

INTRODUCTION

On July 03, 2017, at approximately 9:45 PM, at XXXX South Evans Avenue, Officer A, Officer B, and Officer C, approached Subject 1 as he was leaving the gas station near his house. The officers questioned him and a verbal altercation ensued. It is alleged that Officer A chased Subject 1 into the gangway of his back yard and slammed him to the ground. It is also alleged that Officer A began punching and kicking Subject 1. COPA¹ examines these allegations.

ALLEGATIONS

It is alleged that on July 03, 2017, at approximately 9: 45 PM, at XXXX S. Evans Chicago, IL the accused, Officer A,

1. Hopped the back fence at Subject 1's residence;
2. Picked up Subject 1 and slammed him to the ground;
3. Punched Subject 1 about the face and body;
4. Kicked Subject 1 about the body; and
5. Dropped his bodycam during the altercation.

It is alleged that on July 03, 2017, at approximately 9: 45 PM, at XXXX S. Evans Chicago, IL the accused, Officer B,

1. Engaged in a verbal altercation calling Subject 1 "ho", "bitch" and "mother fucker";
2. Did not provide his badge number;
3. Did not create a report;
4. Unlawfully stopped Subject 1; and
5. Did not stop the physical altercation.

It is alleged that on July 03, 2017, at approximately 9: 45 PM, at XXXX S. Evans Chicago, IL the accused, Officer C,

1. Engaged in a verbal altercation calling "ho", "bitch" and "mother fucker";
2. Did not provide his badge number;
3. Did not create a report;
4. Unlawfully stopped Subject 1; and
5. Did not stop the physical altercation.

APPLICABLE RULES AND LAWS

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. 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.

- Rule 1:** Violation of any law or ordinance.
- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in an unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
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- G03-02** Use of Force Guidelines
- G03-02-01** The Use of Force Model
- G03-02-02** Force Options
- SO4-13-09** Investigatory Stop System Reporting

The Fourth Amendment of the United States Constitution

INVESTIGATION

In an **in-person interview at the IPRA** on July 25, 2017, **complainant Subject 1** related that on the night of July 3, 2017 he exited the gas station near his house and began walking down the alley behind his house when he was approached by a car. Subject 1 related he stepped out of the way to let the vehicle pass but the vehicle stopped, at which time Subject 1 looked back and noticed it was a detective driving the car. Subject 1 said the driver, now known as Officer C, asked where he was coming from to which Subject 1 responded "the gas station." Subject 1 reported Officer C then asked where was he going, to which Subject 1 responded "home." Subject 1 stated Officer C asked Subject 1 what he bought and Subject 1 related he "looked at Officer C like he was crazy as if to say, 'what you mean what I got from the gas station?'" Subject 1 stated that Officer C again asked Subject 1 what he got from the gas station, Subject 1 again did not answer the question. Subject 1 related he never did tell them what he got from the gas station.

Subject 1 related at that time the officers, Officer C, Officer A, and Officer B, "got to disrespectin' him, calling him bitches, ho's, pussy ass mother fuckers", to which Subject 1 related he cussed back. Subject 1 related all the officers were Caucasian or Hispanic. Subject 1 related the driver of the vehicle, Officer C, had a beard and was the one who called him a "bitch, a ho, and a mother fucker." Subject 1 said that "if you talk to me like I'm a child, he's going to talk back at you like you're a child." Subject 1 stated at that time he continued down the alley to his house at XXXX South Evans Avenue. Subject 1 said when he got to the garage of where he lives, he went around the back of the truck into his yard. Subject 1 related at this time he said "stop, following me, I don't need your escort" to which the backseat passenger, Officer A, responded "Ima escort you, I'm out here to serve and protect and you look like a bitch."

Subject 1 related he got to his yard and as he walked in his yard, he locked the gate. Subject 1 related he has a chain and a lock on the gate. Subject 1 stated when he locked the gate, Officer A, got out of the car and approached Subject 1 and “swung at me over the gate.” Subject 1 related at that time he said to Officer A “you really gonna hit me?” Subject 1 related he “I ain’t gonna lie, I cussed him out,” referring to Officer A.

Subject 1 related Officer A jumped the fence. Subject 1 stated he was between his garage and the neighbors garage backing up, while facing Officer A and trying to get to his steps. Subject 1 related the other two officers, Officer C and Officer B, in the driver and passenger seats respectively, exited the vehicle. Subject 1 related he reached his steps and Officer A “rushed him,” at which time he and Officer A went through the fence. Subject 1 related he was screaming “mama, mama!” Subject 1 said Officer A punched him in the face several times and slammed him to the ground and that’s when Officer C and Officer B came to where they were. Subject 1 related his mother came outside. Subject 1 related his pants got torn from him in the process, he got hit in the eye, his tail bone was fractured, and he was kicked in the back and side. Subject 1 related the incident ended up in the gangway. Subject 1 stated one of the officers who approached him and Officer A on the ground (unknown, either Officer B or Officer C), picked him up off the ground and “words were exchanged.” Subject 1 related “I’m not gonna lie, I was pissed.” Subject 1 stated that Officer A dropped his body camera and when the officers left Subject 1 picked up the dropped body camera. Subject 1 related after Officer A dropped the body camera, his mother was asking the officers for their name and badge numbers and the officers would not give them to her. Subject 1 stated he never got physical with any of the officers. Subject 1 related he was not arrested and was not given a contact card. Subject 1 related the officers did not sustain any injuries.

