

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	April 21, 2019
Time of Incident:	1:21 p.m.
Location of Incident:	6631 South Oakley Avenue
Date of COPA Notification:	May 22, 2019
Time of COPA Notification:	9:48 a.m.

On April 21, 2019, [REDACTED] ([REDACTED]) was arrested for driving on a revoked license and the vehicle was impounded. [REDACTED] denied driving the vehicle and alleged the officers arrested him, searched and impounded the vehicle without justification. The Civilian Office of Police Accountability (COPA) conducted a thorough investigation and determined there was insufficient evidence to prove [REDACTED] allegations. Additionally, COPA found the officers failed to activate their body worn cameras. A detailed analysis of COPA’s findings are discussed below.

II. INVOLVED PARTIES

Involved Officer #1:	Marlon Dixon, star #13948, employee ID#[REDACTED], Date of Appointment: May 19, 2008, PO, Unit 008, DOB: [REDACTED], 1976, Male, Black
Involved Officer #2:	Antonio Phillips, star #16006, employee ID#[REDACTED], Date of Appointment: September 26, 2005, PO, Unit 008, DOB: [REDACTED], 1980, Male, Black
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1992, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Marlon Dixon	It is alleged by [REDACTED] that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Marlon Dixon, star #13948 committed misconduct through the following acts or omissions, by: 1. arresting [REDACTED] without justification; 2. searching the vehicle without justification; and	Not Sustained Not Sustained

	<p>3. impounding the vehicle without justification.</p> <p>It is alleged by COPA by and through Deputy Chief Angela Hearts-Glass that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Marlon Dixon, star #13948 committed misconduct through the following acts or omissions, by failing to comply with S03-14 by failing to activate your body worn camera.</p>	<p>Not Sustained</p> <p>Sustained/</p>
<p>Officer Antonio Phillips</p>	<p>It is alleged by [REDACTED] that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Antonio Phillips, star #16006 committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. arresting [REDACTED] without justification; 2. searching the vehicle without justification; and 3. impounding the vehicle without justification. <p>It is alleged by COPA by and through Deputy Chief Angela Hearts-Glass that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Antonio Phillips, star #16006 committed misconduct through the following acts or omissions, by failing to comply with S03-14 by failing to activate your body worn camera.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p>

IV. APPLICABLE RULES AND LAWS

<p>Rules</p>
<p>1. Rule 6: Disobedience of an order or directive, whether written or oral.</p>
<p>Special Orders</p>
<ol style="list-style-type: none"> 1. S03-14 Body Worn Cameras 2. S04-13-09 Investigatory Stop System 3. S04-14-05 “Traffic Violators, Name Checks and Bonding” 4. S07-03-05 “Impoundment of Vehicles for Municipal Code Violations”

Federal Laws

1. United States Constitution, Amendment IV: Prohibits search and seizure without probable cause.¹

V. INVESTIGATION²**a. Interviews**

In an **interview with COPA**, on May 24, 2019, ██████████ (██████████) stated, on April 21, 2019, he was standing near his friend's³ vehicle, behind the trunk area, with three other male friends,⁴ when an unmarked police vehicle came up and the passenger officer, now identified as Officer Phillips, asked for ██████████ identification ("ID"). ██████████ was confused, asking who the officer was talking. Officer Phillips exited the police vehicle and demanded ██████████ ID. Although ██████████ had both a state ID and driver's license, ██████████ provided his driver's license because it was the first card he found. Officer Phillips called in ██████████ information and told ██████████ his license was revoked. Officer Phillips arrested ██████████. Then, asked the other three men for their IDs. ██████████ did not believe either officer ran the other men's names because ██████████ did not see anyone enter the information in the police vehicle's computer. Officer Phillips searched ██████████ friend's vehicle.

