Exonerated

Approved:

[REDACTED]

March 17, 2019

[REDACTED]

Date

Deputy Chief Administrator – Chief Investigator

Appendix A

Assigned Investigative Staff

Squad#:	█
Major Case Specialist:	██████████
Supervising Investigator:	██████████████████
Deputy Chief Administrator:	██████████████████