Subject 1 stated the officers then left and he called 911 to get a sergeant on the scene because he was “assaulted by a Officer.” Subject 1 related two hours passed and Sergeant A arrived on scene. Subject 1 related Sergeant A was light-skinned or possible bi-racial. Subject 1 related he asked Sergeant A if he was going to take a report to which Sergeant A responded he was not going to take a report but was going to talk to the involved officers and review the body camera and would call him later. Subject 1 related he gave the body camera to Sergeant A. Subject 1 said Sergeant A said, “it’s a noble thing that you gave this back.” Subject 1 related this “was a strange thing for Sergeant A to say.” Sergeant A responded he needed to review the footage and would call Subject 1 after he reviewed it.

Subject 1 related he went to Roseland Hospital for his injuries on July 5th, 2017. He stated that he waited to go because he was so hurt on July 4th that he stayed in the house. Subject 1 related his injuries were scars on his knees, scuffs from the ground, his face and right eye was sore from the cheek to jawbone, a hurt back, and a tail bone injury. Subject 1 related his back skin was not broken but his joints were sore. Subject 1 related his tail bone was fractured. Subject 1 related he called the station several times and asked for Sergeant A and upon finding out his name would report that Sergeant A was not in. Subject 1 said Sergeant A also said he had already spoken to the officers regarding what had happened to which Subject 1 responded “why can’t I have their name and badge numbers”. Sergeant A responded that he needed to review the camera footage and would call Subject 1. Subject 1 related he then asked Sergeant A for the involved officers name and badge numbers and Sergeant A would not provide that to him. Subject 1 related he told Sergeant A his injuries and at no time did Sergeant A mention an ET coming out to take photos of his injuries.

Subject 1 related Civilian 1, his auntie Civilian 2, his cousin Civilian 3, and a man named Civilian 4 were all witnesses. Subject 1 related the contact information for all these witnesses can be obtained from his mother, Civilian 1. (Att. # 8)

In an **in-person interview with IPRA** at their home on August 22, 2017, **witness Civilian 1 and complainant Subject 1**, of XXXX South Evans Avenue, related that the incident occurred on July 3, 2017. Civilian 1 related that her son Subject 1, who resides with her, went to the store to buy cigarettes. Civilian 1 related she heard what sounded like someone screaming “mama, mama!” from outside. Civilian 1 ran down the stairs and witnessed one officer standing in the yard and two other officers had Subject 1 against the wall in the gangway². Civilian 1 immediately started asking the officers “what are you doing, why do you have my son against the wall?” Civilian 1 related they had just picked Subject 1 up off the ground. She stated that the officer in the yard said to the two officers holding Subject 1 “the mother is downstairs so I guess you can let him go.”

Civilian 1 described the two officers who held Subject 1 in the gangway as approximately her height and weight (she related her weight as one hundred and ninety-three pounds and her height as five feet one inches) but a little taller and bigger, and the second officer was about five feet four inches and all three were Caucasian or Spanish. Civilian 1 related the officers were standing on either side of Subject 1 in the gangway and the one standing to Subject 1’s right was the shorter, stockier, more aggressive one and the officer to Subject 1’s left was taller. Civilian 1 related the officers were of average height. Civilian 1 related the officer in the yard was average height and build. Civilian 1 related she heard the officers yelling “shut up.”³

Civilian 1 related she heard from Subject 1 that the officers approached him as he was coming out of the gas station and asked him what he purchased, an argument ensued which included the Officers calling Subject 1’s mom a “bitch.” Civilian 1 related Subject 1 likely said something “smart” back to them. Civilian 1 related she did not hear or see any of the initial altercation but heard Subject 1 calling “mama! “Civilian 1 related when she spoke to Subject 1 in front of the police that the altercation started as they were verbally “talkin to each other” and then they ended up chasing Subject 1 through the yard. The police related that they did not know Subject 1 lived in the home at the backyard he entered, or why he was in the yard; they did not know who Subject 1 was, or where he was going.

Civilian 1 related she was “afraid because people are leaving people for dead around here.” Civilian 1 related “he did not do anything, he went to get a couple cigarettes.” Civilian 1 stated the only contact she saw the police make with Subject 1 was holding him. Civilian 1 said she asked for the officers’ identification and names and they said, “you don’t need to have that and that and you need to mind your business.” Civilian 1 then related that the officers said, “we could be taking him to jail” to which she responded “for what? I need your ID and badge number.” Civilian 1 related she was scared that if she had not come to

² It is unknown at this time which two officers allegedly held Subject 1 in the gangway and which one was in the backyard.

³ Civilian 1 did not witness any misconduct by officers, but heard from her son that they assaulted him. Civilian 1 was unable to determine which officer was Officer A, Officer C, or Officer B and therefore COPA was also unable to determine to whom Civilian 1 was referring.

Subject 1's rescue that "he may have just been laying down there" and "only God knows what would or could have happened."

Civilian 1 stated that the officers left in a dark color vehicle but Civilian 1 did not see it, and she did not know if it was a police car. Civilian 1 related they called the station and asked for a sergeant. Civilian 1 related they called the "71st Street district." Civilian 1 related, "Subject 1 was visibly rattled, covered in dirt and grass, and his pants were torn almost off him⁴."