██████████ believed he was arrested for talking back to the officer because although the keys were in the car and music was playing, ██████████ was not driving, and it was not his vehicle. ██████████ stated he had seen these officers before but did not have any interactions with them.⁵

In an **interview with COPA**, on February 4, 2020, **Officer Marlon Dixon, star #13948, (Officer Dixon)** stated, on April 21, 2019, he was working with his partner, Officer Phillips, on patrol in an unmarked Ford Explorer. They were in plain clothes. Officer Dixon did not have any independent recollection of this incident. Officer Dixon provided his statement according to the Arrest Report (the "Report") and his standard practices. Officer Dixon stated that the officers stopped ██████████ because he and his passenger were not wearing seatbelts as they drove westbound on 65th Street. When the officers ran ██████████ name, the information showed ██████████ license was revoked so the officers placed ██████████ into custody. ██████████ was transported to the District 008 police station and his vehicle impounded. Officer Dixon did not recall the identity of ██████████ passenger. Officer Dixon stated, while he normally would run the name of a passenger in the vehicle, he confirmed, according to the Event Query, the officers did not run the passenger's name in this incident. Additionally, he stated the officers will often run the license plate before they approach the vehicle, but he did not recall this incident.

¹ "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

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 ██████████ did not provide his friend's name but stated his friend had walked away before the police arrived. Tow Report documents two registered owners for the vehicle, ██████████ and ██████████. See Attachment 18.

⁴ ██████████ provided nicknames, not real names, for the three other males and no contact information.

⁵ Attachments 4, 5.

When asked how he would respond to [REDACTED] allegation that [REDACTED] was on the sidewalk hanging out with friends and not in the vehicle when the officers stopped him. Officer Dixon stated it would have been written in the Report. Officer Dixon stated if he stopped an individual who was not driving a vehicle, he would not consider it a traffic stop and he would not stop an individual for not wearing a seatbelt if the vehicle was parked.

Officer Dixon denied [REDACTED] allegations. Officer Dixon stated [REDACTED] was arrested for driving on a revoked license. Officer Dixon did not believe he nor Officer Phillips searched [REDACTED] vehicle because it would have been written in the Report. Officer Dixon stated a vehicle can and will be impounded due to a revoked or suspended license. Officer Dixon stated he normally records on his BWC, but he did not find a recording for this incident and did not know why he did not activate his BWC. When asked why the Report indicates this incident was a BWC event, Officer Dixon stated because normally he and Officer Phillips activate their BWC and they did not review the video to complete the Report. Officer Dixon did not have any previous interactions with [REDACTED].⁶

In an **interview with COPA**, on February 4, 2020, **Officer Antonio Phillips, star #99240, (Officer Phillips)** stated he did not have any independent recollection of this incident, other than the vehicle was red. Officer Phillips stated this because this was a normal arrest and nothing out of the ordinary occurred. Officer Phillips stated he wrote the Arrest Report (Report) and provided a statement according to the Report.

Officer Phillips stated he normally runs the vehicle's license plate, if possible, and the names of any passengers in the vehicle. If the passenger's name clears, shows no warrant, he would release the passenger and not include them in the Report. Officer Phillips confirmed, after reviewing the Event Query, [REDACTED] name was the only name run during this incident.

When asked how he would respond to [REDACTED] allegation that he was not driving, and the officers stopped him while he was on the sidewalk hanging out with friends, while music played from the vehicle. Officer Phillips said [REDACTED] was lying. Officer Phillips stated, per [REDACTED] scenario, he would have told [REDACTED] and his friends to turn down the music and left without any documentation. Officer Phillips would not have documented it as a traffic stop, he would not have required [REDACTED] to provide his driver's license, and he would not have connected [REDACTED] with the vehicle.

