

## SUMMARY OF INCIDENT

On July 24, 2015, at approximately midnight, Officer A, Officer B, and Officer C, all assigned to Gang Enforcement Unit North, were driving near the intersection of Springfield Avenue and Ferdinand Avenue and observed a male, later identified as Subject 1, shouting, “weed, weed.” As the officers proceeded south on Springfield Avenue from Ferdinand Avenue, a short foot pursuit ensued. The foot pursuit ended in the rear of XXXX N. Springfield Avenue with the arrest of Subject 1. It is alleged that while Subject 1 was being arrested and lying on the ground, he was kicked in the face by Officer A. Subject 1 further alleges that Officer A punched him in the mouth and stuck up/held up his middle finger at him. It is further alleged that while kneeling on the ground Subject 1 was struck in the head twice by an unknown officer. The Civilian Office of Police Accountability (“COPA”) reviewed these allegations<sup>1</sup>.

## ALLEGATIONS

It is alleged that on July 24, 2015, at approximately 12:15 AM, near XXXX N. Springfield Avenue, **Officer A:**

- 1) Kicked Subject 1 once in the mouth while he was face down on the ground after complying with verbal direction.
- 2) Made an obscene gesture, in that he stuck up or held his middle finger towards Subject 1.

It is alleged that on July 24, 2015, at approximately 12:15 AM, near XXXX N. Springfield Ave., **an unknown officer:**

- 1) Struck Subject 1 twice on the head as he was kneeling on the ground.

## APPLICABLE RULES AND LAWS

**Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.

**Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

## INVESTIGATION

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<sup>1</sup> 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. Thus, 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.

On July 29, 2015 **complainant Subject 1** gave an audio interview to IPRA. Subject 1 stated he and a friend, later identified as Civilian 1, were walking down the street. While they were walking, a blue Crown Victoria with three white males pulled up behind them and the rear passenger jumped out of the vehicle and chased after them. Subject 1 stated, “when they arrived all I heard was the screeching of tires.” Subject 1 stated Civilian 1 began to run, and being fearful with “so much killing going on in the area,” he ran as well. Subject 1 stated he ran through the gangway. Subject 1 stated as he approached the back of the alley, an officer came through and hit him in the mouth. Subject 1 stated he and Civilian 1 were both on their knees when he was struck in the mouth with a closed fist. Subject 1 described the officer that hit him in his mouth as having “coal” black hair. Subject 1 also stated two unknown officers were hitting him on the head. Subject 1 further stated when the officers got him off the ground they saw he was bleeding. Subject 1 stated the officers asked for any contraband, i.e., guns and drugs, they were carrying. Subject 1 stated he and Civilian 1 did not have any.

Subject 1 later learned the officers allegedly took cannabis from Civilian 1 and told him to leave. However, Subject 1 stated he did not see the officers take any cannabis from Civilian 1. Subject 1 states he was informed of the charges against him after he was arrested and placed in the police vehicle. Subject 1 stated the officers said they, “had to take me to the hospital because it was procedure.” Subject 1 said an unidentified white male plainclothes officer laughed at Subject 1 when he was in the emergency room and said, “He fell on the ground and hit his mouth.” Subject 1 stated after receiving medical treatment at the hospital, he was taken to the district and processed in the lockup (Att. 24-26).

Multiple attempts by IPRA to interview **reporting party Witness 1** proved unsuccessful. Witness 1 failed to appear for scheduled interviews on 25 July 2015, 29 July 2015 and 19 August 2015 (Att. 55 & 57).

Multiple attempts by IPRA to interview **Civilian 1** proved unsuccessful. IPRA mailed letters to Civilian 1 via first class and certified U.S. mail August 15, 2015, to XXXX West Fulton Blvd. On October 27, 2015, a personal visit was made at XXXX West Fulton Blvd, with no answer and a business card left, on October 27, 2015 IPRA also mailed contact letters via first class and certified U.S. mail to Civilian 1 at XXXX South Trumbull on July 18, 2016 with no response. (Att. 30, 37, 54 & 56).