While Civilian 1 was getting interviewed, Subject 1 began participating in the interview. Subject 1 stated he called 911 first, and the dispatcher related she was going to send someone out there. After no one showed up, they called the district several times. Civilian 1 related it was approximately four times. Subject 1 stated he went out to the scene of the altercation and found the officer's body camera. Civilian 1 related they have pictures and video of the officer's body camera that fell off during the altercation and provided them to COPA R/I reviewed the video and pictures and saw a what appears to be a black body camera with "M-40" painted on it. (Att. # 36)

Civilian 1 stated that eventually Sergeant A rang the bell. Civilian 1 reported Sergeant A said he wanted Subject 1's side of what happened and then Subject 1 asked, "what are you gonna do?" Civilian 1 stated that Sergeant A related he would have to get the officers' versions of events before making a report. Civilian 1 said Sergeant A also wanted to review the footage of the body camera and related he would call Subject 1 the following day, after he had a chance to review the body camera footage but he never called. Civilian 1 related Subject 1 asked Sergeant A for a report but Sergeant A related he had to review the footage on the body camera and talk to the officers. Civilian 1 related she and Subject 1 spoke with Sergeant A for approximately 15 minutes. Civilian 1 related when they handed over the body camera to the sergeant that he went out of his way to tell them it was "a very noble thing they were doing returning the camera" to which Civilian 1 responded, "no it's not, the camera is not ours."

Civilian 1 related Sergeant A came from 78th and Halsted, the 6th District. Subject 1 said he called every police in the area to find out where the officers had come from. Subject 1 related he called for a week straight, every shift, asking to speak with Sergeant A and he kept "getting the run around."

Subject 1 related he waited until July 5th to go to the hospital because he had a family reunion on July 4th so he put it off until the following day. (Att. # 23)

In an **in-person interview with IPRA** at her home at XXXX South Evans Avenue, on August 22, 2017, Subject 1's great-aunt, witness **Civilian 2**, of XXXX South Evans Avenue, related she does not remember the exact date of the incident but it was dark outside. Civilian 2 related she heard some commotion in the gangway. Civilian 2 said she thought she heard someone called "grandmother." Civilian 2 said she was in the bed at the time. Civilian 2 said her son was in the living room and she asked him to "come here", she was in her bedroom at that time. Civilian 2 related she asked her son to run to the back because she heard a commotion.

⁴ Subject 1 then held up a pair of shorts that were ripped from the leg to the pocket on the left side, showing the torn pants to COPA Investigators.

Civilian 2 stated her niece is Civilian 5 and lives upstairs with Subject 1. Civilian 2 related she asked Subject 1 to come inside and let his mother take care of it. Civilian 2 related she did not hear anything the officers were saying. Civilian 2 related Subject 1 was asking for the name and badges of the officers. Civilian 2 said she couldn't see the vehicle. Civilian 2 related the police were in full uniform. Civilian 2 related one of the officers was chunkier. Civilian 2 related she did not see any of the altercation but that Subject 1 had a lot of dirt on him and his pants were ripped off him and they had grass stains. (Att. # 26)

In an **in-person interview at IPRA** on September 14, 2017, witness **Sergeant A** related he responded to a request for a supervisor at XXXX South Evans Avenue on July 3, 2017. Sergeant A said he responded to the call but did not get out of his vehicle because there was no one outside. Sergeant A related he then coded this "19-B" because no one was outside. Sergeant A related he did not get out of the car because he does not typically have to get out of the car as the individuals are on scene. Sergeant A related there were other calls that night and it was very busy. When asked why he did not exit the vehicle and knock on the door of XXXX South Evans, Sergeant A said he was by himself and typically does not get out of the car. Sergeant A related the individuals who call typically wait outside. Sergeant A said he waited a minute. Sergeant A related he did not know if the complainant lived at the address requested or if that is just where an incident took place and he did not feel comfortable just knocking on the door.

Sergeant A stated that around this time, Officer A reported to him that he had lost his body camera. Sergeant A returned to XXXX South Evans Avenue to look for Officer A's missing body camera. Sergeant A related Officer A lost the body camera somewhere in the alley. Sergeant A related that Officer A assumed the body camera fell off at XXXX South Evans because that was the only foot chase that had occurred that night. Sergeant A related Officer A reported the lost body camera about an hour after losing it. Sergeant A related that Officer A related he assumed he lost the body camera in the foot chase with Subject 1. Sergeant A stated that he began knocking on doors looking for the camera and this is how he met Civilian 1 and her son, Subject 1. Sergeant A related the officers involved were Officer A, Officer B, and Officer C. Sergeant A related that is probably how Officer A lost the body camera. Sergeant A said he does not recall if the officers related Subject 1 hopped the fence. Sergeant A related the officers did not arrest Subject 1 but an Investigatory Stop Report ("ISR") was created.

Sergeant A related when he spoke with Civilian 1 and Subject 1 he did more communication with the mom than the son because the son was combative. Sergeant A said the mother was a 70-year-old female black and the son was a 40-year-old male black. Sergeant A stated when the mom turned over the camera, Subject 1 became irate again. Sergeant A then related he tried to explain that the officers did not know he lived there (regarding Subject 1 entering the backyard). Sergeant A said Civilian 1 understood this but Subject 1 did not. Sergeant A stated he did not see any injuries on Subject 1. Sergeant A said he did not receive any follow-up calls from Civilian 1 or Subject 1. (Att. # 18)

In an **in-person interview at COPA** on October 17, 2017, accused **Officer A** related he and Officer B and Officer C were in the car on regular patrol in an unmarked SUV in plain clothes when they saw a male black, now known as Subject 1, in the alley at 76th and Cottage Grove Avenue. Officer A related it was dark outside. Officer A related Officer C was driving, Officer B was the passenger, and he was the backseat passenger. Officer A related he observed Subject 1 standing in the alley looking in back yards wearing a black hoodie. Officer A said he did not recall which direction they were driving. Officer A related Officer C inquired about Subject 1's condition and what he purchased from the store. Officer A related they

asked him that because he had no bag so they asked him what he bought. Officer A related Subject 1 was “suspicious” because he was walking in an alley in a high drug trafficking area. The officers continued questioning Subject 1 and Officer A related that Subject 1 said “I don’t have to answer your fucking questions dude.”

