

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	November 12, 2017
Time of Incident:	5:05 A.M.
Location of Incident:	██████████
Date of COPA Notification:	November 14, 2017
Time of COPA Notification:	8:35 P.M.

On November 12, 2017, Officer ██████ and Officer ██████ initiated a traffic stop after observing ██████ driving outside of the marked lanes. ██████ provided a valid license, but a Law Enforcement Agencies Data System (LEADS) check alerted the officers to a second license number that was revoked based on a previous criminal case. ██████ was arrested and charged with driving on a revoked license.

During the traffic stop, Officer ██████ and Officer ██████ asked ██████ to exit the vehicle and took his phone. ██████'s car was impounded and driven to the station by the responding officers. After his release, ██████ walked into the ██████ District Police Station to file a complaint. ██████ claimed his traffic stop and arrest were illegal, his cell phone was confiscated and never returned, and his car was recklessly driven.

II. INVOLVED PARTIES

Involved Officer#1:	██████████, star # ██████, employee # ██████, ██████, 2005, PO, ██████ District, DOB: ██████ 1977, Male, Latino
Involved Officer#2:	██████████ star # ██████, employee # ██████, ██████, 2011, PO, ██████ District, DOB: ██████ 1978, Male, White
Subject #1:	██████████, DOB: ██████ 1979, Male, Black

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. This investigation, began under COPA and the recommendation(s) set forth herein are the recommendation(s) of COPA.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer: [REDACTED]	<p>1. It is alleged that on Nov 12, 2017 at approximately 05:05 a.m., at or about [REDACTED], you failed to return the complainant’s phone.</p> <p>2. It is alleged, through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow the procedures of processing and inventorying property.</p> <p>3. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow procedures of advising the complainant of his rights.</p> <p>4. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you illegally arrested the complainant.</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Exonerated</p>
Officer: [REDACTED]	<p>1. It is alleged that on Nov 12, 2017 at approximately 05:05 a.m., at or about [REDACTED], you failed to return the complainant’s phone.</p> <p>2. It is alleged, through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow the procedures of processing and inventorying property.</p> <p>3. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow procedures of advising the complainant of his rights.</p> <p>4. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you illegally arrested the complainant.</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Sustained</p> <p>Exonerated</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1: Violation of any law or ordinance
2. Rule 10: Inattention to duty.
3. Rule 40: Failure to inventory and process recovered property in conformance with Department orders.

General Orders

1. General Order G04-03: Custodial Interrogations
 2. General Order G07-01: Processing Property Under Department Control
 3. General Order G04-01 Preliminary Investigations
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Federal Laws

1. *Miranda v. Arizona*, 384 U.S. 436 (1966)

V. INVESTIGATION²**a. Interviews**

COPA interviewed ██████████ on November 17, 2017 at the Civilian Office of Police Accountability.³ ██████████ said prior to being stopped by the police, he was driving eastbound towards a stoplight. The police squad was stopped at the light facing southbound. ██████████ said when the light turned green the squad car turned left and made a U-turn. ██████████ drove away. After a block or more, the squad car's emergency lights were activated and ██████████ curbed his vehicle. Two officers approached ██████████'s vehicle and requested his driver's license and insurance card. ██████████ gave the officers a valid driver's license and a valid insurance card.

After officers ran ██████████'s name, ██████████ was told by the shorter officer⁴ (later identified as Officer ██████████) that his license was revoked because of the reckless homicide conviction. ██████████ insisted his license was legitimate and that his license was updated. ██████████ said he asked the officer to allow him to call 911 to make sure this was a "legit stop."⁵ The police officer told ██████████ to go ahead, but then told ██████████ to put the phone down. The officer then instructed ██████████ to step out of the car. ██████████ said, "while the officer was instructing me to put the phone down and step out of the car,"⁶ the officer reached his hand inside the car to open the car door. ██████████ said once he was out of the car, the officer placed handcuffs on him. ██████████ was placed inside the police vehicle and the officers continued to check the computer. ██████████ asked the officers if there was anything wrong. ██████████ said the officers said his license and insurance were revoked. ██████████ again told the officers his license and insurance were not revoked.

