

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 23, 2017
Time of Incident:	12:40 PM
Location of Incident:	XXXX S. Pulaski Road/CTA Line Station A
Date of COPA Notification:	November 27, 2017
Time of COPA Notification:	10:03 AM

On November 23, 2017 at approximately 12:40 pm, Subject 1 (“Subject 1”) was waiting for his mother, Civilian 1 (“Civilian 1”), to pick him up from the CTA Line Station A (“CTA Station”). Officers A #XXXX and B #XXXXX were sitting inside their marked squad car that was parked in the CTA Station parking lot when they observed Subject 1. The officers exited their vehicle and approached Subject 1. Subject 1 alleges that Officer A displayed and pointed his weapon at him, COPA reviewed these allegations and reached a Sustained finding.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXX, Employee #XXXXXX, 11 Years on Force, Police Officer, 34 Years of Age, Male, White
Involved Officer #2:	Officer B, Star #XXXXX, Employee #XXXXXX, 11 Years on Force, Police Officer, 36 Years of Age, Male, Hispanic
Subject #1:	Subject 1, 33 Years of Age, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. Unnecessarily displayed and pointed his weapon at Subject 1	Sustained

IV. APPLICABLE RULES AND LAWS

Rules
<p>1. Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department</p> <p>2. Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals</p>

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

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

General Orders

1. **G03-02-01:** Force Options

V. INVESTIGATION

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

a. Interviews

COPA conducted **Subject 1's ("Subject 1") audio statement** on November 28, 2017. On November 23, 2017, Subject 1 stated he left the CTA Line Station A platform and called his mother, Civilian 1, to tell her he was waiting for her. Subject 1 indicated that Civilian 1 told him she was two stop lights away. Subject 1 stated he saw Civilian 1 pull up into the "Kiss n' Ride" area and park adjacent to a police SUV. Subject 1 indicated that Civilian 1 parked very close to the police vehicle. Subject 1 stated he exited the CTA Station with his hands in his pocket. Subject 1 stated that he was not loitering and did not make any startling movements. While walking towards Civilian 1's vehicle, Subject 1 stated that an officer, now known to him as Officer A, saw him and looked at his partner, now known to him as Officer B. Subject 1 said Officer A exited his vehicle with his hand on his firearm saying, "get your hands up, hands out of your pocket slowly." Subject 1 stated he stood there and slowly put his hands up. Subject 1 stated that Officer A pointed his firearm right at Subject 1's chest and abdominal area. Subject 1 stated Civilian 1, who remained in her vehicle, witnessed this, and screamed "that's my son, what's going on?" Subject 1 stated that Officer A said "walk up slowly." Subject 1 said he replied, "what did I do?" Subject 1 stated that Officer A asked "what is in your pockets?" while his firearm was still displayed and unholstered. Subject 1 stated he opened his jacket. Subject 1 said he only had a lint roller inside his jacket. Subject 1 stated Officer B exited his vehicle and looked at Civilian 1's vehicle and said, "is this your son?" Subject 1 said Civilian 1 replied, "yes, that's my son, what's going on?" Subject 1 stated that Officer A asked him whether Civilian 1 was his mother to which Subject 1 replied yes. Subject 1 stated that Officer A says "I'm sorry, there have been a lot of robberies happening lately in the area." Subject 1 indicated that Officer A tried to diffuse the situation and Officer B intervened to calm Civilian 1 down. Subject 1 stated he asked the officers "why did you pull the gun out?" to which Officer A replied, "you were walking up to my car with your hands in your pocket, what am I supposed to think?" Subject 1 said he replied "yes, I was, because my mother's car was parked very closely to your car."

Subject 1 stated that Officer A did not search Subject 1, rather, Subject 1 opened his jacket and Officer A looked inside. Subject 1 stated he and Civilian 1 asked Officer A whether Subject 1 fit the description of the individual Officer A was looking for, but Officer A did not

answer. Subject 1 stated Officer A became defensive, aggressive, and arrogant. After Officer A gave Subject 1 the investigatory stop receipt, Subject 1 stated he and Civilian 1 drove away. Subject 1 stated the incident lasted from approximately 12:50 PM to 1:10 PM. Subject 1 stated he wore jeans, a blue dress shirt, black boots, a jacket, and black beanie during the incident. Later in the day, Subject 1 stated he went back to the CTA Line Station A and spoke to a CTA employee asking whether she saw any officers. Subject 1 stated that the CTA employee said she neither saw nor spoke to officers.¹

