

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 3, 2018
Time of Incident:	5:45 PM
Location of Incident:	6400 S. Campbell Ave.
Date of COPA Notification:	November 6, 2018
Time of COPA Notification:	09:31 AM

On November 3, 2018, at approximately 5:45 PM, Officer [REDACTED] and Officer [REDACTED] were working in the [REDACTED] District and assigned to Beat # [REDACTED] when they stopped the complainant, [REDACTED] (“Mr. [REDACTED]” for driving his vehicle in the bicycle lane in the vicinity of 6400 S. Campbell Avenue. After being curbed, Mr. [REDACTED] immediately told the officers that his driver’s license was suspended and had a non-servable warrant from the state of Indiana. Mr. [REDACTED] alleged that he was escorted out of his vehicle and handcuffed by Officer [REDACTED]. Mr. [REDACTED] alleged that Officer [REDACTED] proceeded to conduct an unlawful search his vehicle and a weapon was recovered from inside his vehicle.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED], Employee ID # [REDACTED], DOA: [REDACTED]/16, Rank: Police Officer, Unit of Assignment: [REDACTED] District, DOB: [REDACTED]/81, Male, Hispanic
Involved Officer #2:	[REDACTED] Star # [REDACTED] Employee ID [REDACTED], DOA: [REDACTED]/13, Rank: Police Officer, Unit of Assignment: [REDACTED] District, DOB: [REDACTED]/79, Male, Hispanic.

III. ALLEGATION

Officer	Allegation	Finding
Officer [REDACTED]	1. It is alleged that on November 3, 2018, at approximately 5:45 pm, in the vicinity of 6400 S. Campbell Ave., Officer [REDACTED] stopped [REDACTED] for committing a minor traffic infraction and unlawfully searched his vehicle, in violation of Rules 1 and 2.	Exonerated

Officer [REDACTED]	<ol style="list-style-type: none"> 1. It is alleged that on November 3, 2018, at approximately 5:45 pm, in the vicinity of 6400 S. Campbell Ave., Officer [REDACTED] stopped [REDACTED] for committing a minor traffic infraction and unlawfully searched his vehicle, in violation of Rules 1 and 2. 	Exonerated
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IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 1:** Violation of any law or ordinance
2. **Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Special Orders

1. S04-13-09, Investigatory Stop System
2. S07-03-05, Impoundment of vehicles of municipal code violations

Federal Laws

1. 4th Amendment, U. S. Constitution

State Laws

1. 625 ILCS 5.0/6-303-A ¹

Municipal Code

1. Municipal Code of Chicago: 9-80-240 (a)

¹625 5.0/6-303-A The statute reads as follows: "Driving while driver’s license, permit or privilege to operate a motor vehicle is suspended or revoked."

V. INVESTIGATION²

a. Interviews

On November 9, 2018, complainant [REDACTED] gave an audio recorded interview to COPA. Mr. [REDACTED] stated that on November 3, 2018, at approximately 5:45 PM, he was alone and driving westbound on 63rd Street when he received a text message from his friend and drove onto the bicycle lane while looking at the message. Mr. [REDACTED] could not merge back into the lane and continued to drive on the bike lane and proceeded to make a right turn on Campbell Street.

Mr. [REDACTED] observed a squad car behind him with its emergency lights activated and he pulled over. Mr. [REDACTED] immediately informed the officers that his driver's license was suspended and that he had a non-severable warrant from the state of Indiana. Mr. [REDACTED] provided his identification and the officers ran his name inside the squad car. The officers returned and asked Mr. [REDACTED] to exit his vehicle and was handcuffed and placed into custody. Mr. [REDACTED] was asked by Officer [REDACTED] if he could search his vehicle and Mr. [REDACTED] said that he had nothing to hide and gave Officer [REDACTED] consent to search his car.

While searching Mr. [REDACTED] car, Officer [REDACTED] discovered a gun in the front armrest of his car. Mr. [REDACTED] explained that he was unaware that the gun was inside the car and that it belonged to his girlfriend. Mr. [REDACTED] admitted that he was a convicted felon and was aware that he could not be near or be in possession of a weapon. Mr. [REDACTED] admitted not having a valid driver's license and believed the traffic stop was minor and therefore, the officers should not have searched his car. Mr. [REDACTED] was upset because his car was impounded and he was told that his car was going to be released to his girlfriend, who was not present.

b. Digital Evidence

The In-car camera and Body Worn Camera (BWC) video captured Officer [REDACTED] and Officer [REDACTED] conducting a traffic stop on Mr. [REDACTED]. The In-car camera video captured Mr. [REDACTED] driving his vehicle on the bicycle lane and making a right turn. The BWC video captured Officer [REDACTED] exiting the squad car from the front driver's side while his partner, Officer [REDACTED] from the passenger side.