The **Arrest Report** documents Subject 1 was arrested at approximately 12:01 AM on July 24, 2015, at XXXX N. Springfield Ave. for Possession of Cannabis/ 10-30 grams and Soliciting Unlawful Business. The Arrest Report states officers observed Subject 1 standing on the sidewalk in a high narcotics location shouting, “weed, weed” to passing vehicles and citizens, which is the street term for the illegal sale of cannabis. Subject 1 then approached a red 4-door sedan that was parked. The Arrest Report further states that as the officers neared, Subject 1 looked in the officers’ direction and then fled on foot. The officers gave chase on foot at which time Subject 1 fell while running between a car and the fence in the backyard of the above location. The officers

placed Subject 1 into custody with Officer A recovering one clear plastic bag containing fourteen ziplock bags of suspect cannabis from Subject 1's left hand. Subject 1 received a laceration to his upper lip from falling to the ground running. The officers read Subject 1 his Miranda Rights and transported him to St. Anthony Hospital where he was treated and released. The officers then transported Subject 1 to the XX<sup>th</sup> District for processing. Subject 1's mugshot shows what appears as blood on his t-shirt. Subject 1's upper left lip appears swollen (Att. 4,5 & 6).

**Chicago Police Department Event Query #1520500101** indicates that on July 24, 2015, at approximately 12:09 AM, Gang Enforcement Team Beat XXXXG made a street stop at XXXX N. Springfield Ave. The Event Query states that Beat #XXXXR responded to the location and transported one person to the XX<sup>th</sup> District for Beat XXXXG. The Event Query document also indicates that Beat XXXXG obtained RD #HYXXXXXX in relation to the street stop (Att. 11).

**Contact Card #ACC002401464**, completed on July 24, 2015, at approximately 12:01 AM by Officer B, indicates an investigatory stop involving Civilian 1 at XXXX N. Springfield Ave (Att. 41).

**Medical records** from St. Anthony Hospital indicated Subject 1 arrived at 12:45 AM on Friday, July 24, 2015. The triage section of the records state that at 1:53 AM Subject 1 was "brought in by CPD for medical clearance after he sustained a laceration to upper lip at 12 Midnight." The records indicate that Subject 1 stated he "does not know how he sustained the laceration. No active bleeding noted." In the chief complaint section, it states that Subject 1 "was in the ED in CPD custody for injury to the upper lip. Pt stated was punched in the face." The medical records indicate Subject 1 received 3 stitches/staples (Att.35).

On February 17, 2016, **accused Officer A** gave an audio recorded interview to IPRA. Officer A stated at approximately 12:15 AM on July 24, 2015, he was assigned to the Gang Enforcement Area North, working with Officer B and Officer C. Officer A stated he was in civilian dress driving an unmarked vehicle, possibly a Ford Explorer, but was not positive on the vehicle make and model. Officer A stated he was driving on patrol near the XXXX block of Springfield Ave., a high narcotics area, when he observed an individual, later identified as Subject 1, "shouting 'weed, weed' the street term for the illegal sale of cannabis, to passing citizens and vehicles." Officer A stated at that time, he turned northbound onto the XXXX block of Springfield Ave. from Ferdinand Ave. Officer A stated the "individual that was shouting started to approach a red vehicle that had pulled over and parked after he was shouting." Officer A stated that the individual looked in his direction, and then fled on foot through the gangway.

Officer A stated Officer B exited the vehicle and ran after him on foot through the gangway. Officer A stated he reversed his vehicle back onto Ferdinand Ave. and went westbound. Officer A stated he looked down the alley and did not see anyone cross over to Harding, so he drove southbound in the west alley of Springfield on the XXXX block. Officer A stated he stopped in front of the yard of the gangway at XXXX N. Springfield Ave. After Officer C exited the vehicle

