

## INTRODUCTION

On June 15, 2017, at approximately 2:00 A.M., Chicago Police Officers A #XXXX and B #XXXX, were on routine patrol when they spotted Subject 1 (the complainant) walking northbound on XXXXX Avenue at XXXXX Boulevard. The Officers approached Subject 1 based on a description given by OEMC regarding a suspect in a battery. The Officers drove their vehicles up to the curb, stopped, and exited to question and detain Subject 1. Upon questioning Subject 1, the officers attempted to place him under arrest. During the arrest, assisting Officer C deployed his Taser, striking Subject 1. Subject 1 alleges that the force used was excessive.

## ALLEGATIONS

It is alleged that on June 15, 2017 at approximately 2:00 AM, **Police Officer C Star #XXXX**:

1. Unnecessarily deployed his Taser pistol multiple times while arresting Subject 1.

## 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.

Rule 38: Unlawful or unnecessary use or display of a weapon.

## INVESTIGATION

The Civilian Office of Police Accountability (“COPA”) obtained relevant documentary evidence associated with this incident. Additionally, COPA interviewed Subject 1.

### Documentary Evidence

**Body Worn Camera** footage exists for this incident. The Body Worn Camera footage covers multiple angles of the arrest:

Officer A’s body worn camera shows the officer running over to other officers attempting to arrest Subject 1. Subject 1 can be heard asking why the officers are putting their hands on him. The officers are telling Subject 1 to relax and that they just want to talk to Subject 1. Officer C can be seen pointing the Taser at Subject 1 and pressing it against him, as the officers tell Subject 1 they have a Taser on Subject 1. The officers are telling Subject 1 to relax and that they just want to talk to Subject 1. This camera’s footage does not capture the moment the Taser is deployed. After the Taser is deployed, Officers can be seen waiting for EMS to arrive and treat Subject 1. Two paramedics can be seen taking Subject 1 into the ambulance to remove the Taser prong. Civilian 1 and Subject 1’s sister can be seen standing near the police officers. Officer A body worn

camera further captures Subject 1 being transported to XXXXX Hospital in the Chicago Fire Department ambulance, as Officer A rides in the ambulance with Subject 1. Subject 1 is seen sitting in the ambulance with his eyes closed. The paramedics bring Subject 1 into the hospital in a wheelchair. (Attachment 23)

Officer B's body worn camera shows Subject 1 moving the trunk of his body back and forth as unknown officers attempt to cuff Subject 1. Officer C can then be seen deploying his Taser, striking Subject 1. An unknown officer states, "Do you want to get tased?" Shortly thereafter, an unknown officer orders Officer C to deploy his Taser at Subject 1. Another officer has his Taser drawn but does not deploy it, and holsters it soon after Officer C deploys his Taser. Officers can be seen trying to handcuff Subject 1 to no avail. Officer C utilizes the Taser ARC switch to deliver a charge to Subject 1 while he is sitting upright on the ground and officers are still trying to handcuff him. Officers tell Subject 1 to "get down," "get on your back," and to "stop resisting." One officer can be heard stating "give me your arm" and he repeats his command two more times. A female officer can be heard instructing Subject 1 to "put your hands behind your back." The officers continue to struggle to put Subject 1 in handcuffs and are able to do so approximately one minute after the ARC charge is delivered. The camera footage continues to capture Subject 1 asking why he is being arrested while yelling at the officers. Subject 1's friend and sister are seen standing near the officers as they wait for EMS to arrive. The video also captures the paramedics arrive to remove one taser prong from Subject 1. One of the taser prongs can be seen on the curb near Subject 1 outside of his body and clothing. (Attachment 24)

Officer D's body worn camera captures Subject 1 being taken from XXXXX Hospital to the police station without incident. (Attachment 25)

Officer E's body worn camera shows Subject 1 being taken from XXXXX Hospital to the police station lock up. Subject 1 is patted down by the officer. Subject 1 is compliant and there is no incident. (Attachment 26)

**In Car Camera** footage from Officer C's and Officer F's vehicle, beat XXXX, captures the officers driving towards XXXXX Blvd and XXXXX Ave. A call from OEMC can be heard giving a description of a battery in progress. The description is of a black male with a bald head, about 32 years old wearing a grey shirt walking towards XXXXX and Cicero. The footage shows Officer C and Officer F observe a man matching the OEMC description walking northbound XXXXX Ave. while they are driving southbound on Cicero Ave.