Officer A stated the officers followed Subject 1 approximately six or seven houses, into the alley. Officer A related Subject 1 was mad and the officers kept watching him. Officer A related Subject 1 continued to watch the officers over his right shoulder. Officer A stated that Subject 1 then threatened the officers by saying “take off those guns and badges and I’ll beat all your asses.” Officer A related after he threatened the officers after he walked into a gate. Officer A related when Subject 1 walked in the gate and threatened the officers, Subject 1 did not report he was entering the back yard of his own house. Officer A related the threat was an aggravated assault. Officer A related he was in imminent fear of a battery because “the guy is walking in a dark alley, he was getting aggressive, he had a hard time answering questions and may have possibly been casing a house for a burglary.” Officer A related at that point he exited the vehicle to approach Subject 1 to possibly take him into custody for an aggravated assault of a peace officer.

Officer A said he jumped over the gate chasing Subject 1 westbound. Officer A said he was giving Subject 1 verbal commands to “stop running.” Officer A related Subject 1 went to jump the gate into the gangway but fell over it and Officer A went to jump it and fell over it too. Officer A related he landed with his right side on top of Subject 1 and Officer A does not recall the direction Subject 1 was facing. Officer A said he got up and picked Subject 1 up. Officer A related Subject 1 was yelling to his mom and dad “the police are beating me up.” Officer A related he never punched or kicked Subject 1 and Subject 1 did not kick or punch him.

Officer A said he never picked up Subject 1 and slammed him to the ground. Officer A related the fence was weak and couldn’t hold their weight as they jumped over it. Officer A stated Subject 1 continued to yell for mom and dad. Officer A said his mom and dad came outside. By this time, Officer A related Officer C and Officer B were out of the police vehicle and in the backyard. Officer A related the mother and father came down and talked to Officer B and Officer C. Officer A related the father said, “you should never run from the police” to Subject 1. Officer A said that Subject 1’s mother related that Subject 1 has a mental disability. Officer A also related that Subject 1’s mother asked for his badge number. Officer A related he provided his name and badge number. Officer A said his temporary star number is XXXXX because the other star is being repaired. Officer A related the star number XXXXX is the one he provided to Civilian 1 and Subject 1. Officer A said he did not recall if Officer C and Officer B gave their badge numbers. Officer A related that the officers then discussed the situation and took into consideration that he had a limited mental capacity and it was fourth of July weekend and decided to just complete an ISR. Officer A related the ISR was filed at the station

Officer A related he got in the car and was driving around 30-45 minutes after the incident when he reached for his body camera and realized it was missing. Officer A said he, Officer C, and Officer B then retraced their steps and stops. Officer A related they returned to three stops, including Subject 1’s house but there was no answer. Officer A related he returned to Subject 1’s approximately 10:30 or 11:00 PM to find the body camera. Officer A related he “crawled under trees” looking for contraband earlier in the evening, prior to coming into contact with Subject 1, and he considered the camera was possibly lost

there, too. Officer A related Officer C and Officer B got him back to the station immediately after retracing their steps. Officer A related he did not complete any paperwork regarding the lost body camera. Officer A related when he was at the station filling out the ISR, he then notified his supervisor that he had lost the camera. Officer A related he had heard from Sergeant A that Sergeant A responded to a call for supervisor and this individual had his body camera. (Att. # 30)

In an **in-person interview at COPA** on October 23, 2017, accused **Officer B** related he and Officer C and Officer A were out on routine patrol on July 3, 2017. Officer B related Officer C was driving the vehicle and Officer A was in the back-passenger seat behind him. Officer B stated the police vehicle they were driving was an unmarked police vehicle, and that he cannot recall whether they were in uniform or plain-clothes. Officer B said he first observed Subject 1 entering the alley from the gas station at 76th and Cottage Grove Avenue. Officer B related he observed Subject 1 exiting a gas station in a high-volume narcotic area. Officer B said he observed Subject 1 looking down the gangway of approximately 2 to 3 houses Officer B stated Subject 1 was initially on the driver's side of the vehicle. Officer B related Officer C said "hello" to Subject 1 and asked Subject 1 where he was coming from, to which Subject 1 spit and said, "none of your fucking business." Officer B related that Subject 1 continued to walk south down the alley and the officers paralleled him. Officer B related the reasons the officers felt they had a legal right to approach Subject 1 was because he left a high drug trafficking gas station, he was looking down a gangway, he looked in the direction of the officers, and tried to leave the area when he saw their unmarked police vehicle.

Officer B related the officers continued to talk to him and he was evasive and angry so Officer B thought Subject 1 had something to hide. Officer B related Subject 1 told the officers to "go get the real bad guys." Officer B said they continued to follow Subject 1 until he was about 5 houses down the alley and walked around the back of the police vehicle and walked toward a gate behind one of the houses and bladed his body and said "yall ain't shit." Officer B stated no one called Subject 1 a "bitch", a "ho" or a "mother fucker." Officer B related by the time Subject 1 walked into the gate he said to Officer A "take that badge and gun of and I'll kick your ass." Officer B related that Officer A did not call Subject 1 a "bitch", a "ho" or a "mother fucker." Officer B said Subject 1 was walking in the gate when he threatened Officer A by saying, "take that badge and gun off, I'll kick your ass, you pussy mother fucker." Officer B related the threat from Subject 1 is an aggravated assault. Officer B related Subject 1 "could easily have a firearm or something in his pocket to throw at them." Officer B related as an officer by this point, they "do not retreat based on the totality of the circumstances." Officer B related that when Subject 1 threatened the officers, the officers were all inside the car. Officer B related Subject 1 was approximately 5 or 6 feet from the officers when he threatened them.