██████████ said he had paperwork from the Secretary of State and his insurance was updated. ██████████ said the officer told him because of his background, he would be transported to the police

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 Att. 11 Audio recorded Statement of Mr. ██████████

⁴ See Audio Recorded Statement of Mr. ██████████ (Att. 11 at 14:50)

⁵ See Audio Recorded Statement of Mr. ██████████ (Att. 11 at 4:32)

⁶ See Audio Recorded Statement of Mr. ██████████ (Att. 11 at 4:40)

station. █████ stated the officer drove so fast that his partner, who trailed in a squad car, had to increase speed to keep pace.

█████ said when he arrived at the police station he reiterated to the police officer that “this is not right because I have license and insurance.”⁷ █████ asked the officer why he was being locked up and stated “my phone my phone.”⁸ █████ said the officer who escorted him told his partner to get █████’s phone. █████ said while he was in lockup, the police officer searched him and sat him in a cage. █████ said he started feeling sick and told the officer he needed to go to the hospital. █████ said he informed the officer he had not taken his seizure medication. █████ said the officer responded by telling him that if he did not want the officer to impound his car he should “go along with it.”⁹ █████ said the officer told him that his car would be parked in front of the police station.

█████ said he asked the officer, “You are not going to tow my car? Could you give me a ticket?”¹⁰ The officer said █████’s license was revoked due to a reckless homicide conviction. █████ explained to the officer that the case was over twenty years old. █████ said the lockup officer came and asked him if he needed to go to the hospital. █████ said if the officer was going to allow him to keep his car then he did not want to go to the hospital. █████ said if his car was going to be towed he wanted to go to the hospital. █████ said the arresting officer took his wallet, his chain, and his jewelry and told him he “was too old to be wearing earrings and stuff.”¹¹

█████ said he never saw the officer return to the car to retrieve his cellphone. █████ said when he was released, the only property given to him was his wallet, earrings, keys and chain. █████ was taken to the courthouse, where a judge granted him bail. █████ was given a court date for the traffic tickets. █████ said when he appeared in court the judge directed an assistant state’s attorney (ASA) to verify his story. The judge asked the ASA if █████’s license and insurance were legitimate and the ASA confirmed they were. █████ said the judge dismissed the case and his license was returned to him.

█████ said after court he started the process to retrieve his car. █████ visited an impound facility located at █████. An employee of the impound told █████ he needed to go to █████ to contest. █████ said the judge at █████ checked the computer and determined he was not liable and the case was dismissed. █████ was told he had to retrieve his car by midnight. █████ returned to the pound to retrieve his car and provided them the paperwork and his license. His car was released.

COPA interviewed Accused Officer █████ on May 11, 2018 at the Civilian Office of Police Accountability.¹² Officer █████ provided a description of the incident and said he and Officer █████ were working on November 12, 2017 near █████. Officer █████ and Officer █████ stopped █████’s vehicle for failure to stay within the lane. Officer █████

⁷ See Audio Recorded Statement of Mr. █████ (Att. 11 at 7:19-7:21)

⁸ See Audio Recorded Statement of Mr. █████ (Att. 11 at 7:24)

⁹ See Audio Recorded Statement of Mr. █████ (Att. 11 at 8:00)

¹⁰ See Audio Recorded Statement of Mr. █████ (Att. 11 at 9:30 – 9:34)

¹¹ See Audio Recorded Statement of Mr. █████ (Att. 11 at 11:35-1139)

¹² See Audio Recorded Statement of Officer █████ (Att.31 & 32)

said he and Officer ██████ approached the vehicle. He asked ██████ to provide a driver's license and insurance card. Officer ██████ said ██████ provided a valid driver's license and an invalid insurance card. A background check was conducted through the iClear and LEADS databases; a criminal history report revealed ██████ had multiple names, birth dates, and driver's license numbers.

Officer ██████ asked ██████ to exit the vehicle. Officer ██████ searched ██████ and found a wallet then searched ██████'s car. Officer ██████ said that during the arrest ██████ never complained about a phone. Officer ██████ said ██████'s property was placed in a sealed bag and a unique inventory number was assigned. Officer ██████ said ██████ was read his rights at "one point."¹³ After reviewing his Body Worn Camera footage (BWC), Officer ██████ stated that he recovered ██████'s cellphone and placed it on top of the car. Officer ██████ could not recall if he retrieved the cellphone from the top of the car.