Officer F can be heard stating "right here, this guy?" Officer C responds saying, "Yes." The officers pull their police vehicle over at an angle slightly north of Subject 1 on the western sidewalk of XXXXX Avenue. The camera shows the other officers attempting to arrest Subject 1. Officer C's and Officer F's in car camera captures two other marked police SUV pull up and park near Subject 1, one coming from the south and the other coming from the north on Cicero Ave. "Civilian 1" can momentarily be seen standing on the sidewalk on the western side of Cicero Ave as Officer C's and Officer F's car pulls over to the curb. One marked police SUV, marked XXXX is in full view of Officer C's and Officer F's in car camera. Two unknown police officers can be seen exiting the police SUV marked XXXX and walk off camera heading north. A third officer can be seen walking to the north off camera. One unknown male with jeans, a white shirt, and a

backpack can be seen walking north.

The in car camera captures audio and video of the incident, but the video captures a parked Chicago Police marked SUV and is pointed away from Subject 1 during the incident and taser deployment. The in car camera audio captures an unknown officer telling Subject 1 to relax multiple times. Subject 1 can be heard asking “Relax for what bro?” “Why are you putting your hands on me for bro?” and saying, “Stop it, bro.” multiple times. An unknown officer can be heard stating they want to talk “about the gas station.” The officers can then be heard stating, “Stop resisting” four times before an unknown officer then states, “Do you want to get tased?” An unknown officer then says, “tase him” and the sound of a Taser deployment can be heard at about 01:57:04, per the camera time clock. Unknown officers can be heard stating “get down, get down” and to stop resisting. Subject 1 is also told to get on his back three times. An unknown female officer can then be heard stating “tase him again.” A second charge can be heard at 01:57:21. Unknown officers can be heard stating “Give me your arm,” “stop resisting,” and “put your hands behind your back.” The in car camera captures nothing else in regards to the alleged misconduct. (Attachment 27)

Officer C’s **Tactical Response Report (“TRR”)** documented his use of force against Subject 1 on June 15, 2017 at 2:05 A.M. at XXXX S. Cicero Avenue. The TRR lists that Subject 1 did not follow verbal direction, he stiffened his body, and he pulled away from the officers, classifying Subject 1 as an active resistor. Officer C notes that he discharged his Taser and also delivered a four second charge to Subject 1 by holding the Taser’s ARC switch for four seconds. The TRR also documents that Subject 1 suffered no injury by Officer C, and that Subject 1’s condition was apparently normal. (Attachment 22)

Officer B’s **Tactical Response Report (“TRR”)** documents his use of force against Subject 1 on June 15, 2017, at 2:02 A.M. at XXXX S. Cicero Avenue, The TRR notes that Subject 1 did not follow verbal direction, and pulled away from police officers by using his bodyweight to push away. Officer B notes that member presence, verbal commands, and an arm bar were used against Subject 1. Officer B further notes that Subject 1 was not injured, his condition was apparently normal and he was hospitalized. (Attachment 15)

Officer A’s **Tactical Response Report (“TRR”)** documents his use of force against Subject 1 on June 15, 2017, at 2:02 A.M. at XXXX S. Cicero Avenue. The TRR notes that Subject 1 did not follow verbal direction, and pulled away from police officers by using his bodyweight to push away. Officer A notes that member presence, verbal commands, and an arm bar were used against Subject 1. Officer A further notes that Subject 1 was not injured, his condition was apparently normal and he was hospitalized. (Attachment 14)

An **Arrest Report**, CB #19494694 dated June 15, 2017, for Subject 1 notes that police officers A and B observed a man matching a description given by OEMC for a battery which had recently occurred. The officers attempted to conduct a field interview of the man, now identified as Subject 1, as they believed he was the man wanted for battery. The officers attempted to detain Subject 1, but he began to pull away and stiffen his arms preventing the officers from detaining him. The Arrest Report further states that officers gave numerous verbal commands for Subject 1

to release his arms so officers could handcuff him. Subject 1 continued to pull away and stiffen his arms. The Arrest Report identifies Officer C as the officer who deployed his Taser, and his Taser made a positive connection to Subject 1. The Arrest Report then states that the officers gained control of Subject 1 after he was tased and he was placed into handcuffs. The officers then called for EMS for Subject 1. (Attachment 12)

