

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

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|----------------------------|-------------------------------------|
| Date of Incident: | April 22, 2019 |
| Time of Incident: | 3:17 PM |
| Location of Incident: | 11106 South Halsted St. Chicago, IL |
| Date of COPA Notification: | April 25, 2019 |
| Time of COPA Notification: | 10:04 AM |

On April 22, 2019, [REDACTED] was driving a black 2001 Chevy Tahoe southbound on Halsted St., near the intersection of 111th St. and Halsted St. [REDACTED] parked his vehicle, on the side of the road, at or near 11106 South Halsted St. Chicago, IL, at around 3:17 PM. When he parked his vehicle his front passenger and rear passenger tires were situated on the sidewalk in front of Tony Shark’s restaurant. Officer Wirth and Officer Davidson subsequently effectuated a stop of [REDACTED] by activating their emergency lights on their vehicle and pulling behind the vehicle. Officer Wirth approached [REDACTED] and asked him for his driver’s license. [REDACTED] was unable to provide a driver’s license and instead provided Officer Wirth with an Indiana Identification Card. Officer Wirth then proceeded to run the information contained on the Indiana Identification Card. He discovered that [REDACTED] had a suspended driver’s license. Armed with this knowledge, Officer Wirth arrested [REDACTED] and transported him to the 022 police district station. [REDACTED] vehicle was subsequently impounded, and [REDACTED] was issued five citations for various driving and equipment infractions. [REDACTED] alleged that the officers had no justification to stop or arrest him. In-Car Camera from the officers’ vehicle showed the black Chevy Tahoe situated on the sidewalk and thus the officers had a valid reason to stop and arrest [REDACTED]

II. INVOLVED PARTIES

| | |
|----------------------|--|
| Involved Officer #1: | John Davidson, Star #: 16314, Employee #: [REDACTED], Date of Appointment: October 25, 2004, Rank: Officer, Unit of Assignment: 022, Date of Birth: [REDACTED], 1971, Male, White. |
| Involved Officer #2: | Matthew Wirth, Star #: 7897, Employee #: [REDACTED], Date of Appointment: December 17, 2001, Rank: Officer, Unit of Assignment: 022, Date of Birth: [REDACTED], Male, White. |

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 and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Involved Individual #1: [REDACTED] Date of Birth: [REDACTED], 1970, Male
Black.

III. ALLEGATIONS

| Officer | Allegation | Finding |
|-----------------------|--|------------|
| Officer John Davidson | 1. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Davidson detained [REDACTED] when Officer Davidson stopped [REDACTED] without justification, in violation of Rules 1, 2, 3, 6, 8, 10, 11. | Exonerated |
| | 2. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Davidson arrested [REDACTED] without justification, in violation of Rules 1, 2, 3, 8, 10, 11. | Exonerated |
| Officer Matthew Wirth | 1. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Wirth detained [REDACTED] when Officer Wirth stopped [REDACTED] without justification, in violation of Rules 1, 2, 3, 6, 8, 10, 11. | Exonerated |
| | 2. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Wirth arrested [REDACTED] without justification, in violation of Rules 1, 2, 3, 8, 10, 11. | Exonerated |

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 achieves it policy and goals or brings discredit upon the Department.
3. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
4. Rule 6: Disobedience of an order or directive, whether written or oral.

6. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
7. Rule 10: Inattention to duty.
8. Rule 11: Incompetency or inefficiency in the performance of duty.

General Orders

1. General Order G06-01-01: Field Arrest Procedures
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Special Orders

1. Special Order S04-14-05: Traffic Violators, Name Checks, and Bonding
 2. Special Order S06-13: Bond Procedures
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Federal Laws

1. US Constitution 4th Amendment
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State / Local Laws

1. 1. 625 ILCS 5/6-101: Drivers must have licenses or permits.
2. 625 ILCS 5/6-601: Penalties.
3. 625 ILCS 5/7-601: Required liability insurance policy.
4. 625 ILCS 5/3-707: Operation of uninsured motor vehicle – penalty.
5. 625 ILCS 6-303, Driving on a revoked or suspended license.
6. MCC 9-64-110(d), Parking prohibited – Roadways, sidewalks, bridges and similar locations.
7. MCC 9-76-140(a), Exhaust system.
8. MCC 9-40-170, Driving or moving a vehicle in unsafe conditions.