Furthermore, Officer ██████ said ██████ was read his rights when he was placed into custody and at the station. However, after reviewing his BWC. Officer ██████ said ██████ was read his rights, but that reading does not appear on the video.

After ██████ was secured, Officer ██████ provided a pair of keys to Officer ██████ and. Officer ██████ drove ██████'s vehicle to the ██████ district, towed it from that location, and impounded it. Officer ██████ and Officer ██████ escorted ██████ into the police station. Officer ██████ searched ██████ and secured his property.

Officer ██████ said all procedures were followed for inventorying ██████'s property. Officer ██████ denies that he failed to return ██████'s phone. Officer ██████ denied illegally arresting ██████. Officer ██████ said all procedures were followed when ██████'s property was inventoried.

COPA interviewed Accused Officer ██████ on May 18, 2018 at the Civilian Office of Police Accountability.¹⁴ Officer ██████ provided a description of the incident and said he and Officer ██████ were working on November 12, 2017 near ██████. Officer ██████ said a vehicle was observed failing to stay within the marked lanes. Officer ██████ approached the passenger's side of the vehicle while Officer ██████ approached the driver's side. ██████, the driver, was asked to provide a driver's license and insurance card. Officer ██████ said ██████ provided a valid driver's license and an invalid insurance card. An investigation was conducted through the iClear and LEADS databases, where a criminal history report revealed ██████ had multiple aliases, birth dates, and driver's license numbers. Officer ██████ said ██████ had another license number associated with him that was revoked, so they placed him into custody.

Officer ██████ said after he and Officer ██████ determined ██████'s license was revoked, ██████ was placed into custody on the scene. ██████ was not read his rights on the scene but was read his rights at the station. Officer ██████ said it was unnecessary to read ██████ his rights on scene because ██████ was being placed into custody for a revoked license. Officer ██████ said no investigative steps needed to be taken because they determined ██████'s license was revoked.

¹³ See Audio Recorded Statement of Officer ██████ (Att.32 16:28 – 16:30)

¹⁴ See Audio Recorded Statement of Officer ██████ (Att.37, 38, 39)

Officer █████ searched the immediate area accessible to █████ prior to driving █████'s car to the station. Officer █████ said he could not recall seeing █████'s cellphone or was ever told about a cellphone by Officer █████. Furthermore, the outside of the vehicle was not searched by Officer █████.

After reviewing the Body Worn Camera (BWC) footage, Officer █████ said the paperwork █████ showed him was his driver's license. Officer █████ said he did not know what █████ was referencing when a receipt was offered as proof. Officer █████ said he and Officer █████ had already determined █████'s license was revoked and there was no need for the paperwork.

Officer █████ said █████ was read his rights in the station in the presence of Officer █████. Officer █████ reiterated that he never saw █████'s phone. Officer █████ said █████ was not illegally arrested. Officer █████ said all procedures were followed when █████'s property was processed. Officer █████ said he inventoried █████'s property. Officer █████ did not recall inventorying █████'s cellphone.

b. Digital Evidence¹⁵

COPA obtained Officers █████ and █████'s BWC videos relative to this incident. The relevant videos show █████ sitting in a car at █████ when Officer █████ and Officer █████ approach the vehicle. Officer █████ requested █████'s license and insurance card. █████ complied with the request, and the officers returned to the police vehicle. Officer █████ conducted a check through the multiple systems available to the Chicago Police Department. Officer █████ and Officer █████ are heard saying █████ had a different license number on his criminal history report. Officer █████ checked the license number, which came up as revoked. Officer █████ made a call from his personal cellphone, where he asked if the offense was upgradeable. Officer █████ later answered a call after which Officer █████ indicated that the charge was upgradeable.