A City of Chicago Fire Department **Ambulance Report** documents that police called to have the prongs removed from Subject 1. An Ambulance was dispatched at 2:10 A.M. on June 15, 2017 and was on the scene at 2:16 A.M. The report notes that Subject 1 was delivered an electric shock, and Subject 1 complained of foot pain, but also stated that he has a chronic foot condition. It further states that Subject 1 was tased by CPD and one taser barb was still lodged in the left side of his back. One taser barb was already out of Subject 1. The report indicates that there was no active bleeding around the barb site. The Report further states that Subject 1's sister was on scene and she stated that he is bipolar and not "med compliant." Routine medical care was provided by the paramedics on scene and Subject 1 was medically released and transported to XXXXX Hospital without incident. CPD escorted patient to XXXXXX Hospital. (Attachment 16)

A **Taser Download Report** for Officer C's Taser indicates that Officer C's Taser was deployed at 02:05:21, delivering a five second charge. The Taser Download Report also shows that the ARC button was pressed for four seconds, delivering a four second charge at 02:05:38. The Taser was then switched to safe at 02:06:53. The Taser was USB Connected at 03:28:20. The next use of the taser was at 09:04:02 where it was armed and switched to safe a second later at 09:04:03. (Attachment 22)

## **Interviews**

**Subject 1 provided a statement to COPA on June 20, 2017.** He reported that on June 15, 2017 at approximately 2:00 A.M. he was walking northbound on Cicero Avenue with a friend, "Civilian 1," after he tried to purchase wine at XXXXX, which is located at XXXX S. Cicero Avenue. Prior to walking away from XXXXX, Subject 1 got into a heated argument with an employee at XXXXX, identified as "Subject 2." Subject 2 called the police after their heated conversation. Subject 1 stated he did not recall what the conversation was for or about. Subject 1 stated that neither Civilian 1 nor Subject 1 made physical contact with Subject 2. Subject 1 was walking northbound on Cicero Avenue towards his home at XXXX W. Adams. While he was walking, Subject 1 stated that a female Caucasian uniformed officer and a male Caucasian uniformed officer pulled over near him in a marked vehicle. The female officer grabbed his arms and put him into handcuffs. Subject 1 asked the officers what they were doing and stated he committed no crime. Subject 1 later stated he could not recall exactly what he said to the officers or what they said to him, but he recalled the officers grabbing his arms. Subject 1 stated the officers put him into handcuffs because he was "doing too much screaming." Subject 1 reported that the next thing that happened was that he was tased, "again, again, again, again and again" by multiple officers and he told the officers to stop. When later asked again how many times he thought he was tased, Subject 1 stated he did not remember. Subject 1 stated that 15 or 20 additional unknown officers arrived. Subject 1 did not know approximately how long it took for the other officers to arrive after the first two officers stopped him. Subject 1 stated he was handcuffed between different taser deployments because the officers could not get their handcuffs on him. When asked

why the officers could not get their handcuffs on Subject 1, he stated he would not allow the officers to handcuff him.

Subject 1 later recalled being handcuffed by a male police officer. Subject 1 stated the paramedics treated him on the curb at the scene of the incident and then was transported to XXXXX Hospital by the paramedics. Subject 1 was taken to the XX<sup>th</sup> District after XXXXX Hospital. Subject 1 stated he did not drink any alcohol or use any recreational drugs prior to the incident. Subject 1 stated that he did not touch any police officer during the incident. Subject 1 could not identify any of the officers present. Subject 1 further stated that he believed the police had mistaken him for someone else when they stopped him. Subject 1 stated his “kids think he is crazy” and “his family thinks he is crazy” because of this incident. Subject 1 further stated he suffered a shoulder injury and sprained ankle from this incident. Subject 1 also stated that he suffers from preexisting mental and physical illness. Subject 1 believed the incident only lasted about 20 minutes. (Attachment 4)

## ANALYSIS AND CONCLUSION

The investigation revealed that the incident did not occur as alleged by Subject 1. Therefore, the Civilian Office of Police Accountability recommends that **Allegation #1**, that Officer C unnecessarily Deployed his Taser pistol multiple times while arresting Subject 1, be **Unfounded**. In his interview to COPA, Subject 1 stated that he was tased “again, again, again, again and again” by multiple officers. The body worn camera footage clearly shows Subject 1 was only tased by one officer, Officer C, and Subject 1 received two charges total. The Taser Download Report indicates that Officer C’s Taser was deployed at 02:05:21, lasting five seconds in duration. The ARC switch was also engaged at 02:05:38. for four seconds in duration. The officers’ body worn camera footage also captures the Taser deployment and ARC switch charge. The evidence shows Subject 1 was tased for five seconds resulting from the original Taser deployment, and then Officer C activated the ARC switch for four seconds, giving Subject 1 a four second electrical charge.