V. INVESTIGATION²**a. Interviews**

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

On April 30, 2019, COPA interviewed ██████████³ who provided the requisite affidavit.⁴ On April 22, 2019 at 11106 S. Halsted Chicago, IL, he and ██████████, his passenger, pulled onto the curb, in his 2001 Black Chevy Tahoe⁵, and sat there for a minute or two minutes. As they were getting out of the vehicle, officers appeared and proceeded to walk towards his vehicle. When an officer arrived, the keys were not in ignition⁶ and ██████████ inquired upon the officers what the problem was. The officer replied to ██████████ that he was on the sidewalk.⁸ ██████████ replied that he was not on the sidewalk, but rather parked on the curb⁹, because vehicles turn nearby and could strike his vehicle. The officer asked him for his driver's license or ID. ██████████ replied that he did not have a driver's license.¹⁰ ██████████ asked the officer why he was asking for this information. The officer replied because he was on the sidewalk.¹¹ ██████████ then asked whether that was grounds to ask for his identification and the officer's partner began to yell and scream. ██████████ then gave his identification and the officers went to their vehicle. The officers returned to ██████████ vehicle and told him his license was suspended.¹² ██████████ then stated to the officers that I was not driving, you did not catch me in the act of driving.¹³ ██████████ asked what he was being charged with and the officer replied parking on the sidewalk.¹⁴

On the way to the police station, ██████████ asked the officer why he was being arrested and the officer said driving while suspended.¹⁵ ██████████ stated that the officer did not have to start "lying" on him, that the muffler citation was a lie, and the no insurance ticker was a lie, because the officers did not check the glove box even though he told him the insurance was in the glove compartment.¹⁶

b. Digital Evidence

COPA obtained the **POD video** for the location at or near 11106 S. Halsted St. Chicago, ██████████ for April 22, 2019 between the hours of 1:00 PM and 4:00 PM.¹⁷ The POD video did not show the incident.

COPA obtained the **body worn camera video from Officer Wirth** relative to the incident.¹⁸ The video began with Officer Wirth exiting the driver's seat of his vehicle and

³ Attachment 10.

⁴ Attachment 3.

⁵ *Id.* at 6:30.

⁶ *Id.* at 8:10, 8:49

⁷ *Id.* at 15:45.

⁸ *Id.* at 3:45.

⁹ ██████████ stated that the tires were on the curb. *Id.* at 9:35. *See Also Id.* at 24:15. ██████████ stated that the vehicle's tires were one foot across the curb.

¹⁰ *Id.* at 28:15.

¹¹ *Id.* at 4:15.

¹² *See Id.* at 22:15, 23:30. ██████████ admitted to knowing his driver's license was suspended, for the past ten (10) years, for child support arrearages. *See Also Id.* at 22:28. ██████████ also stated that he knew he was driving illegally.

¹³ *Id.* at 5:02.

¹⁴ *Id.* at 5:20.

¹⁵ *Id.* at 14:00.

¹⁶ *Id.* at 28:10, 41:10.

¹⁷ Attachment 16.

¹⁸ Attachment 14.

approaching a stopped black SUV. Officer Wirth approached the driver¹⁹ and a conversation was had. Officer Wirth stated to ██████████ that he was parked on the sidewalk. ██████████ then stated that he pulled his vehicle over like this, so that other vehicles do not hit his vehicle. Officer Wirth asked ██████████ for his driver's license and he replied that he did not have one on him. Officer Wirth then asked for an ID. ██████████ asked why the officer was asking for his identification. ██████████ then tendered identification to Officer Wirth and Officer Wirth returned to his police vehicle. Officer Wirth then ran the driver's license in his PDT unit. Officer Wirth then stated, while situated in his vehicle, that ██████████'s license was suspended. Officer Wirth returned to the vehicle and asked ██████████ to step out of the vehicle. ██████████ stepped out the vehicle and Officer Wirth proceeded to handcuff ██████████. ██████████ asked why he was being handcuffed and Officer Wirth replied that he had a suspended driver's license. Officer Wirth then placed ██████████ into the back of a police vehicle. Officer Wirth returned to the driver's seat and transported ██████████ to the police district. Officer Wirth eventually arrived at the police district station. Upon arrival he removed ██████████ from the police vehicle and escorted him inside the station.