Officer █████ returned to █████'s car and told him to step out of the vehicle to sign some tickets. █████ asked if he could contact an attorney or call 911 to make sure this stop was legitimate. Officer █████ granted █████ permission to make a phone call, then decided to take █████'s phone from his hand. He placed █████'s phone on top of the police vehicle. █████ was handcuffed and searched by Officer █████. █████ was then walked to the back of the car. Officer █████ searched the vehicle and opened the glove box with the car key. Officer █████ questioned █████ about his birthday. Officer █████ told █████ that █████ had changed his birthday by one day. Officer █████ asked, "what happened with the reckless homicide that you got arrested for"¹⁶ to which █████ informed Officer █████ that he completed his time. █████ said his birthday was correct and that he recently had his license issued. █████ asked them if he was under arrest and Officer █████ confirmed that he was, stating "Yes, for driving on a revoked license and for having a false fictitious driver license, where you changed your birthday."¹⁷

¹⁵ See Officer █████ and Officer █████ Body Worn Cameras

¹⁶ See Officer █████ 1 Body Worn Camera (12:44)

¹⁷ See Officer █████ 1 Body Worn Camera (15:50-15:58)

Officer █████ gave Officer █████ the keys to █████'s car. Officer █████ exited the police vehicle and deactivated his BWC. Once █████ arrived at the station, Officer █████ began the process of inventorying █████'s property. Officer █████ placed █████'s property on a counter. █████ asked about his phone and Officer █████ replied, "it is he says it's in the car."¹⁸

c. Documentary Evidence

A copy of the Office of Emergency Management and Communications Event Query Report was obtained.¹⁹ The event query shows the date, time and address of the incident. It further confirms the information reported by Officer █████, Officer █████ and █████ about the location of the incident. The report shows that the incident lasted fourteen minutes.

A copy of the Chicago Police Department Vehicle Impoundment Seizure Report was obtained.²⁰ The report shows the date and time the vehicle was impounded. It lists the alleged infractions. It also lists if there was personal property in the vehicle. Officer █████ checked the box "unknown."

A copy of the Chicago Police Department Criminal History Report was obtained.²¹ The criminal history report shows the multiple birthdates and names used by the complainant. In addition, the report has the complainant driver's license number listed differently from the license he provided. The report lists a conviction for involuntary manslaughter.

An electronic printout of the Circuit Court of Cook County Clerk Office docket sheet was obtained regarding █████'s involuntary manslaughter case █████.²² The electronic report shows the complainant was convicted of involuntary manslaughter and notice of conviction was sent to the Secretary of State on 02/23/2001 for license number █████.

A copy of █████ █████'s Driver's License and State Identification Cards were obtained.²³ The driver's license and state identification card show █████ █████'s birthdate as █████. In addition, both identification cards have the same address and identification numbers.

A copy of the Chicago Police Department Arrest Report was obtained.²⁴ The arrest report shows the arrest of the complainant for driving on a revoked driver's license, failing to keep in lanes and no valid insurance. The report does not indicate if █████ was Mirandized.

A copy of █████'s Driver's License Abstract was obtained.²⁵ The abstract and letter from the Secretary of State for █████ indicates that █████ had two driver's license numbers on November 12, 2017. Number █████ was issued to █████ after he received

¹⁸ See Officer █████ 2 Body Worn Camera 4:18 – 4:22

¹⁹ See O.E.M.C. Event Query (Att. 8)

²⁰ See Chicago Police Department Vehicle Impoundment Seizure Report (Att. 14)

²¹ See Chicago Police Department Criminal History Report (Att. 14)

²² See Circuit Court of Cook County Clerk Office report (Att. 23)

²³ See █████'s Driver License and State Identification Cards (Att. 13)

²⁴ See Chicago Police Department Arrest Report (Att. 5)

²⁵ See Driver License Abstract (Att. 19)

[REDACTED]

[REDACTED]

[REDACTED] license was valid at the time of the stop on November 12, 2017. A suspension was attached to license number [REDACTED] on November 12, 2017 based on failure to satisfy the judgement of the 1995 ticket. On November 20, 2017, the Secretary of state combined the records for [REDACTED].

A copy of the Chicago Police Department Inventory Property Form was obtained.²⁶ The property inventory form shows the following:

- (1) one [REDACTED] necklace with [REDACTED] metal charms with [REDACTED] stones.
- (2) two [REDACTED] earrings
- (1) [REDACTED] ring with [REDACTED] stones

The Chicago Police Department inventory form does not show a cellphone, a wallet, or keys. The form is signed with an electronic signature by Officer [REDACTED] and Officer [REDACTED].