first, Officer A stated he followed. He then stated that Subject 1 was running in their direction, looked at them, and then turned back around and began running in the opposite direction. Officer A stated Subject 1 started running in between a parked car in the yard and the fence. At that time, Officer A stated Subject 1 somehow slipped and fell onto the ground. He also stated Subject 1 fell “face down onto the ground.” Officer A stated that Officer C began to handcuff Subject 1, and that he assisted in the cuffing. Officer A stated at that time he recovered a bag containing suspect cannabis. Officer A stated after standing Subject 1 up, he observed he was bleeding from his lip. Officer A stated he drove Subject 1 and his partners to the hospital and then went back to the district. He also stated that after he was done with the paperwork he drove back to the hospital. Officer A stated it was “absolutely false” that he struck Subject 1 in the mouth. He also stated that neither Officer C nor Officer B struck Subject 1 in the mouth. Officer A said it was “not true” he stuck up his middle finger at Subject 1. Additionally, Officer A stated that neither Officer C nor Officer B punched Subject 1 in the head. Officer A stated he did not observe any other injury to Subject 1. (Att. 47-48)

**In a Written Report** dated March 30, 2016, **witness Officer B** stated on July 24, 2016, at approximately 12:15 AM, he was assigned and on duty in civilian dress with the Gang Enforcement Division Squad No.XXXX. Officer B stated he was working with Officer A and Officer C. He further stated while patrolling that date, Subject 1 was observed and heard soliciting the unlawful sale of cannabis. Officer B stated he and the officers he was working with approached Subject 1 to place him into custody for the solicitation of cannabis. During the approach, Officer B stated Subject 1 fled on foot but was detained and placed into custody a short time later. Officer B stated during a custodial search, Subject 1 was found to be in possession of cannabis. Officer B said he did not recall any other officers assisting in the arrest of Subject 1. He further stated he did not recall Subject 1’s demeanor to be “anything out of the ordinary but rather respectful and jovial.” Officer B stated he never observed Officer A punch or hold up his middle finger at Subject 1 at any time. Additionally, Officer B stated he “never observed any other officer punch Subject 1 about the head” (Att. 51).

On September 29, 2017, **Officer B** gave an audio interview with COPA. Officer B stated at approximately midnight on Friday, July 24, 2015, he was working with Officer A and Officer C, as part of the Gang Enforcement Area North Team, Squad No. XXXX. Officer B stated that he was wearing civilian dress and riding in an unmarked Ford Explorer with Officer A and Officer C. Officer B stated he frequently worked with Officer A and Officer C. Officer B stated they were on patrol near Springfield Ave. and Ferdinand Ave, a narcotics sales location known for “open air markets.” Officer B stated they were at the location “to see if any activity [was occurring] at that time.” Officer B stated they observed a subject, later identified as Subject 1, shouting “weed, weed” at the north end of Springfield Ave. near Ferdinand Ave. Additionally, Officer B stated there was another subject in the vicinity, later identified as Civilian 1. Officer B stated Subject 1 was approaching a vehicle, “saw us, and ran through a gangway, and the other subject Civilian 1 followed suit with him.” Officer B stated that Officer C “got out of the vehicle, ran down that

gangway, and Officer A and myself went with the vehicle into the alley, and then got out.” Officer B stated he detained Civilian 1 and “Officer C and Officer A placed Subject 1 into custody.” Officer B stated he and Officer A were going from the east to the west from the alley into the gangway and that Officer C and the fleeing subjects were coming from the east to the west in the gangway. He also stated that the only people in front of him were the fleeing subjects and Officer C.

Officer B stated he did not recall if he was in front of Officer A or if Officer A was behind him. Officer B stated he believed Officer C arrested Subject 1. He also stated he wasn’t sure if Officer A assisted Officer C in placing Subject 1 into custody. However, Officer B stated Officer C was between a vehicle and a fence, and he believed Officer A went over to help him. Officer B stated he did not actually see when Subject 1 was placed into custody because he “was dealing with Civilian 1.” Officer B stated Civilian 1 was not arrested and that he “Contact Carded him.” When asked about Subject 1’s demeanor when arrested, Officer B stated he believed he “was a little agitated, but other than that nobody is really ever happy being arrested.” Officer B stated Subject 1 had to go to the hospital, although he did not see how Subject 1 was injured. He stated either Officer C or Officer A said that while Subject 1 was “running from the back he had tried to jump the fence, I believe he was between a fence and a car, and fell from that fence and landed on the sidewalk and had a laceration on his lip.” Officer B stated he believed that he and Officer C transported Subject 1 to St. Anthony Hospital.