COPA obtained the **body worn camera video from Officer Davidson** relative to the incident.²⁰ The body worn camera video showed the same or substantially the same depictions as the body worn camera video from Officer Wirth. The video, however, depicted the initial interaction between Officer Wirth and ██████████ from the passenger's side of the black SUV. Officer Davidson explained to the passenger, in ██████████ vehicle, that they had to take ██████████ to the station because he had a suspended driver's license. At one point, he told the passenger in ██████████ vehicle that she was free to go. The video ended with Officer Davidson telling the passenger that the black SUV was going with them.

COPA obtained the **ICC video from Beat 2233** relative to the incident.²¹ The video began with the officers approaching the intersection of 111th St. and Halsted St. The vehicle was situated in the left turn lane and performed a U-Turn at the intersection. Prior to performing the U-Turn a black Chevy Tahoe was observed turning south onto Halsted St. The police vehicle performed a U-Turn and a black Chevy Tahoe was observed parked with its front and rear passenger tires on the sidewalk, in front of a restaurant called Tony's Sharks. The police vehicle subsequently illuminated its emergency lights and stopped behind the parked black Chevy Tahoe. The officers then approached the vehicle. The video then depicted the same or substantially the depictions as the body worn camera videos of the involved officers.

c. Documentary Evidence

COPA obtained the **Event Query Report No: 1911210365**.²² The report indicated that a traffic stopped occurred at 11106 S. Halsted St. on April 22, 2019 at 3:17 PM. The name of ██████████ with a date of birth was ██████████, 1970 was checked. An Indiana Vehicle License Plate number of ██████████ was checked. This information was checked by Beat 2233.

¹⁹ ██████████

²⁰ Attachment 13.

²¹ Attachment 12. *See Also* Attachment 15. COPA obtained video from inside the vehicle depicting the backseat of Beat 2233's vehicle. The video showed ██████████ as he was transported to the police district.

²² Attachment 6.

COPA obtained the **A&As for April 22, 2019 for the 022 police district.**²³ The A&As indicated that Beat 2233 was serviced by Officer Matthew Wirth and Officer John Davidson.

COPA obtained the **Vehicle Impoundment / Seizure Report, prepared by Officer Wirth.**²⁴ The report indicated that a 2001 Black Chevrolet Tahoe was observed to drive up and then park on the sidewalk in violation of MCC 9-64-110(d). The responding officers conducted a traffic stop and the driver, [REDACTED] Jr., produced an Indiana Identification Card. A LEADS name check revealed the driver to have a suspended license.

COPA obtained a copy of the **I-Bond Receipt issued to [REDACTED]**²⁵ An I-Bond was issued to [REDACTED] for violation of MCC 9-64-110(d), 625 ILCS 6-303(a), and 625 ILCS 3-707.

COPA obtained **copies of the citations issued to [REDACTED]**²⁶ Citation Number: TN-864-585 was issued for violation of MCC 9-64-110(d), Parking prohibited – Roadways, sidewalks, bridges and similar locations. Citation Number: TN-864-586 was issued for violation of MCC 9-76-140(a), Exhaust system. Citation Number: TN-864-587 was issued for violation of MCC 9-40-170, Driving or moving a vehicle in unsafe conditions. Citation Number: TN-864-588 was issued for violation of 625 ILCS 3-707, Operating an uninsured motor vehicle. Citation Number: TN-864-589 was issued for violation of 625 ILCS 6-303, Driving on a revoked or suspended license.