Officer B said Officer A exited the vehicle to detain Subject 1, and Subject 1 started running down the gangway. Officer B related Officer A exited the vehicle to chase Subject 1, he followed, and then Officer C. Officer B related he gave no verbal commands to Subject 1. Officer B related he can't recall Officer C giving Subject 1 any verbal commands. Officer B related he thinks Officer A was yelling "stop! police!" Officer B observed Subject 1 jumped a chain-link fence approximately four feet tall and "wiped out" and ripped his pants as they got stuck on the fence as he fell over. Officer B related Subject 1 leapt over the fence with his hands on the fence and he could not recall if his feet were on it. Officer B said Subject 1 fell and rolled about 5 or 6 feet. Officer B stated Officer A was within five or six feet of Subject 1. Officer B

related at the time Officer A and Subject 1 were jumping the fence, he and Officer C were still at the back gate in the alley. Officer B related Officer A tried to jump to the fence with his hands on the fence and leapt over but the fence did not hold him. Officer B related the fence was not broken that he remembered but the fence was not able to hold their weight. Officer B said Officer A landed on Subject 1. Officer B stated Officer A was telling Subject 1 to “stop and put your hands behind your back.” Officer B said by this time Subject 1 was detained and not free to go. Officer B related he approached Officer A and asked if he needed assistance. Officer B related that at no time did he or Officer C ignore an altercation between Subject 1 and Officer A. Officer B stated no officers punched or kicked or slammed Subject 1 to the ground.

Officer B related at this time Subject 1 was screaming “help, help! Mama! The police got me!” Officer B related mom came outside. Officer B said he heard a male voice telling Subject 1 “don’t run from the police, I’ve told you this!” Officer B related he and Officer A conducted a pat-down of Subject 1. Officer B said Subject 1 was not visibly impaired but he was acting erratically. Officer B related Subject 1’s mom said Subject 1 has “mental condition.” Officer B stated by this time Subject 1’s mother was outside and he and Officer C were talking to Subject 1’s mom. Officer B said Officer A was still standing with Officer A. Officer B stated at this point the officers were determining whether they were going to arrest Subject 1. Officer B related they decided not to arrest Subject 1 because it was the third of July and numerous calls had come in for “shots fired”, and Subject 1 had some “mental disabilities.”

Officer B related Civilian 1 did not get the officers’ identification. Officer B related Civilian 1 asked for Officer C’s badge and ID. Officer B related Officer C responded “it’s right here ma’am” (referring to his vest). Officer B related he did not recall her asking for his badge number or Officer A’s and that at no time did he refuse to give her that information. Officer B related they completed an ISR instead of arresting Subject 1. Officer B related he did not complete the ISR, Officer A completed it. Officer B related the ISR was completed at the station. Officer B related the officers left the scene.

Officer B related the officers returned to the address later to look for Officer A’s misplaced body camera. Officer B said Officer A noticed he lost the body camera within about an hour. Officer B related the body camera was recovered by Sergeant A. (Att. # 32)

In an in-person interview at COPA on October 23, 2017, accused **Officer C** related he could not recall whether he was plain-clothed or in uniform but that he was in an unmarked police vehicle on July 3, 2017. Officer C related he first observed Subject 1 leaving the gas station at 76th and Cottage Grove Avenue. Officer C related Subject 1 was walking down the alley looking into the backyards of the residences. Officer C said he was driving the vehicle and related Subject 1 was initially on the right side as they approached him but he then came to the left side of the vehicle to Officer C’s driver’s side. Officer C reported Officer B was in the passenger’s seat and Officer A was in the backseat behind Officer B. Officer C related he asked Subject 1 how he was doing to which he responded “fine.” Officer C said he then asked Subject 1 what he bought at the gas station and Subject 1 became very irate and told the officers to “go get the real mother fuckers who are out her killing people.” Officer C related he never called Subject 1 a “ho, bitch, or motherfucker” and neither did any other officers involved.

Officer C related that neighborhood is an Evans Mob Gangster Disciple territory and that the officers considered he may be a part of that gang. Officer C said the totality of the circumstances against

Subject 1 was that he left the narcotic gas station with no bags, wearing a hoodie, looking suspiciously into people's back yards in a high gang activity area.

Officer C related as Subject 1 got behind a chain-link fence gate he was still yelling at the officers. Officer C related Subject 1 entered the gate and closed it and said something like "I'll beat your ass, take off your belt." Officer C related Subject 1 was a few feet from Officer A's window by this time. Officer C related Officer A opened the door and Subject 1 took off running down the gangway. Officer C stated he lost sight of Subject 1 and once Officer A jumped the gate, Officer C lost sight of Officer A, too.

Officer C related he and Officer B exited the vehicle and entered the backyard and he observed Officer A "going over the fence clumsily." Officer C related Officer A "fell" to the other side of the fence. Officer C related there was no altercation between Subject 1 and Officer A. Officer C related he helped Subject 1 stand up and Subject 1 is saying "why yall stopping me?" Officer C related that by the time he got to the incident, Officer A was on top of Subject 1. Officer C related Subject 1's mother came out the back door and he also heard a male voice. Officer C related he told Subject 1's mother everything that happened and his mother related Subject 1 is "mentally challenged and that he does not really understand." Officer C related Subject 1's mother asked for his badge number to which he said "here, you can have my name, I have nothing to hide." Officer C related at that time everyone took a breath and relaxed and they assessed the situation and used their discretion not to arrest Subject 1 for an aggravated assault but did an ISR on him instead. Officer C related Officer A completed the ISR.