Officer B stated he did not recall what Subject 1 said to medical staff at St. Anthony Hospital as to how he received his injury. Officer B stated he did not observe Officer A punch Subject 1 in the face. Officer B stated that at some point he was in physical contact with Subject 1 through escorting him to the unmarked police vehicle.

Officer B stated he did not hit Subject 1. While at St. Anthony Hospital, Officer B stated that he was with Subject 1. He also stated he did not recall Officer A’s demeanor towards Subject 1. Officer B stated he did not recall Officer A giving Subject 1 an obscene gesture at the hospital. Officer B stated Subject 1’s demeanor at the hospital “was fine, he was calm.” Officer B stated prior to this incident, he had no contact with Subject 1. However, he did state that Subject 1 “seemed to know Officer A from past dealings.” Officer B stated after Subject 1 left the hospital, he was transported back to the district for processing. Officer B stated he did not recall Subject 1 saying anything about how he’d been treated while being processed at the district (Att. 63).

**In a To-From Report** dated March 21, 2016, **witness Officer C** stated on 24 July 2016, the date indicated in the report, at 12:15 AM, he was assigned to the Gang Enforcement North, Squad No. XXXX<sup>2</sup>. Officer C said he was working with Officer A and Officer B. Officer C stated he was involved in the arrest of Subject 1 at XXXX N. Springfield Ave for the possession of cannabis and soliciting unlawful business. Officer C also stated that he did not recall any other assisting officers

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<sup>2</sup> Officer C has been promoted to the rank of sergeant since this incident occurred.

specifically in the arrest of Subject 1, besides those already listed. He also stated that Subject 1 originally fled from the officers as he was to be placed into custody for soliciting business. Officer C stated he did not have any direct interaction with Subject 1 in which his demeanor could be assessed prior to him being placed into custody and the cannabis was recovered. Once in custody, Officer C stated Subject 1's demeanor was calm and polite, even when he noticed he was bleeding. Officer C stated he recalled Subject 1, while in the emergency room, discussing with him about "wanting to leave that life behind" and even his desire to be a police officer. Officer C stated he never observed Officer A punch Subject 1 on the mouth. Additionally, he said he never saw Officer A hold up his middle finger to Subject 1. Officer C stated he did not observe any officer punch or strike Subject 1 about the head (Att. 52).

On October 11, 2017, **Officer C gave an audio recorded interview** with COPA. Officer C stated he held the rank of police officer as of Friday July 24, 2015. Officer C stated at approximately midnight, he was working as part of a Gang Enforcement Team in civilian dress and unmarked vehicle, with Officer A and Officer B. Officer C stated none of the team was issued Body Worn Cameras at that time. He stated that approximately around midnight the team was on patrol in area of Springfield Avenue and Ferdinand Avenue. Officer C stated the team was in that location because of its reputation for "high crime, high volume of narcotics sales, and during that summer, a number of shootings on those corners within those two blocks east and west on Ferdinand."

Officer C stated he observed Subject 1, the complainant, yelling, "weed, weed" within the XXXX block Springfield Ave., north of Ferdinand Ave. He also stated that apparently Subject 1 had not observed the officers at that point. Officer C stated he saw the Subject 1 approaching a red vehicle that pulled over to park, believing it was an attempt to sale suspected cannabis. Officer C stated as the Gang Enforcement Team turned their vehicle onto northbound Springfield Ave from Ferdinand Ave., and Subject 1 approached the stopped red vehicle, he looked in the direction of the Gang Enforcement Team's vehicle. Officer C stated as he approached Subject 1 on foot, Subject 1 began running. Officer C stated he pursued Subject 1 westbound on foot across a city lot, down the gangway of what he believed was XXXX N. Springfield Ave.

