

SUMMARY OF INCIDENT

On July 31, 2015 at approximately 7:05 pm, at the address of XXX W. Chicago Avenue, Chicago, Illinois, Officer A, Star XXXXX allegedly pointed his firearm at civilian, Subject 1 after an altercation arising from an incident in traffic. Subject 1 made a complaint to Sergeant A, Star XXXX, who subsequently registered a complaint with the Independent Police Review Authority¹ (“IPRA”), COPA reviews this complaint.

APPLICABLE RULES AND LAW

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 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.

ALLEGATIONS:

It is alleged that on July 31, 2015 at XXX W. Chicago Avenue, Chicago, Illinois, at approximately 7:05 pm, Officer A, Star XXXXX:

1. Almost struck Subject 1 with his vehicle, as Subject 1 was walking across the street;
2. Drew his weapon and pointed it at Subject 1 for no reason; and
3. Laughed and made fun of Subject 1 when responding officers arrived.

INVESTIGATION

Interviews

Multiple attempts were made to get an audio statement and sworn affidavit from **Subject 1**, to no avail. An IPRA investigator spoke with Subject 1 via telephone on July 31, 2015. Subject 1 related that he was almost struck by a vehicle as he crossed the street by “jay-walking” at approximately Chicago Avenue and Green Street. He related the driver stopped his vehicle and pointed a firearm at him, resting it on the door frame. Subject 1 relayed that he stated to the driver, “What, are you going to shoot me?” The driver identified himself as a police officer (now known

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.

to be Officer A) and exited the vehicle. Subject 1 called 911, and the officers that arrived laughed with the officer and refused to listen to his story. He stated that he then called 911 again, requesting a sergeant who arrived and initiated a complaint on his behalf. (Attachments 10, 25, 26)

IPRA obtained a sworn affidavit and audio statement from eyewitness, **Civilian 1**, on August 7, 2015. In his statement, Civilian 1 stated that on the date of the incident, he was working as a security guard at XXX N. Halsted Street. He observed Subject 1, who he knew as an employee from a neighboring restaurant, crossing Chicago Avenue on foot when he was almost struck by a vehicle. Civilian 1 said the driver of the vehicle rolled down his window and motioned as if he were pulling a weapon. Civilian 1 stated however, that he never saw a weapon. Civilian 1 said that he then heard Subject 1 say something to the effect of, "You going to shoot me for crossing the street?" At that time, Civilian 1 stated that the driver identified himself as a police officer and offered to call 911. According to Civilian 1, several officers arrived and berated Subject 1 about approaching the off-duty officer. Civilian 1 also stated that a supervisor arrived on scene and took the side of the off-duty officer. (Attachments 13, 15)

Officer A, Star XXXXX, provided an audio statement to IPRA on February 22, 2016. Officer A stated that on the date and time of the incident, he was off-duty in his personal vehicle after leaving the 18th District and on his way to the CPD Academy². He stated that he was travelling westbound on Chicago Avenue and was about to make a southbound turn onto Green Street when he saw a man (now known to be Subject 1) standing in the "middle of the street of five or six lanes of traffic." After waiting for eastbound traffic to clear so that he could turn southbound, Officer A stated that he made a hand motion to get Subject 1 to move so that he could complete the turn. At that time, Officer A stated that Subject 1 started to wave his hands and was speaking to Officer A, but Officer A did not know what he was saying. Officer A said that Subject 1 then became agitated by waving his hands aggressively and was saying something which Officer A still could not understand so he cracked his car window.

Officer A said that at this time Subject 1 started coming towards the driver's side window. Officer A said that he got nervous and scared and unholstered his weapon and placed it flat against his car door. Officer A said that he never pointed it at Subject 1. Officer A stated that he then identified himself as a Chicago Police Officer by stating, "I am a Chicago Police Officer." He further indicated that he instructed Subject 1 to step away from his vehicle because he was getting nervous. Officer A stated he exited the vehicle after holstering his weapon and then Subject 1 called 911. Officer A stated that they both stood outside and waited for responding officers who then spoke to them both. Officer A also indicated that a sergeant arrived on scene. Officer A denied laughing at or making fun of Subject 1, and stated that he did not see any other officers acting in that manner. (Attachments 36, 37)

Video Evidence

IPRA obtained surveillance video from a building located at XXX N. Halsted Street, but it did not capture the incident. At some point after the incident, the security guard for the building

² CPD Academy is located at 1300 W. Jackson, Chicago, Illinois.

moved the camera to capture the intersection of Chicago Avenue and Halsted Street. After that, CPD vehicles arrive and officers are seen speaking to an unknown white male. (Attachments 16-18).

OEMC Transmissions

IPRA obtained 911 calls related to this incident. (Attachments 19-23)

CONCLUSION

After review of all the evidence, COPA recommends that Allegation 1, that Officer A, almost struck Subject 1 with his vehicle, as Subject 1 was walking across the street be **Exonerated**. Subject 1 did not make himself available for an audio recorded interview with IPRA, however he gave a statement over via telephone. By his own admission, he was “jay-walking” which indicates that he was not crossing in a crosswalk. Moreover, in his statement Officer A stated that Subject 1 was standing in the “middle of the street,” essentially blocking his ability to continue to drive. Since Subject 1 admitted he was not crossing in a crosswalk, it is quite possible that he was almost struck by Officer A as he proceeded lawfully westbound on Chicago Avenue.

COPA recommends that Allegation 2, that Officer A drew his weapon and pointed it at Subject 1 for no reason be **Not Sustained**. Although Subject 1 did not provide a sworn affidavit, eyewitness Civilian 1, cooperated with IPRA’s investigation. Officer A admitted to pulling his weapon and placing it against the door frame of his vehicle. Despite Officer A’s contention that it would have been out of view of Subject 1, he saw it (per his telephone interview and the 911 calls). COPA cannot determine from the evidence available whether this action was without reason, as Officer A stated that Subject 1 was agitated which made him nervous.

COPA recommends that Allegation 3, that Officer A laughed and made fun of Subject 1 when responding officers arrived, be **Not Sustained**. There is not enough evidence to say that it is more likely than not that even if officers were laughing, that they were laughing at Subject 1. Subject 1 did not cooperate with IPRA’s investigation to memorialize what was allegedly said by the officers. Civilian 1’s assessment alone that officers were allegedly laughing at is not enough for COPA to overcome its burden.

Investigator A

Supervising Investigator A