Officer C related they notified their supervisor of everything that happened because Officer A realized a half hour later that he had lost his body camera. Officer C said the officers then went back to Subject 1's house and looked for the body camera as well as another scene. Officer C related the sergeant then went back to the scene and spoke with Mr. Subject 1 and recovered the body camera. Officer C related there were no injuries, Officer A had a minor cut on his hand. (Att. # 34)

There are two **OEMC 911 calls** related to this incident. The first 911 call on July 3, 2017, at 9:30:46 PM, is a man yelling requests a sergeant to XXXX South Evans. The man reports "I've just been assaulted by three detectives, they in a detective truck, they just wearing blue clothes today because it is a holiday". The man reported "I've just been assaulted by three Officers; my clothes is damn-near torn off me, called me all kinds of bitches and hos and threatened me." At this time, the man gives the dispatcher his name. Subject 1 then reports the officers would not give him their names or badge numbers or anything.

In the second 911 call on July 3, 2017, at 9:41:51 PM, a man asks for a police sergeant to XXXX Evans, an apartment. The man identifies himself as Subject 1. The dispatcher asks him to be patient.

Various other radio transmissions are heard until eventually a male officer voice asks, "did you have a request for a supervisor at XXXX South Evans", the dispatcher responds yes and the male voice responds he'll take it. (Att. # 42)

Surveillance footage for July 3, 2017, shows the alley behind XXXX South Evans Avenue, Subject 1's house.

The southwest facing view of the alley shows an unmarked police vehicle at 10:11 PM and 11:02 PM. The police vehicle is seen traveling down the alley. The camera does not pick up the vehicle until it is midway down the alley, Subject 1 is not captured on the footage. The northwest facing camera of the alley shows the police vehicle exiting the alley.

It was later discovered through COPA's investigation that the cameras report the time forty-three minutes in advance. Therefore, the travel time of the officers reported as 10:11 PM was 9:32 PM and 11:02 PM was 10:29 PM. (Att. # 40)

The **video and pictures from Subject 1's phone** show a black Chicago Police Department Body Worn Camera in a paper towel on Subject 1's kitchen camera. Some of the photos are blurry. The body camera has M-40 painted on it in white paint. In the video Subject 1 can be heard saying that the police "dropped the body camera after chasing and assaulting him." The pictures also show Subject 1 in a bathroom wearing denim shorts that are torn from his left pocket to the bottom of the shorts. Subject 1's right leg is pictured with multiple scratches on his knee with fresh blood. The ground is pictured with a set of keys in a small hole in the ground. (Att. # 36)

There is **no Body Worn Camera or dash camera** footage from this incident.

The **Officer of Emergency Management and Communications (OEMC) data request** shows the GPS of all police vehicles around XXXX and XXXX South Evans Avenue on July 3, 2017, between 9:45 PM and 10:20 PM.

The OEMC data also includes the Event Queries for a request for a supervisor by Subject 1 of XXXX South Evans Avenue at 9:32 PM. It reports "he was just threatened by 3 officers in plain clothes caller wants to talk to a Sgt. Officers no longer on site NFI." The call was cleared at 10:25 PM. The call was reopened at 12:03 AM on July 4, 2017. It was cleared again at 3:08 AM.

A second event query shows a request for a supervisor by Subject 1 at XXXX South Evans Avenue at 9:42 PM. The closure of this second call was referenced in the aforementioned event query. (Att. # 41)

The medical records from Roseland Community Hospital show Subject 1 was admitted on July 6, 2017 at 10:54 AM. Subject 1's diagnosis is reported as cervicgia, strain of muscle fascia and tendon at neck level, contusion of lower back and pelvis. Subject 1 was discharged at 12:48 PM with a final clinical impression of "strain to neck and contusion of sacrum." Subject 1 was prescribed 800mg Ibuprofen and 10mg Cyclobenzaprine.

Nurse Practitioner 1 reported "seen in ED c/o neck pain and tailbone pain after being jumped on 2 days ago. Denies any loc. Denies any medical problems. Denied any numbness tingling" on July 6, 2017 at 10:57 PM. (Att. # 22)

The **Investigatory Stop Report (ISR)** for this incident, ISR 000208721, was completed by Officer A. Officer A reported an investigatory stop contact was made at XXXX South Evans Avenue at 9 PM on

July 3, 2017 involving a male black “Brian Doe⁵”, age 50-55, wearing a black hooded sweatshirt and jeans shorts.

Officer A reported the POs observed Brian Doe walking southbound in the alley at approximately XXXX South Evans Avenue wearing a black sweatshirt and “appearing to look in backyards” as he was walking. Officer A reported the POs approached Doe and asked him if he was ok to which he responded he was coming from the gas station. Officer A reported the POs asked Doe what he purchased from the gas station and Doe refused to answer. Officer A reported that Doe walked into the backyard at 7629 South Evans Avenue and the POs asked him if he lived there. Officer A reported Doe related “fuck you all, take off that badge and gun and I’ll kick all your asses.” Officer A reported the POs approached Doe who then fled through the backyard into the gangway. Officer A reported Doe tried to climb the fence but fell. Officer A reported during the field interview, Doe’s parents came out from the household and reported Doe is their adult son who “has problems.” Officer A reported Doe refused to give POs any information and refused medical attention. Officer A reported the POs did not pursue assault charges due to Doe’s mental capacity. (Att. #28)

ANALYSIS

Through the course of this investigation, it was determined that Officer A was the officer involved in the foot chase with Subject 1. It was further determined that Officer C was the driver of the vehicle who initiated the verbal contact with Subject 1, Officer B was the passenger of the vehicle who participated in the verbal contact with Subject 1, and Officer A was the rear passenger on the passenger’s side of the vehicle.