COPA conducted witness **Civilian 1's ("Civilian 1") audio statement** on November 28, 2017. Civilian 1 stated she is Subject 1's mother. Civilian 1 stated she was on her way to the CTA Line Station A to pick up Subject 1. Civilian 1 stated Subject 1 called to ask where she was to which she replied that she was two stop lights away. Civilian 1 stated she pulled into the "Kiss n' Ride" area of the CTA Station and parked adjacent to a police SUV. Civilian 1 stated she parked close enough that the police door would hit her passenger door. Civilian 1 stated the officers were already parked sitting inside their vehicle when she parked next to them. Civilian 1 stated Subject 1 proceeded to her vehicle when she saw the police vehicle door open. Civilian 1 stated an officer, now known to her as Officer A, exited with his firearm drawn. Civilian 1 stated the firearm was pointed at Subject 1's chest.

Civilian 1 stated she screamed "that's my son, that's my son" numerous times. Civilian 1 stated that Officer A looked at her vehicle and ask if she was Subject 1's mother, to which she replied "yes, I'm his mother, what is going on, you pulled a gun." Civilian 1 stated that both officers realized that Subject 1 was walking towards Civilian 1's vehicle. Civilian 1 stated she asked Officer A about drawing his firearm to which Officer A said, "there have been a lot of robberies in the area." Civilian 1 said she asked Officer A "does that mean Subject 1 fit the description of the robber." Civilian 1 said that Officer A did not answer. Civilian 1 said she talked to Officer A about what happened and Officer A replied, "He feared for [his] safety. He did not like the way [Subject 1] was walking towards [him] because he felt threatened." Civilian 1 said she told Officer A that Subject 1 was walking towards her vehicle. Civilian 1 stated the officers did not search Subject 1. Civilian 1 described Officer A as arrogant. Civilian 1 stated she remained inside her vehicle throughout the incident. Civilian 1 stated she and Subject 1 went to back to the CTA Station and spoke to a CTA employee. Civilian 1 said that the CTA employee did not know of any robberies or see any officers at the station.²

COPA conducted witness **Officer B's #XXXXX ("Officer B") audio statement** on January 9, 2018. Officer B was accompanied by counsel. Officer B stated that while working with Officer A on November 23, 2017, which was Thanksgiving Day, they were parked in the CTA Line Station A's parking lot. Officer B indicated the officers were parked in the lot for "police presence" because there were armed robberies in the vicinity. Officer B stated he received information in roll call and worked in the area, therefore, he was aware of current robberies in the area. Officer B stated he did not recall if he knew the robbery suspect's description when he and Officer A were parked in the CTA parking lot.

¹ Attachment 10

² Attachment 11

Officer B stated he saw an individual, now known as Subject 1, in an unstable state walking towards the squad car with his hand inside an article of clothing. Officer B stated he knew Subject 1 was unstable because Subject 1's behavior and that Subject 1 walked in different directions. Officer B said he did not recall how long he and Officer A were parking in the parking lot prior to seeing Subject 1. Officer B stated he saw other people entering and exiting the CTA station, but does not know approximately how many people entered and exited the CTA station. Officer B stated he and Officer A approached Subject 1 for a field interview. Officer B stated the officers made this decision based on Subject 1's behavior. Officer B stated that prior to approaching Subject 1, he and Officer A spoke about Subject 1 possibly possessing a weapon. Officer B stated that he believed Subject 1 may have possessed a weapon due to Subject 1's behavior. He stated that the way Subject 1 exited the CTA station, the way Subject 1 looked and walked in different directions, Subject 1 not having a focused flight of direction, Subject 1 having one hand in his clothing, and Subject 1 walking towards the squad car were suspicious. Officer B said he exited his vehicle and went around the back of the squad car. Officer B stated that Officer A spoke to Subject 1. Officer B stated that Subject 1 told the officer he was getting picked up by this mother (Civilian 1).

Officer B stated he did not know what Officer A's actions because he was focused on the Subject 1. Officer B stated he did not see Officer A exit the squad car. Officer B stated that when he saw Officer A speaking to Subject 1, he does not know where Officer A's firearm was located. Officer B stated he did not see Officer A unholster or point his firearm during this incident. Officer B stated he spoke to Subject 1 and Civilian 1, but did not recall the substance of the conversations.

Officer B stated Civilian 1 sat inside her vehicle, which was parked next to the squad car. Officer B stated he did not see her vehicle prior to exiting his vehicle. Officer B stated he could not speculate whether Officer A saw Civilian 1's vehicle. Officer B stated in order to approach Civilian 1's vehicle, Subject 1 went towards the squad car. Officer B said that once it was determined Subject 1 was waiting for Civilian 1 to pick him up, the officers decided a field interview was not needed.