Officer C’s and Officer F’s in car camera footage shows different times for the Taser deployment and ARC switch charge. The in car camera footage shows the Taser deployment is recorded at 01:57:04, while the ARC switch was engaged at 01:57:21. While the timing is inconsistent with the Taser Download Report, the Taser Download Report also shows that the Taser was deployed 17 seconds prior to the ARC switch being engaged, with is consistent with the in car camera footage. The in car camera and Taser system may not be time synced, but both the in car camera footage and the Taser Download Report show the Taser deployment and ARC switch engagement being 17 seconds apart, with a total of two charges being delivered to Subject 1.

Even though the incident did not occur as alleged, COPA must examine whether the Taser deployment and the use of force against Subject 1 was within policy. According to General Order (GO) 03-02-01, CPD utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose. The model may progress from member presence to the application of deadly force. The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances. Department members must escalate or de-escalate the amount of force which is reasonably necessary to

overcome the subject's resistance and to gain control over the subject. GO 03-02-01 shows that a Taser can be deployed against an active resistor and an assailant only. GO 03-02-2 titled Force Options also outlines Taser as a force option under active resistors.

According to GO 03-02-01, there are two types of resistors. A passive resistor is defined by non-movement in response to verbal and other direction, and includes variable positioning. An active resistor is defined by movement to avoid physical control and this can include "variable dynamics." GO 03-02-02 further defines an active resistor as "a person whose actions attempt to create distance between that person and the member's reach with the intent to avoid physical control and/or defeat the arrest. This type of resistance includes gestures ranging from evasive movement of the arm, through flailing arms, to full flight by running."

The officers' body worn cameras capture Subject 1 resisting the arrest prior to the Taser deployment. Subject 1 can be seen locking his arms and the officers cannot place him into handcuffs. Subject 1 can be seen keeping his arms back to defeat the arrest. The officers instruct Subject 1 to stop resisting multiple times and that also indicated to Subject 1 that they would use their Tasers if he continued to resist. The officers also state to Subject 1 that they have a Taser "on him" and to relax. Officer C can be seen with his Taser unholstered and briefly pressed against Subject 1's back as Subject 1 is resisting the arrest. Subject 1 continues to resist multiple officers' attempts to handcuff him, at which point Officer C is ordered by an unknown officer to tase Subject 1. Officer C deploys his Taser, delivering a five second charge to Subject 1.

By his own admission in his statement to COPA, Subject 1 stated that he would not allow the officers to place him into handcuffs. The evidence suggests that this Taser deployment was within policy as Subject 1's level of resistance rose to that of an active resistor, and a Taser is within the use of force options for an active resistor.

After the first charge given through the initial Taser deployment, Subject 1 falls to the ground, but remains lying upright against a police vehicle. Multiple officers continue to try and place Subject 1 into handcuffs but cannot do so. Subject 1 continues to lock his arms back to resist being placed into handcuffs. After a brief struggle, an unknown officer instructs Officer C to tase Subject 1 a second time, at which point Officer C engages the ARC switch on his Taser, delivering a four second charge to Subject 1. As Subject 1 continued to resist the arrest by physically pulling his arms away from the arresting officers, the evidence suggests that the second charge given to Subject 1 was within policy as Subject 1's level of resistance still meets the threshold of an active resistor. As Subject 1 was still actively resisting the officers, Officer C's use of the ARC switch was within policy.

The documentary evidence shows the alleged misconduct did not occur, as Subject 1 was only tased once, by one officer. Although Officer C also used his ARC switch, it was only because Subject 1 continued to resist. The evidence suggests the officer used a reasonable amount of force necessary to overcome Subject 1's resistance and to effectuate the arrest. Additionally, the level of force was within the guidelines of the Chicago Police Department.

COPA recommends that this investigation be terminated without further action, and that the allegations made by Subject 1 be **Unfounded**.