Officer C further stated that residence was "a ranch house with a carport in the rear and two parked vehicles, one parked in a north spot the other in a south spot." He stated that Subject 1 ran westbound and "almost made it to the alley but he was still in the carport, ran southbound, then came back east along that southern car." Officer C stated there was a fence next to the car with overgrowth and vines, and that Subject 1 attempted to jump it, but either slipped with his foot or his hands and went to the ground. Officer C stated he was then able to get on top of Subject 1 on the ground, and by then, Officer A was right behind him. Officer C stated he went to handcuff Subject 1 and that Officer A grabbed a hand which still had weed in it. He further stated that Officer A continued to assist in handcuffing the complainant, who when starting to sit or stand up may have said "I'm bleeding." Officer C stated that's when he noticed there was "blood on the floor" and that Subject 1 "had a busted lip, and we brought him to the hospital." Officer C stated there were people outside during the foot pursuit, but other than the person that fled with Subject

1, later identified as Civilian 1, there was no one else present nor did he notice anyone taping during the incident. Officer C stated there may have been assist units from the XX<sup>th</sup> District that arrived at the location when “calling out the chase,” but none were directly involved in the arrest of Subject 1. Officer C stated Civilian 1 fled along with Subject 1, but that Officer B had initial contact with Civilian 1. Officer C stated at that point he was only concerned with Subject 1 since “he had solicited the red vehicle, looked in their direction, and fled.” Officer C stated that at point of arrest, Subject 1 was saying he was bleeding, but that on the way to the hospital his demeanor was “very apologetic, said he was sorry he ran, if that he knew it was us in the transformer [the Gang Officers] that he wouldn’t have ran.” Officer C stated Officer A dropped him, Officer B and Subject 1 at St. Anthony Hospital while he returned to the district to complete the paperwork. Officer C stated while he and Officer B were in the waiting room at St. Anthony Hospital with the Subject 1, that he was very talkative towards them and that his lip had stopped bleeding. Officer C further stated that Subject 1 said, “he wanted to leave the life, he didn’t want to sell drugs, I think he was only doing it for his kids, that he wanted to be the police, but because of his record he couldn’t be.” Officer C stated Subject 1 spoke at length with him and Officer B in the waiting room while awaiting a bed.

He also stated once Subject 1 got a bed, he fell asleep. Officer C further said Subject 1’s demeanor was non-confrontational, stating he believed the complainant was given “water, pop, some graham crackers,” while in the waiting room. When asked what Subject 1 said to medical staff at St. Anthony Hospital as to how he received his injuries, Officer C’s replied “I believe he said he fell” and that he “didn’t remember him making any statements otherwise.” Officer C stated prior to this incident he believed he had no previous contact with Subject 1.

When asked what type of force was used to arrest Subject 1, Officer C stated, “there was no use of force.” Officer C stated “once Subject 1 went down on the ground, I got on his back and grabbed his right hand and that’s when Officer A grabbed his left hand, and that’s just because I’m right handed. So, when I was behind him I instinctively go for the right hand. Officer A when he got behind me went for the left hand, and that happened to be where the cannabis was.” Officer C stated Officer A did not punch Subject 1 and that if he did, “he would’ve had to punch me first, at the arrest point, because I was between the two of them.” Officer C stated that he did not receive any injuries, nor did Officer A from effecting Subject 1’s arrest. Officer C stated he could not recall if Officer A had any further contact with Subject 1 at St. Anthony’s Hospital. He further stated that by the time Officer A returned from the XX<sup>th</sup> District to the hospital, Subject 1 had a bed and was asleep. Officer C stated at no time at the hospital did Officer A make an obscene gesture at Subject 1. After being released from St. Anthony Hospital, Officer C stated Subject 1 was conveyed to the XX<sup>th</sup> District lockup for processing. To Officer C’s recollection, Subject 1 made no statements to XX<sup>th</sup> District lockup personnel on how he received his injuries. He also stated that if Subject 1 said he wanted to make a complaint, he “could’ve filed a complaint because lockup keepers would’ve filed a complaint right then and there.” Officer C also stated at no time was Officer A alone with Subject 1 (Att. 64).