Officer [REDACTED] approached and identified himself to Mr. [REDACTED] and informed him that he was being recorded and asked him to lower his window. Officer [REDACTED] told Mr. [REDACTED] that he was stopped because he was driving on the bicycle lane and Mr. [REDACTED] said that he was looking for an address. Mr. [REDACTED] told Officer [REDACTED] that he had a suspended driver's license and a warrant from the state of Indiana. Officer [REDACTED] asked Mr. [REDACTED] if he had a carry and conceal license and Mr. [REDACTED] said that he did not. Officer [REDACTED] is also heard asking Mr. [REDACTED] if he had any guns in the car and Mr. [REDACTED] again replied, no. Officer [REDACTED] and Officer [REDACTED] returned to their police vehicle and Officer [REDACTED] is heard stating, "He has a warrant

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

in Indiana” and a driver’s license check revealed that Mr. ██████ had a suspended license from Indiana for a DUI. Mr. ██████ was asked to exit his vehicle and was handcuffed by Officer ██████ and placed into custody. Mr. ██████ was asked again if he had any weapons in the vehicle and Mr. ██████ replied, “No, It’s at the crib.” Officer ██████ proceeded to search the vehicle and the BWC video showed Officer ██████ recovering a revolver from the front armrest of the car. Mr. ██████ related that the revolver was not registered to him, but possibly registered to his girlfriend. Mr. ██████ vehicle was driven away by Officer ██████ to the police station.

c. Documentary Evidence

The Arrest Report of ██████ indicated that on November 3, 2018, at approximately 5:45 pm, in the vicinity of 6400 S. Campbell Ave., Officers ██████ and ██████ curbed his vehicle for committing traffic violations. Mr. ██████ was cited for driving on bike lane/fail to keep in lane, obstruction of drivers views and not wearing a seat belt. Upon approach, officers asked Mr. ██████ for DL and insurance card and provided a state ID. Mr. ██████ related that license had been suspended and that he had a warrant in Indiana. Mr. ██████ was asked if he had a CCL or FOID card, or any weapons in the car and Mr. ██████ stated no. A name check revealed that Mr. ██████ license was suspended and had an active warrant in Indiana that was not serviceable in Cook County. A custodial search of Mr. ██████ vehicle revealed an “Arminius 38 Special Titan Tiger Revolver black chrome finish with 6 live rounds (serial # ██████)⁴ loaded in the center console arm rest. Mr. ██████ related that the revolver was not his and belonged to his wife. While on BWC video, Mr. ██████ said he would keep it 100, meaning he was going to tell the truth, that he knew that the gun was there, but it was for protection for his wife and him because he lives in a bad neighborhood. Mr. ██████ was placed in custody and transported to the ██████ District for processing where it was discovered that Mr. ██████ was a convicted gun offender and member of the Black P stone gang. Mr. ██████ vehicle was impounded, and felony charges were approved by ASA ██████.

Mr. ██████ was issued citations for Obstruction of driver’s window (████████), Failure to wear a seat belt (████████), Operating an uninsured vehicle (████████), Improper Traffic lane usage (████████)⁵

Mr. ██████ was also issued a citation for Driving on a Suspended or Revoked license (████████)⁶ which is a violation of Illinois Vehicle Code (625 ILCS 5/6-303)⁷ and Municipal Code of Chicago (MCC) 9-80-240 which is subject to impoundment under Special Order 07-03-05.

³ Att. 4, Arrest Report of ██████

⁴ Att. 8, Property Inventory ██████

⁵ Att. 12, Traffic citations (████████) and ██████

⁶ Att. 12, Traffic citations (████████).

⁷ Att. 29, 625 ILCS 5.0/6-303-A

Vehicle Impoundment/Seizure Report⁸ indicated that Mr. ██████ was observed making a minor traffic violation by failing to stay in his lane. Mr. ██████ admitted to driving with a suspended license and a LEADS search revealed that Mr. ██████ was operating his vehicle with a suspended license which is a violation of Municipal Code of Chicago 9-80-240, Driving with a Suspended or Revoked License.