COPA obtained the **disposition of the citations issued to [REDACTED]**²⁷ All citations were either Nolle'd Prosequi or non-suited, at the initial court date.

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.

²³ Attachment 2.

²⁴ Attachment 5.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Attachment 17.

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.

VII. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

4. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
5. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
6. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
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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.

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VIII. ANALYSIS

Officer Wirth and Officer Davidson were justified in the stopping and subsequently arresting of [REDACTED]. The Chicago Municipal Code states: “It shall be unlawful to stand or park any vehicle in any of the following places: ... (d) On a sidewalk...”²⁸ The Illinois Vehicle Code states:

“(a) Except as otherwise provided in subsection (a-5) or (a-7), any person who drives or is in **actual physical control** of a motor vehicle on any highway of this State at a time when such person's driver's license, permit, or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, ... shall be guilty of a Class A misdemeanor.”²⁹ (emphasis added).

Observations of a violation of the Chicago Municipal Code allows police officers to temporarily detain an individual in furtherance of investigating the alleged violation of law. During this temporary detention if officers learn of information of other offenses, they may continue to investigate those alleged violations. In this case, Officer Wirth and Officer Donaldson observed a violation of the Chicago Municipal Code, namely, that a 2001 black Chevy Tahoe was parked on the sidewalk, at or near 11106 S. Halsted Chicago, IL. The In-Car Camera video from Beat 2233 corroborated that a 2001 black Chevy Tahoe was parked on the sidewalk at or near 11106 S. [REDACTED]. A vehicle parked on the sidewalk is a violation of MCC-64-110(d). Based on this violation, the officers approached [REDACTED] who was situated in the driver’s seat of the vehicle. After they approached [REDACTED] they subsequently learned that he had a suspended drivers’ license.³⁰ Under the Illinois Vehicle Code, a driver who is in actual physical control of a motor vehicle on a highway, who’s license is suspended, is guilty of a Class A Misdemeanor. [REDACTED] was in actual physical control of the vehicle as he was situated in the driver’s seat of the vehicle, when the officers approached the vehicle. With [REDACTED] being in physical control of a motor vehicle and having a suspended driver’s license, the officers had probable cause to arrest [REDACTED]. Based on clear and convincing evidence, that [REDACTED] violated the Chicago Municipal Code and Illinois Vehicle Code, the officers were justified in the stopping and arresting of [REDACTED]. Therefore, COPA, recommends a finding of **EXONERATED**, with respect to all allegations for each officer.

IX. CONCLUSION

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

| Officer | Allegation | Finding |
|-----------------------|--|------------|
| Officer John Davidson | 1. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Davidson detained [REDACTED] when Officer Davidson stopped [REDACTED] | Exonerated |

²⁸ MCC 9-641-110(d).

²⁹ 625 ILCS 6-303(a)

³⁰ [REDACTED] admitted to knowing that his driver’s license had been suspended for the ten previous years, at the time of the stop.

| | | |
|------------------------------|--|-------------------------------------|
| | <p>Jr., without justification, in violation of Rules 1, 2, 3, 6, 8, 10, 11.</p> <p>2. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Davidson arrested [REDACTED] without justification, in violation of Rules 1, 2, 3, 8, 10, 11.</p> | <p>Exonerated</p> |
| <p>Officer Matthew Wirth</p> | <p>1. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Wirth detained [REDACTED] when Officer Wirth stopped [REDACTED] without justification, in violation of Rules 1, 2, 3, 6, 8, 10, 11.</p> <p>2. On or about April 22, 2019 at approximately 3:17 PM at or near 11106 South Halsted St., Officer Wirth arrested [REDACTED] without justification, in violation of Rules 1, 2, 3, 8, 10, 11.</p> | <p>Exonerated</p> <p>Exonerated</p> |

Approved:

[REDACTED]

2-20-2020

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

| | |
|------------------------------------|---------------------|
| Squad#: | 12 |
| Investigator: | Jason Lee |
| Supervising Investigator: | Andrew Dalkin |
| Deputy Chief Administrator: | Angela Hearts-Glass |