It is alleged that Officer A hopped the back fence at Subject 1’s residence, picked up Subject 1 and slammed him to the ground, punched Subject 1 about the face and body, kicked Subject 1 about the face and body, and dropped his body camera. It was further alleged that Officer B and Officer C engaged in a verbal altercation calling Subject 1 a “ho”, “bitch” and “mother fucker,” did not provide their badge numbers, did not create an ISR report for the contact they made with Subject 1, unlawfully stopped Subject 1, and did not stop the altercation between Subject 1 and Officer A.

I. Officer A Loss of His Body Camera

Officer A lost his body camera during a foot pursuit with Subject 1. Officer A retraced his steps looking for the camera and reported the lost camera to Sergeant A during the shift. Sergeant A recovered the body camera from Subject 1 before Officer A’s shift was over. No paperwork was completed for this lost body cam because it was only lost briefly and was recovered during shift.

II. Officer B and Officer C Called Subject 1 a “Ho,” “Bitch,” And “Motherfucker”

There is insufficient evidence to prove or refute this allegation. Officer B, Officer A, and Officer C all related that at no time did any of them call Subject 1 a “ho”, “bitch” and “mother

⁵ Brian Doe is now known as Subject 1.

fucker.” This conflicts with Subject 1’s version of events. There is no video evidence of the interaction between Subject 1 and the officers. Lastly, the witnesses to the incident did not hear the POs call Subject 1 “ho”, “bitch” and “mother fucker.” Further, Subject 1 reported he cursed the officers out after the officers “got to disrespectin’ him.” It is unclear if Subject 1 began the cursing when the officers initiated the conversation asking what he bought from the gas station.

III. Officer B and Officer C Did Not Provide Their Name and Badge Numbers

Officer B related Civilian 1 asked for Officer C’s badge and ID, not his. Officer B related Officer C responded “it’s right here ma’am” (referring to his vest). Officer B related he does not recall her asking for his badge number or Officer A’s and that at no time did he refuse to give her that information. Both Officer A and Officer C reported they did not recall anyone asking for Officer B’s badge number. Further, the officers all reported wearing their tactical vests, at minimum, which includes their name and badge numbers respectively. There is no video evidence or witness corroboration to refute or deny this allegation.

IV. Officer B and Officer C Did Not Complete an Investigatory Stop Report

Officer A wrote an Investigatory Stop Report (ISR) summarizing the contact made by the officers with Subject 1. Only one report by one officer is required per Investigatory Stop, per CPD SO4-13-09, Investigatory Stop Reporting.

V. The Approach and Pursuit of Subject 1

A Officer may lawfully stop a person for brief questioning when the officer reasonably believes that the person has committed, or is about to commit, a crime. The Illinois legislature has codified this Terry standard which provides the following:

“An officer may, after identifying himself as a peace officer, stop any person in a public place for a reasonable period of time when the officer infers from the circumstances that the person is committing, is about to commit, or has committed an offense...” 725 ILCS 5/107-14 (2008).

Thus, the Terry standard allows an officer to conduct a brief investigative stop when there is reasonable, articulable suspicion of criminal activity. *People v. Jackson*, 366 Ill.Dec.164, 170 (1st Dist. 2012). The purpose of a Terry stop is to permit police to investigate situations or circumstances that provoke suspicion in order to dispel or confirm those suspicions. Officers initiating an investigatory stop must be able to point to specific and articulable facts, which taken together with rational inferences from those facts, suggest criminal activity. *U.S. v. Ruiz*, 785 F.3d 1134, 1141 (7th Cir. 2015). Context is extremely important in these instances; the reasonable suspicion needed to initiate a Terry stop can arise from behavior that may in other circumstances be considered innocent. *Id.* Therefore, the behavior and characteristics of the suspect can be taken into consideration by the officers.

Reasonable suspicion is a lower threshold than probable cause and considerably less than a preponderance of the evidence. *Id.* When reviewing an officer’s actions in the context of Terry, the situation confronting the officers must be so far from the ordinary that any competent officer

would be expected to act quickly. *People v. Shipp*, 393 Ill. Dec. 301, 309 (Ill. App. Ct. 2d Dist. 2015) quoting *People v. Thomas*, 198 Ill.2d 103 (2001). Therefore, the facts should be considered from the perspective of a reasonable officer confronted with the situation. *Id.*

The investigation following Terry must be reasonably related in scope and duration to the circumstances that justified the stop from the onset. Assuming reasonable suspicion exists for a Terry stop, a reasonable delay attributable to arranging for a canine unit to conduct a sniff may permissibly extend the duration of the stop. *Ruiz*, 785 F.3d at 1143. Additionally, even if an investigative stop is warranted, a Officer will need more to justify a substantive frisk. To justify a protective pat down of a properly detained person, the investigating officer must reasonably believe that the person is armed and dangerous. *Jackson*, 366 Ill. Dec. at 170.

A Terry stop can ripen to the level of an arrest, becoming custodial in nature, and require probable cause. This occurs when the stop becomes too long or unreasonably intrusive. *Id.* at 309. A seizure qualifies as an arrest only if a reasonable person in the suspect's position would not have felt free to leave. *U.S. v. Hill*, 818 F.3d 289, 292 (7th Circuit 2016). Factors to consider include the threatening presence of several officers, the display of a weapon by an officer, the physical touching of the suspect's person, or the officer's language or tone of voice which indicates that compliance with the officer's request could be compelled. *People v. Santovi*, 2014 Ill. App. 3d 130075 ¶44 (2014).