On November 9, 2017 **witness Officer D gave an audio recorded interview** with COPA. Officer D stated he had no recollection of any events that occurred on Friday, July 24, 2015. When asked, Officer D stated he did not know Officer A, Officer C, or Officer B.

On November 9, 2017 **witness Field Training Officer A, gave an audio recorded interview** with COPA. Field Training Officer A stated he “had no recollection of this event.” Field Training Officer A also stated that he did not know Officer A, Officer C, or Officer B.

## **ANALYSIS**

COPA’s burden of proof is based on the preponderance of evidence standard. COPA’S investigation reveals that Officer A, Officer C and Officer B, with minor differences, i.e., direction regarding the police vehicle or exactly whether Officer C or Officer B pursued Subject 1 on foot, are consistent in their remembrance of the investigation and effecting the arrest of Subject 1. The discrepancies are not believed as deliberate deception by the officers, but mistaken remembrance given how long ago the incident occurred. Subject 1 was observed by Gang Enforcement North, Unit no. XXXX, consisting of Officer A, Officer C, and Officer B, standing on Springfield Ave., just north of Ferdinand Ave. Subject 1 was observed shouting, “weed, weed” the known street vernacular for cannabis, in violation of MCC § 10-8-515, Soliciting Unlawful Business, of the City of Chicago Code. The ordinance states:

“(a) No person may: (I) stand upon, use or occupy the public way to solicit any unlawful business; or (ii) interfere with or impede any pedestrian or anyone in a vehicle public way, for the purpose of soliciting any unlawful business.

b. As used in this section, ‘unlawful business,’ means any exchange of goods or services for money or anything of value, where the nature of the goods or services, or the exchange thereof, is unlawful. Unlawful business includes, but is not limited to, prostitution or the illegal sale of narcotics. For purposes of this section, ‘soliciting’ may be words, gestures, symbols or any similar means.”

Subject 1’s verbal statements, and any accompanying gestures, coupled with the approaching red vehicle that pulled over to park, created the probable cause for the officers to believe that the sale of suspected cannabis was about to occur. Subject 1 admitted in his audio recorded interview that he fled the location of Springfield Ave. and Ferdinand Ave., not for doing any illegal activities, but rather being fearful of unknown persons in a fast approaching vehicle. Officer A, Officer C and Officer B stated Subject 1 and Civilian 1 fled on foot from the location to avoid apprehension. In the process of fleeing, Officer C stated Subject 1 fell while attempting to climb a fence, striking his face on the ground in the rear gangway of XXXX N. Springfield Ave. While effecting Subject 1’s arrest, Officer A recovered one clear plastic bag containing fourteen ziplock bags of suspect cannabis from Subject 1’s left hand. Officer C and Officer B stated they conveyed Subject 1 to St. Anthony Hospital where he received treatment for a lacerated upper lip. Conflicting statements by Subject 1 to medical staff, i.e., that “he does not know how he sustained the laceration,” and



later saying he “was punched in the face,” reveal inconsistencies in his statements as to what actions may have occurred by which CPD officers while effecting his arrest.

Neither of Subject 1’s witnesses, Witness 1 nor Civilian 1, made themselves available for interviews by IPRA. Additionally, there is no independent corroboration to affirm that more likely than not, the alleged allegation against Officer A occurred, nor identification of the alleged unidentified other officer that Subject 1 stated kicked him on the ground. The injuries Subject 1 sustained could have occurred if he indeed fell as stated by the involved officers, and without corroboration of his story, COPA cannot prove the allegations.

### CONCLUSION

Based on these factors, the Civilian Office of Police Accountability recommends a finding of **Not Sustained** for Allegation #1 against Officer A that he kicked Subject 1 once in the mouth while he was face down on the ground after complying with verbal direction. COPA also recommends that Allegation #2, that Officer A made an obscene gesture, in that he stuck up or held his middle finger towards Subject 1, be **Not Sustained**, as it cannot be proved or disproved. COPA recommends that Allegation #1 against an Unknown Officer be **Not Sustained** as there is no evidence to support an identification of this officer, nor is there evidence to prove or disprove that this allegation occurred as alleged.

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Investigator

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Sup. Investigator

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Deputy Chief