Officer Phillips denied [REDACTED] allegations. Officer Phillips stated [REDACTED] was arrested for driving on a revoked license, and the vehicle was impounded according to Department procedure and Illinois law. Although Officer Phillips did not recall searching the vehicle, he normally searches a vehicle that is being impounded. Officer Phillips believed he activated his BWC because he always does, specifically during an arrest. He did not search for a recording. When asked why the Report indicates this incident was a BWC event, Officer Phillips stated because he always records arrests and he did not review the BWC to complete the Report. Officer Phillips stated he had never seen [REDACTED] before this incident.⁷

⁶ Attachment 20.

⁷ Attachment 23.

b. Digital Evidence

The was no **body worn camera** or **in-car camera** that captured this incident.⁸

c. Documentary Evidence

According to the **Department Reports**, while on routine patrol, Officers Phillips and Dixon observed a red Nissan Sentra traveling westbound at 2300 West 65th Street where the driver, [REDACTED] and front passenger were not wearing seatbelts. Officers pulled the vehicle over. [REDACTED] provided his driver's license, which the officers ran a name check via Office of Emergency Management. [REDACTED] driver's license came back as revoked. [REDACTED] was placed into custody, transported to District 008, and the vehicle impounded.⁹

Office of Emergency Management and Communications (OEMC) Event Query Report documented Officers Dixon and Phillips conducted a traffic stop at 6631 South Oakley Avenue. OEMC ran [REDACTED] driver's license number, which returned as revoked. The officers transported one individual to District 008 police station. The vehicle [REDACTED] was driving was impounded due to revoked license and towed from the District 008 police station.¹⁰

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 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

⁸ Attachment 17.

⁹ Attachments 7, 18.

¹⁰ Attachments 9-11.

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

a. There is insufficient evidence to determine whether Officer Dixon and Officer Phillips arrested ██████████ without justification

COPA finds the allegation that Officer Dixon arrested ██████████ without justification is **Not Sustained**. An officer may arrest an individual when the officer has probable cause to believe the individual committed a crime. In Illinois, it is unlawful to drive a motor vehicle on a revoked license.¹¹ ██████████ stated he was not driving when the officers stopped him. Contrarily, the officers stated ██████████ was driving without wearing a seatbelt, and he was arrested after a name check revealed his license was revoked. While the OEMC Event Query and Department Reports, written by the officers at the time of the incident, support the officers’ accounts, there are no independent witnesses or video to corroborate the incident as described by ██████████ or the officers. Therefore, there is insufficient evidence to determine whether ██████████ was driving, and this allegation is **Not Sustained**.

b. There is insufficient evidence to determine whether Officer Dixon and Officer Phillips searched the vehicle without justification

COPA finds the allegation that Officer Dixon searched the vehicle without justification is **Not Sustained**. “Whenever a Department member has probable cause to believe that a vehicle is subject to impoundment pursuant to a violation of the Municipal Code of Chicago, the member will remove and inventory personal property found within the vehicle.”¹² When an individual operates a vehicle with a suspended or revoked driver’s license, the vehicle is subject to impoundment.¹³ Although neither officer recalls searching the vehicle, Officer Phillips explained his standard practice is to search a vehicle that is being impounded. Department policy would allow the officers to perform an inventory search of a vehicle before they impounded it, however, as discussed below, there is insufficient evidence to determine whether the officers could impound the vehicle. Therefore, there is insufficient evidence to determine whether the officers were able to search the vehicle, and this allegation is **Not Sustained**.

c. There is insufficient evidence to determine whether Officer Dixon and Officer Phillips impounded the vehicle without justification

COPA finds the allegation that Officer Dixon impounded the vehicle without justification is **Not Sustained**. When an individual operates a vehicle with a suspended or revoked driver’s license, the vehicle is subject to impoundment.¹⁴ A vehicle may be towed, immediately, when the

¹¹ 625 ILCS 5/6-303.

¹² Special Order S07-03-05 III.B.7. ” Warrantless inventory searches of cars in police custody are also proper as long as the police lawfully have custody of the vehicles.” *United States v. Jensen*, 169 F.3d 1044, 1048 (7th Cir.1999).

¹³ Municipal Code of Chicago 9-80-240(a).