A copy of the Office of the Secretary of State Notice of Fee Acceptance report was obtained.²⁷ The report shows the Secretary of State accepted and processed the reinstatement fee for [REDACTED]'s Financial Responsibility suspension on October 2, 2017. It further states that if the driver's license was revoked, suspended or cancelled, [REDACTED] was required to seek reinstatement before driving and/or operating a motor vehicle.

A copy of the Initiation Report Sergeant [REDACTED] completed about the complaint was obtained.²⁸ The report states that on November 13, 2017, COPA received notification about Officer [REDACTED] and Officer [REDACTED] from DSS [REDACTED] after [REDACTED] walked into the [REDACTED] District Police Station to file a complaint. Officer [REDACTED] and Officer [REDACTED] were accused of wrongfully arresting [REDACTED]. [REDACTED] alleged Officer [REDACTED] and Officer [REDACTED] wrongfully arrested him, failed to inventory his property, damaged his vehicle, told him if he went to the hospital the vehicle would be impounded. [REDACTED] alleged that when he was released from Cook County Jail, his insurance card and black [REDACTED] cell phone were not inventoried as his prisoner's property. Furthermore, [REDACTED] claims he relocated to [REDACTED] to retrieve his impounded vehicle and discovered his property was not inside his vehicle.

VI. ANALYSIS

Based on the evidence and directives active at the time of this incident, COPA finds Officer [REDACTED] and Officer [REDACTED] lawfully arrested the complainant. Thus, the allegations against both officers related to the unlawful arrest are **Exonerated**.

Officers [REDACTED] and [REDACTED] stated they observed [REDACTED] fail to keep his car in his lane. COPA finds Officers' accounts credible. Upon curbing [REDACTED], the officers discovered [REDACTED] was issued multiple driver's licenses under different numbers using different birthdates. One of those driver's licenses was reported as revoked based on a LEADS inquiry. Acting on that information, Officers

²⁶ See Chicago Police Department Inventory Property Form (Att. 16)

²⁷ See Office of the Secretary of State Notice of Fee Acceptance (Att. 20)

²⁸ See Initiation Report (Att. 4)

█████ and █████ had probable cause to believe █████ was driving on a revoked license, a misdemeanor offense. Therefore, the officers made a lawful arrest. See *Atwater v. Lago Vista*, 532 U.S. 318 (2001) (If probable cause exists, officers may execute an arrest, even for minor offenses.)

Probable cause is assessed objectively by considering the conclusions an arresting officer reasonably might have drawn from the information known to him, rather than his subjective reasons for making an arrest. *Holmes v. Hoffman Estates*, 511 F.3d 673, 679 (7th Cir. 2007). Probable cause is present if, at the time of arrest, “the facts and circumstances within [the arresting officer’s] knowledge and of which [the officer] has reasonably trustworthy information would warrant a prudent person in believing that the suspect had committed or was committing an offense.” *Qian v. Kautz*, 168 F.3d 949, 953 (7th Cir. 1999).

A reasonable officer in Officer █████’s and Officer █████’s positions would have believed █████’s license was invalid because at least one of the numbers associated with █████ was revoked. It was reasonable for the officers to believe █████ was driving on a revoked license, even though █████ stated his license was not revoked. Therefore, COPA finds the officers made a lawful arrest of █████. Accordingly, Allegation 4 against Officer █████ and Allegation 4 against Officer █████ are **Exonerated**.

Based on the evidence, COPA finds Officer █████ failed to inventory and process █████’s phone in conformance with Department orders. Therefore, the allegations that Officer █████ failed to inventory and return █████’s phone (Allegations 1 and 2), are **Sustained**.

Officer █████ seized █████’s phone during the arrest. The phone was placed on top of the vehicle and never inventoried, as required by the general orders. Chicago Police Department General Order G07-01, active at the time, states, “All property which is seized, recovered, found, or otherwise taken into custody by Department members will be inventoried as soon as it is practical to do so.” It also says that “[a]ll property recovered by the Department will be inventoried.”²⁹

█████’s cell phone was never inventoried or returned by Officer █████. The BWC footage never shows Officer █████ retrieving the phone from the top of the car, directing Officer █████ to get it, or inventorying the phone. Further, while personal property was inventoried, the phone does not appear on the inventory sheets. Based on the foregoing, COPA finds a preponderance of the evidence establishes Officer █████ failed to return and properly inventory █████’s phone. Accordingly, Allegations 1 and 2 against Officer █████ are **Sustained**.