Officer B stated he reviewed the Investigatory Stop Report, Officer A authored the report, and it is fair and accurate to what he recalls. Officer B stated he did not conduct a pat down on Subject 1 and does not know whether Officer A conducted a pat down. Officer B stated he does not recall why he did not conduct a pat down when he believed Subject 1 possessed a weapon. Officer B stated he normally conducts a pat down in similar circumstances. Officer B indicated that no weapon was recovered.

Officer B stated that the officers' demeanor was professional. Officer B stated that he does not recall Subject 1 or Civilian 1's demeanors. Officer B stated he does not recall if he or Officer A asked Subject 1 about robberies in the area.³

COPA conducted **Officer A's #XXXX ("Officer A") audio statement** on January 9, 2018. Officer A was accompanied by counsel. Officer A stated he and Officer B were parked in the "Kiss n' Ride" parking lot of the CTA Line Station A where individuals pick up and drop off train passengers. Officer A stated that multiple robberies took place the prior day in the area and

³ Attachment 25

its offenders fled towards the CTA Line Station A. Officer A said the robbery suspects' description was teenage, black males. Officer A stated he and Officer B sat inside their squad car as a deterrence and to investigate. Officer A stated he saw multiple vehicles entering and exiting the parking lot picking up individuals from the CTA station. Officer A said he previously sat in the parking lot and the only action that took place was individuals taking public transportation.

Officer A stated he was parked in the lot for approximately ten minutes prior to interacting with Subject 1. Officer A stated he saw Subject 1 as he exited the CTA station. Officer A stated Subject 1 was walking erratically in various directions. Officer A stated Subject 1 quickly changed his walking direction then quickly looked and walked towards the squad car. Officer A stated that he perceived Subject 1 to be mentally unstable. Officer A stated he did not notice whether other vehicles were in the parking lot because he was focused on Subject 1. Officer A stated his view of Subject 1 was unobstructed. Officer A said Subject 1 was walking in the parking lot for less than thirty seconds. Officer A stated when he exited his vehicle he noticed Subject 1 had his right hand inside his jacket. Officer A stated that with his perceived mental state of Subject 1 combined with Subject 1's manner of walking towards squad car, he unholstered his weapon as he exited.

Officer A said he thought Subject 1 would shoot the officers because he perceived Subject 1 to be mentally unstable, Subject 1 walking towards the squad car, and Subject 1's hand inside his jacket. Officer A stated it was "chilly" on November 23, 2017. Officer A said that his firearm was by his side by the holster but does not recall if he pointed the firearm at Subject 1. Officer A stated he ordered Subject 1 to show his hands, to which Subject 1 complied. Officer A indicated that, at this time, he realized that Subject 1 was walking towards the red vehicle parked a few feet away from the squad car. Officer A indicated that Subject 1's mother (Civilian 1) occupied the red vehicle because she was picking Subject 1 up from the CTA station. Officer A stated he noticed Civilian 1's vehicle awaiting Subject 1 when he exited his squad car. Officer A stated once he realized Subject 1 was walking towards Civilian 1's vehicle, he no longer felt threatened by Subject 1. Officer A stated he did not recall his conversation with Subject 1. Officer A stated he told Civilian 1 he observed Subject 1's manner of walking and he perceived Subject 1 to be mentally unstable. Officer A stated he did not conduct a pat down because he realized Subject 1 was walking towards Civilian 1's vehicle and the threat disappeared.

Officer A stated Subject 1 looked young, but not the age of a teenager. Officer A stated that when he unholstered his weapon while he exited his squad car, he did not believe Subject 1 to be one of the robbery suspects. Officer A stated his perception of Subject 1's mental state alerted him more than anything else. Officer A stated he has experience with mentally unstable individuals due to "numerous radio calls [and] daily interactions with them." Officer A described the manner mentally unstable individuals walk as "erratic, unsure where they are going, [and] spastic."