¹⁴ Municipal Code of Chicago 9-80-240(a).

arrestee does not possess a valid driver's license.¹⁵ ██████ stated he was not driving and the vehicle was not his. Officer Dixon and Officer Phillips stated they impounded the vehicle after observing ██████ driving the vehicle and a name check revealed ██████ had a revoked license. While there is evidence that ██████ had a revoked license at the time of this incident, there were no independent witnesses or video to corroborate the officers' account that ██████ was driving the vehicle. Therefore, there is insufficient evidence to determine whether the officers impounded the vehicle without justification, and this allegation is **Not Sustained**.

d. Officer Dixon and Officer Phillips failed to activate their BWC

COPA finds the allegation that Officer Dixon failed to activate his BWC is **Sustained**. An officer will start recording, on BWC, and record the entire incident for all law-enforcement-related activities, which include but are not limited to traffic stops, searches of vehicles, and any instance when enforcing the law. If circumstances prevent activating the BWC at the beginning of the incident, the member will activate the BWC as soon as practical.¹⁶ Here, the officers stated they conducted a traffic stop that led to ██████ arrest. The officers insisted they normally activate their BWC for situations such as this incident. Officer Dixon admitted he did not find a recording for this incident. The officers did not allege circumstances that prevented them from activating their BWC. Therefore, Officer Phillips failed to activate his BWC per Department policy, and this allegation is **Sustained**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Marlon Dixon

Officer Dixon's complimentary, training and disciplinary histories were considered in recommending discipline in this matter. Officer Dixon received a reprimand for Preventable Accident March 25, 2020. Based on the sustained allegations in this case, COPA recommends Officer Dixon receive a reprimand.

b. Officer Antonio Phillips

Officer Phillips's complimentary, training and disciplinary histories were considered in recommending discipline in this matter. Officer Dixon does not have a history of discipline. Based on the sustained allegations in this case, COPA recommends Officer Phillips receive a reprimand.

¹⁵ Special Order S04-14-05 IV.A.1. *See* 720 ILCS 5/36-1(a)(6)(D).

¹⁶ Special Order S03-14 III.A.2.

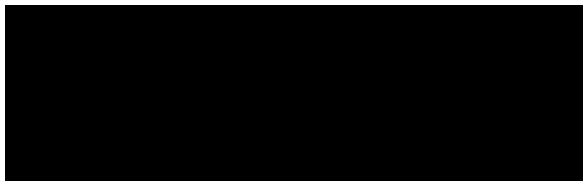
IX. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Marlon Dixon	<p>It is alleged by ██████████ that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Marlon Dixon, star #13948 committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. arresting ██████████ without justification; 2. searching the vehicle without justification; and 3. impounding the vehicle without justification. <p>It is alleged by COPA by and through Deputy Chief Angela Hearts-Glass that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Marlon Dixon, star #13948 committed misconduct through the following acts or omissions, by failing to comply with S03-14 by failing to activate your body worn camera.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained/Reprimand</p>
Officer Antonio Phillips	<p>It is alleged by ██████████ that on or about April 21, 2019 at approximately 1:21 p.m. at or near 6631 South Oakley Avenue, Officer Antonio Phillips, star #16006 committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> 1. arresting ██████████ without justification; 2. searching the vehicle without justification; and 3. impounding the vehicle without justification. <p>It is alleged by COPA by and through Deputy Chief Angela Hearts-Glass that on or about April 21, 2019 at approximately</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained/Reprimand</p>

1:21 p.m. at or near 6631 South Oakley Avenue, Officer Antonio Phillips, star #16006 committed misconduct through the following acts or omissions, by failing to comply with S03-14 by failing to activate your body worn camera.

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

7-21-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	Six
Major Case Specialist:	Elizabeth Brett
Supervising Investigator:	Elaine Tarver
Deputy Chief Administrator:	Angela Hearts-Glass