Under Illinois law, a person commits the misdemeanor of resisting arrest when he or she "knowingly resists or obstructs the performance by one known to the person to be a peace officer." 720 Ill. Comp. Stat. 5/31-1(a). Resistance requires some physical act which creates an obstacle to impede, hinder, interrupt, prevent or delay the performance of an officer's duties. *Williams v. Jaglowski*, 269 F.3d 778, 782 (7th Cir. 2001). However, very minor physical resistance does not constitute resisting arrest. See *City of Pekin v. Ross*, 81 Ill.App.3d 127 (Ill. App. Ct. 3d Dist. 1980) (holding that the arrestee did not resist arrest when he pulled his arms down and in front of him while the arresting officer attempted to place handcuffs on him). Additionally, a mere show of authority by an officer does not constitute a seizure absent some application of physical force or the individual's submission to the assertion of authority. *Abbott v. Sangamon County*, 705 F.3d 706, 719 (7th Cir. 2013) citing *California v. Hodari D.*, 499 U.S. 621 (1991). An officer's commands to 'stop' or 'halt' are mere displays of authority and do not constitute a formal seizure. *Id.* Therefore, an individual's defiance of an officer's order to stop, absent any application of physical force by the officer, does not constitute a resistance of an attempted arrest. *Id.* at 720.

Officer B and Officer C related the reasons the officers felt they had a legal right to approach Subject 1 was because he left a high drug trafficking gas station, he was looking down a gangway, he looked in the direction of the officers, and tried to leave the area when he saw their unmarked police vehicle. This behavior provided the officers with reasonable articulable suspicion needed for an investigatory stop, which was heightened once Subject 1 ran away from the officers.

Additionally, there is insufficient evidence to prove or disprove the allegations that Officer A picked up Subject 1 and slammed him to the ground and punched and kicked Subject 1 about the face and body. Officer A, Officer B, and Officer C reported Officer A fell on top of Subject 1 as Subject 1 hopped over the fence and Officer A pursued him. This conflicts with Subject 1's reported that Officer A picked him up and slammed him to the ground. The witnesses Civilian 1 and Civilian 2 did not see Officer A pick up Subject 1 and slam him to the ground. No video evidence exists to prove or disprove this allegation. Further, Subject 1 attempted to create distance between himself

and the officers by running into his backyard, therefore, assuming arguendo, if Officer A had in fact executed an emergency take-down, he would have been justified.

VI. Officer B and Officer C Did Not Stop the Altercation Between Officer A And Subject 1

Officer B and Officer C both related there was never a time when they did not stop an altercation between Subject 1 and Officer A. Officer B stated no officers punched or kicked or slammed Subject 1 to the ground. The preponderance of the evidence suggests that Officer A fell on top of Subject 1 after they both hopped over an unsteady fence. This did not constitute a physical altercation which required intervention by Officer B and Officer C. As such, COPA recommends a finding of unfounded for this allegation.

CONCLUSION

COPA's burden of proof is based on the preponderance of evidence standard. As such, regarding the allegations brought against the accused Officer A, COPA recommends that:

Allegation # 1 that Officer A hopped the back fence at Subject 1's residence be exonerated. Officer A's hopping the fence is permitted in pursuit of a fleeing subject per CPD's Use of Force Policy G03-02-02 as well as *Terry vs. Ohio*.

Allegation # 2 that Officer A picked up Subject 1 and slammed him to the ground be not sustained. There is insufficient evidence to prove or refute this allegation.

Allegation # 3 that Officer A punched Subject 1 about the face and body be not sustained. There is insufficient evidence to prove or refute this allegation.

Allegation # 4 that Officer A kicked Subject 1 about the body be not sustained. There is insufficient evidence to prove or refute this allegation.

Allegation # 5 that Officer A dropped his bodycam during the altercation be exonerated.

COPA's burden of proof is based on the preponderance of evidence standard. As such, regarding the allegations brought against the accused Officer B, COPA recommends that:

Allegation # 1 that Officer B engaged in a verbal altercation calling "ho", "bitch" and "mother fucker" be not sustained.

Allegation # 2 that Officer B did not provide his badge number be not sustained. There is insufficient evidence to prove or refute this allegation.

Allegation # 3 that Officer B did not create a report be exonerated. Per SO4-13-09, Officer B did not need to complete an ISR.

Allegation # 4 that Officer B unlawfully stopped Subject 1; be exonerated. Per *Terry vs. Ohio*, this Investigatory Stop was justified.

Allegation # 5 that Officer B did not stop the physical altercation be not sustained. There is insufficient evidence to prove or refute this allegation.

COPA's burden of proof is based on the preponderance of evidence standard. As such, regarding the allegations brought against the accused Officer C, COPA recommends that:

Allegation # 1 that Officer C engaged in a verbal altercation calling "ho", "bitch" and "mother fucker" not sustained.

Allegation # 2 that Officer C did not provide his badge number be not sustained. There is insufficient evidence to prove or refute this allegation.

Allegation # 3 that Officer C did not create a report be exonerated. Per SO4-13-09, Officer C did not need to create an ISR.

Allegation # 4 that Officer C unlawfully stopped Subject 1 be exonerated. Per *Terry vs. Ohio*, this Investigatory Stop was justified.

Allegation # 5 that Officer C did not stop the physical altercation be not sustained. There is insufficient evidence to prove or refute this allegation.