Municipal Code of Chicago 9-80-240⁹, Driving with a suspended or revoked license – Impoundment. (a) The owner of record of any motor vehicle that is operated by a person with a suspended or revoked driver's license shall be liable to the city for an administrative penalty of \$1,000 plus any applicable towing and storage fees. Any such vehicle shall be subject to seizure and impoundment pursuant to this section.

Special Order 07-03-05, Impoundment of Vehicle for Municipal Code violations.¹⁰ This order outlines the procedures for an impoundment of a vehicle that is in violation of MCC 9-80-240, Driving with a Revoked or Suspended License.

CPD Property Inventory 14299299¹¹ indicates that an Arminius 38 Special Titan Tiger Revolver black chrome finish with 6 live rounds (serial # ██████)¹² was recovered and inventoried.

Chicago Police Department Event Query Report # ██████¹³ indicated that Officers ██████ and ██████ conducted a traffic stop involving Mr. ██████. A name search revealed that Mr. ██████ was driving with suspended driver's license.

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

⁸ Att. 11, Vehicle Impoundment/Seizure Report.

⁹ Att. 30, Municipal Code of Chicago 9-80-240, Driving with a suspended or revoked license – Impoundment.

¹⁰ Att. 28, Special Order 07-03-05, Impoundment of Vehicles for Municipal Code Violations.

¹¹ Att. 8, Property Inventory ██████.

¹² Att. 8, Property Inventory ██████.

¹³ Att. 5, CPD Event Query Report # ██████.

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 occurred and violated 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 misconduct occurred, 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.

VI. ANALYSIS

1. *Stopped Mr. ██████████ for committing a minor traffic infraction and his vehicle was unlawfully searched.*

Officers ██████████ and ██████████ curbed and approached Mr. ██████████ after observing him commit minor traffic violations. The entire interaction between Mr. ██████████ and Officers ██████████ and ██████████ was captured on their BWC and In-car camera video. Officer ██████████ is observed explaining to Mr. ██████████ the reason for being stopped. Mr. ██████████ admitted that he was driving on a suspended license and a search a name search through LEADS confirmed the suspension. Mr. ██████████ was repeatedly asked by Officer ██████████ if there were any weapons in his car before conducting a search of it and Mr. ██████████ said no. Mr. ██████████ was driving on a suspended license and therefore was violation of Illinois State Law 625 5.0/6-303-A., which reads as follows: "Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked." Mr. ██████████ also violated Municipal Code of Chicago MCC 9-80-240, *Driving with a Revoked or Suspended License-Impoundment*. The BWC captured the moment when Officer ██████████ was conducting the search of Mr. ██████████ vehicle and finding a weapon inside the armrest, before it was driving away to the police station.

However, pursuant to *South Dakota v. Opperman*¹⁴, when a vehicle is impounded for any reason, an officer may conduct an inventory search of the vehicle subject if the search is accordance with a department policy that does not give discretion to the individual officer but instead requires an inventory in cases of impoundment. Mr. ██████████ was in violation of Municipal Code of Chicago (MCC) 9-80-241, *Driving with a Revoke or Suspended License* and his vehicle was impounded and searched in accordance with Chicago Police Department policy. Specifically,

¹⁴ 428 [U.S.](#) 364 (more)96 S. Ct. 3092

Special Order 07-03-05 which outlines the procedures for impounding a vehicle in violation of certain Municipal Code of Chicago (MCC) ordinances. Based on this evidence, COPA recommends that the allegation that Mr. [REDACTED] vehicle was unlawfully search be EXONERATED.

Furthermore, Officers [REDACTED] and [REDACTED] interacted and spoke to Mr. [REDACTED] with professionalism, dignity and respect and were both in compliance with the Mission Statement and Core Values established by CPD.

VI. CONCLUSION

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

Officer	Allegation	Finding
Officer [REDACTED]	It is alleged that on November 3, 2018, at approximately 5:45 pm, in the vicinity of 6400 S. Campbell Ave., Officer [REDACTED] stopped [REDACTED] for committing a minor traffic infraction and unlawfully searched his vehicle, in violation of Rules 1 and 2.	Exonerated
Officer [REDACTED]	It is alleged that on November 3, 2018, at approximately 5:45 pm, in the vicinity of 6400 S. Campbell Ave., Officer [REDACTED] stopped [REDACTED] for committing a minor traffic infraction and unlawfully searched his vehicle, in violation of Rules 1 and 2.	Exonerated

Approved:

[REDACTED]

1-7-2020

 Angela Hearts-Glass
 Deputy Chief Administrator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	Angela Hearts-Glass