Officer A stated he completed the Investigatory Stop Report and its receipt. Officer A stated Subject 1's information was clear. Officer A said he and Officer B left the CTA station a few minutes after their interaction with Subject 1. Officer A indicated he saw approximately ten individuals entering and exiting the CTA station prior to his contact with Subject 1. Officer A stated he did not recall the individuals' physical description, behavior, or hand positions. However, Officer A stated their behavior did not "pique his interest [or] attention."⁴

⁴ Attachment 30

b. Digital Evidence

Officers B and A's body-worn cameras depict Officers B and A conversing with Subject 1 and Civilian 1. The videos do not depict the officers' initial approach towards Subject 1. **Officers B and A's in-car camera** did not capture the incident.⁵

COPA served a **subpoena** on the Chicago Transit Authority ("CTA") on November 28, 2017 for surveillance footage. CTA's response states it has no responsive video.⁶

COPA conducted a **POD search** around the incident location; however, there are no PODs in the area that would have captured the incident.⁷

c. Documentary Evidence

The Office of Emergency Management and Communications **Event Query Report** indicates that Officer A provided Subject 1's information to dispatch, which was clear.⁸

COPA conducted a search for Office of Emergency Management and Communications **PDT Messages** on December 21, 2017; however, no PDT messages were found.⁹

The **Investigatory Stop Report**, No. ISRXXXXXXXXXX and Event No. XXXXX, authored by Officer A lists Subject 1 as the individual stopped. The report states that Officer A did not conduct a protective pat down and did not find a weapon or contraband on Subject 1. The report narrates that Officers A and B were conducting a premise check due to recent robberies. The officers observed Subject 1 exit the train station walking in various directions and then walk towards the officers in an erratic manner. The report states the officers believed Subject 1 to be in an unstable state because he kept his right hand inside of his jacket. The report further states that in fear that Subject 1 was holding a weapon combined with the perceived mental state, the officers ordered Subject 1 to show his hands as Officer A unholstered his weapon. The report states the officers realized Subject 1 was walking towards an awaiting vehicle.¹⁰

VI. ANALYSIS

COPA recommends a finding of Sustained for **Allegation #1** against Officer A, that he unnecessarily displayed and pointed his weapon at Subject 1. General Order G03-02-01 regulates when an officer can deploy their firearm, but the order does not address when an officer can or cannot draw their firearm from their holster. Rule 38 clarifies when an officer can display their firearm stating that an officer is prohibited from unlawfully or unnecessarily using or displaying a

⁵ Attachment 14

⁶ Attachments 17 and 23

⁷ Attachment 22

⁸ Attachments 15 and 16

⁹ Attachment 18

¹⁰ Attachment 19

weapon. Determining whether Officer A's display and pointing of his firearm was proper is fact dependent.

It is undisputed that Officer A unholstered his firearm when he exited his marked squad car. Officer A claimed he believed Subject 1 may discharge a weapon at the officers because Subject 1's hand remained inside his jacket, Subject 1 walked towards the officers' vehicle, and he perceived Subject 1 to be mentally unstable due to Subject 1 walking erratically.

Once Subject 1 exited the CTA station, he waited for Civilian 1 to arrive. Subject 1 exited the CTA station with his hands in his pocket without making sudden movements. It is quite normal for an individual to wait for a ride after exiting a CTA train station, and to walk with their hands in their pocket when the weather is cold. Officer A even said it was "chilly" at the time of the incident. Once Subject 1 saw Civilian 1 arrive, he walked towards her vehicle. To go to Civilian 1's vehicle, Subject 1 had to walk towards the squad car because both vehicles were parked a few feet away from each other. Officer A stated he noticed Civilian 1's vehicle was parked near the squad car. Officer A claimed that due to Subject 1's manner of walking, he perceived Subject 1 to be mentally unstable which primarily alerted him to exit his vehicle. However, the fact that he perceived Subject 1 to be mentally unstable does not necessitate unholstering and pointing his firearm at Subject 1. Also, pacing in different directions while waiting for someone on a cold day is ordinary.

At no point was it objectively reasonable for Officer A to believe that Subject 1 would likely cause death or serious physical injury to another individual. In fact, it was Officer A's actions which could have resulted in death or serious physical injury to Subject 1. Officer A admitted that he did not believe Subject 1 might be one of the robbery suspects. Officer A's explanation that Subject 1 seemed "unstable" is tenuous at best.

Although Officer A stated he does not recall whether he pointed his firearm at Subject 1, both Subject 1 and Civilian 1 claimed he pointed it at Subject 1's chest. Based on their statements, and the fact that Officer A did not deny that he pointed his weapon at Subject 1, COPA finds that it is more likely than not that Officer A acted as alleged.

For the above reasons, it was unreasonable and unnecessary for Officer A to unholster and point his firearm at Subject 1.

VII. CONCLUSION

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

Allegation	Finding
Officer A	
1. Unnecessarily displayed and pointed his weapon at Subject 1.	Sustained

Approved:

Deputy Chief Administrator A
Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	XX
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Deputy Chief Administrator:	Deputy Chief Administrator A