By contrast, though Officer █████ completed the inventory sheets, there is no evidence Officer █████ handled █████’s phone. COPA finds the allegations against Officer █████ relating to his failure to return and properly inventory █████’s phone are **Unfounded**.

Officer █████ removed █████ from his vehicle and took █████’s phone from his hand. Officer █████ placed the phone on top of the vehicle and it does not appear that the phone was retrieved during interaction. Officer █████ never had a discussion with Officer █████ during the traffic stop. The phone was not recorded in eTrack and the phone was last seen on top of █████’s

²⁹ See Chicago Police Department General Order G07-01

vehicle. Therefore, it was Officer [REDACTED] alone who was responsible for the loss of [REDACTED]'s phone. Thus, COPA finds Allegations 1 and 2 against Officer [REDACTED] are **Unfounded**.

Finally, based on the evidence and directives active at the time, COPA finds that Officer [REDACTED] and Officer [REDACTED] failed to follow the procedures of advising the complainant of his rights and thus, Allegation 3 against each officer is **Sustained**.

Officer [REDACTED] and Officer [REDACTED] conducted a legal stop of [REDACTED]. Officer [REDACTED] discovered [REDACTED] had multiple birthdays, aliases and driver's license numbers. [REDACTED]'s Criminal History Report showed he had a revoked driver's license. Officer [REDACTED] admitted that he immediately arrested [REDACTED]. [REDACTED] made numerous inquiries and requests to contact 911 and an attorney. Nevertheless, BWC shows that Officer [REDACTED] and Officer [REDACTED] never read [REDACTED] his *Miranda* rights on scene. After placing [REDACTED] in handcuffs, Officer [REDACTED] and Officer [REDACTED] questioned [REDACTED] about a reckless homicide and his birthdays and conducted a search of [REDACTED]'s locked glove box after his arrest.

Pursuant to *Miranda v. Arizona*, 384 U.S. 436, 478-79 (1966), an individual who "is taken into custody or otherwise deprived of his freedom by the authorities in any significant way and is subjected to questioning" must be given certain warnings, including that he has the right to an attorney and the right to remain silent. Similarly, Chicago Police Department General Order G04-03 states, "[b]efore the interrogation of an individual who is in custody, including in the field, regardless of the offense, the sworn investigating member will, in the presence of another sworn Department member if possible, expressly warn the individual of their constitutional rights by orally reciting each of the warnings and obtaining a response for each warning. Warning of the individual's rights must be given before the commencement of any in-custody interrogation about a specific crime or offense for which the individual is in custody."

"Generally, a person who is temporarily detained pursuant to an ordinary traffic stop is not in police custody for *Miranda* purposes due to the 'noncoercive aspect of ordinary traffic stops.'" *People v. Tayborn*, 2016 IL App 3d 130594 ¶ 20 (quoting *Berkemer v. McCarty*, 486 U.S. 420, 440 (1984)); see also G04-03 (routine traffic stops do not require that *Miranda* be given before asking questions related to the traffic stop). However, *Miranda* does apply during a traffic stop when a defendant "is subject to treatment that renders him 'in custody' for practical purposes." *Berkemer*, 468 U.S. at 440.

We find here that [REDACTED] was not merely the subject of a routine traffic stop; instead, he was "in custody" for practical purposes. Two officers were present, while [REDACTED] was alone. Most notably, [REDACTED] was handcuffed while being questioned and clearly under arrest. Compare *Berkemer*, 468 U.S. at 440 (the traffic stop of the defendant did not amount to the functional equivalent of an arrest where the encounter was brief, the defendant was not subject to restraints comparable to those of an arrest, and he was asked only a modest number of questions). A reasonable person placed in handcuffs would not feel he was free to leave. See *People v. Coleman*, 2015 IL App (4th) 140730, ¶ 38 ("[w]hen a reasonable person is placed in handcuffs by law enforcement, he will not feel free to leave until the handcuffs are removed").

Further, Officer [REDACTED] and Officer [REDACTED] had completed the traffic stop for [REDACTED]'s failure to stay in marked lanes by the time they started questioning [REDACTED] about his birthdate. In other words, the questioning related to [REDACTED]'s birthdate occurred after the officers had determined [REDACTED]'s license was revoked (*i.e.* the officers had probable cause to arrest) and [REDACTED] was placed in custody. See G04-03 (routine traffic stops do not require *Miranda* rights to be given before asking questions related to the traffic stop). Officer [REDACTED] and Officer [REDACTED] questioned [REDACTED], without advising him of his *Miranda* rights, after [REDACTED] was arrested and the officers' questions related to the basis for his suspension, the crime for which he was being arrested. Based on the foregoing, we find *Miranda* warnings should have been given before conducting any further questioning. The allegations related to questioning [REDACTED] are therefore **Sustained**.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

i. Complimentary and Disciplinary History

Officer [REDACTED]'s relevant Complimentary History consists of 1 Problem Solving Award, 1 Department Commendation, 81 Honorable Mentions, 1 Police Officer of the Month Award, 3 Complimentary Letters, 1 Police Blue Shield Award, 1 Honorable Mention Ribbon Award, and 2 Unit Meritorious Performance Award. Officer [REDACTED] does not have any relevant Disciplinary History.

ii. Recommended Penalty, by Allegation

1. Allegation No. 1

The evidence indicates that Officer [REDACTED] placed the complainant's phone on top of his car and failed to retrieve then inventory the phone prior to the car being towed. The failure to inventory the property flowed from his failure to retrieve the phone. Although the loss of a civilian's personal property is a serious occurrence, COPA considers both Officer [REDACTED]'s lack of intent and his extensive Complimentary History in mitigation. COPA recommends a suspension of one (1) day.

2. Allegation No. 2

For the same reasons articulated above, COPA recommends a one (1) day suspension.

3. Allegation No. 3

Officer [REDACTED] made a valid stop and arrest, however after making the arrest Officer [REDACTED] questioned the complainant without providing *Miranda* rights to the complainant. Based on the nature of the violation, COPA recommends a one (1) day suspension.

b. Officer [REDACTED]

i. Complimentary and Disciplinary History

Officer [REDACTED]'s relevant Complimentary History consists of 1 Problem Solving Award, 1 Department Commendation, 60 Honorable Mentions, 1 Police Officer of the Month Award, and 2 Complimentary Letters. Officer [REDACTED] has no relevant Disciplinary History.

ii. Recommended Penalty, by Allegation

1. Allegation No. 3

Officer [REDACTED] and Officer [REDACTED] made a valid stop and arrest, however after making the arrest Officer [REDACTED] questioned the complainant without providing *Miranda rights* to the complainant. Based on the nature of the violation, COPA recommends a one (1) day suspension.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer: [REDACTED]	1. It is alleged that on Nov 12, 2017 at approximately 05:05 a.m., at or about [REDACTED], you failed to return the complainant's phone. 2. It is alleged, through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow the procedures of processing and inventorying property 3. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow procedures of advising the complainant of his rights 4. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you illegally arrested the complainant.	Sustained/1Day Suspension Sustained/1Day Suspension Sustained/1Day Suspension Exonerated
Officer: [REDACTED] n	1. It is alleged that on Nov 12, 2017 at approximately 05:05 a.m., at or about [REDACTED], you failed to return the complainant's phone. 2. It is alleged, through the Civilian Office of Police Accountability, that on Nov 12, 2017, you failed to follow the procedures of processing and inventorying property 3. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you	Unfounded Unfounded Sustained/1Day Suspension

failed to follow procedures of advising the complainant of his rights
4. It is alleged through the Civilian Office of Police Accountability, that on Nov 12, 2017, you illegally arrested the complainant.

Exonerated

Approved:



February 23, 2019



Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad: ■	
Investigator: [REDACTED]	
Supervising Investigator: [REDACTED]	
Deputy Chief Administrator: [REDACTED]	