

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date of Incident:	March 21, 2015
Time of Incident:	12:10 a.m.
Location of Incident:	XXXX North Clark Street, Chicago, IL
Date of COPA Notification:	July 17, 2017
Time of COPA Notification:	1: 14 p.m.

On March 21, 2015, officers from the XXth District responded to a shots fired call in the XXXX block of North Paulina Street. Sergeant and Officer A observed Subject, who matched the subject's description from dispatch, hiding behind a garbage can in the alley with liquor bottles in hand. The officers arrested Subject and took him to the XXth District station. During processing, a physical altercation between Subject and Officer B ensued. Officer B struck Subject during the altercation. Subject sustained an injury and was taken to Hospital for medical treatment.

II. INVOLVED PARTIES

Involved Officer #1:	Officer B, #XXXX, Employee #XXXXX, DOA March X, XXXX, Police Officer, Unit XXX, DOB May XX, XXXX, male, White
Involved Officer #2:	Officer C, #XXXXX, Employee #XXXXX, DOA August X, XXXX, Police Officer, Unit XXX, DOB May XX, XXXX, male, White
Involved Officer #3: ²	Sergeant, #XXXX, Employee #XXXXX, DOA January X, XXXX, Sergeant, Unit XXX, DOB October XX, XXXX, male, Hispanic
Subject #1:	Subject, DOB April XX, XXXX, male, Black

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. Therefore, 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.

² On March XX, XXXX, Sergeant maintained the rank of police officer. He has since been promoted to sergeant. For the purposes of this report, he shall be referred to by his current rank.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer B	1. It is alleged that Officer B handcuffed Subject too tightly, in violation of Rule 8.	Unfounded
	2. It is alleged that Officer B directed profanity at Subject, in violation of Rules 8 and 9.	Unfounded
	3. It is alleged that Officer B slapped Subject, in violation of Rules 8 and 9.	Exonerated
	4. It is alleged that Officer B choked Subject, in violation of Rules 8 and 9.	Unfounded
	5. It is alleged that Officer B punched Subject, in violation of Rules 8 and 9.	Unfounded
Officer C	1. It is alleged that Officer C directed profanity at Subject, in violation of Rules 8 and 9.	Unfounded
	2. It is alleged that Officer C slapped Subject, in violation of Rules 8 and 9.	Unfounded
	3. It is alleged that Officer C choked Subject, in violation of Rules 8 and 9.	Unfounded
	4. It is alleged that Officer C punched Subject, in violation of Rules 8 and 9.	Unfounded
Sergeant	1. It is alleged that Sergeant directed profanity at Subject, in violation of Rules 8 and 9.	Unfounded
	2. It is alleged that Sergeant slapped Subject, in violation of Rules 8 and 9.	Unfounded
	3. It is alleged that Sergeant choked Subject, in violation of Rules 8 and 9.	Unfounded
	4. It is alleged that Sergeant punched Subject, in violation of Rules 8 and 9.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
 2. Rule 9: Engaging in an unjustified verbal or physical altercation with any person, while on or off duty.
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General Orders

1. G-03-02-02: Force Options

V. INVESTIGATION³

a. Interviews

In his February 2, 2017 **trial testimony**⁴ in Cook County Criminal Court (Case No XX CR XXXX), Subject stated that Officers C and B took him to the XXth District station after his arrest. One officer handcuffed Subject to a bench.⁵ Then, both officers swore at him and beat him. Subject denied threatening, swearing at, or spitting at the officers.

In his March 27, 2017 **civil lawsuit**⁶ filed in the United States District Court Northern District of Illinois (Case No X:XX-cv-XXXX) Subject alleged that Officer B mistreated him in a police interrogation room by handcuffing him too tightly.⁷ Subject attributed the tightness of his handcuffs to his height. He also alleged that Officers B and C used profanity and slapped, punched, and choked him

In his July 9, 2017 and July 22, 2017 **letters to COPA**,⁸ Subject made the same allegations as those in his civil lawsuit.

In his August 22, 2017 **statement to COPA**,⁹ Subject stated that on March 21, 2015 he went out drinking with friends. He had four or five beers and a few shots. After parting ways with his friends, Subject was walking through an alley when officers pointed their guns at him and placed him under arrest. He was taken to the XXth District station where he was handcuffed to a bench. Subject stated that he is six feet four inches tall and his left wrist was handcuffed to the bench at a lower level. This caused Subject to lean over and strain his shoulder and wrist, causing

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Attachment 39, pages 108-119

⁵ Subject did not mention in court that his handcuffs were too tight.

⁶ Attachment 12

⁷ In the civil complaint, Subject made reference to his height when talking about the tightness of his handcuffs.

⁸ Attachments 3 and 4

⁹ Attachment 18

pain. The officers directed profanity at Subject by saying he was “fucking lying.” Subject could not distinguish between Officers B and C, but stated that one officer punched him in the face with a handcuff wrapped around his hand, which caused Subject to bleed everywhere. The other officer choked Subject for five to ten minutes, causing him to lose consciousness. Officers transported Subject to Hospital where he received stitches above one eye. Subject denied slamming his head against the wall, kicking any officers, or spitting at or threatening any officers while at the XXth District station. Subject was eventually taken to bond court, where he was photographed by an investigator from the Cook County Public Defender.

In his December 4, 2017 **statement to COPA**,¹⁰ **Accused Officer B** stated that March 21, 2015 he was dispatched to a shots fired call with his partner, Officer C. Once they arrived they discovered from another officer on scene that there were no shots fired, and they were instead responding to a burglary call.¹¹ The officers on scene provided a description of the burglary suspect, and Officers B and C patrolled the area. The officers discovered Subject, who matched the suspect’s description, hiding behind a garbage can in an alley with items in his hand. They began to question Subject, who was agitated and swearing at the officers. The officers held Subject in the alley until other officers brought the burglary witness over to conduct a show-up identification. The witness identified Subject as the man who took items from his porch, so the police arrested Subject.

Officers transported Subject to the XXth District station. Officers B and C and Sergeant met Subject in a holding cell next to a tactical office to process his arrest, including conducting a custodial search. Subject was belligerent and combative with the officers and threatened to kill Officer B and his family. As they approached, Subject spat at the officers and kicked Officer B’s leg. Subject then lunged at Officer B and bit his shirt. Subject did not make contact with Officer B’s skin and managed to only bite cloth. Officer B then used an open hand strike to get Subject’s mouth off his shirt. He learned this technique at the police academy as a mean of preventing, or in this case ending, a battery. Officer B struck Subject with an open hand near his eyebrow more than once, but did not recall how many times he struck Subject. Officer B handcuffed Subject to the bench while Subject continued to yell and be combative. The officers completed their custodial search. Subject sustained a small cut above his eyebrow during his physical altercation with Officer B. Officers transported him to the hospital.

Sergeant was in the holding cell with Officer B when the physical contact happened, however Officer C was in the adjoining tactical office and did not witness what happened. No other officer had physical contact with Subject. Officer B denied directing profanity at Subject and did not hear Subject complain that the handcuffs were too tight. Officer B had no other physical contact with Subject besides the open hand strike, and denied punching or choking him.

¹⁰ Attachment 44

¹¹ Subject also alleged that the involved officers provided false testimony at his criminal trial when they testified that they were dispatched to a “shots fired” call. OEMC Event Query XXXXXXXXXXXX (Attachment 11) reveals that the initial call to 911 was coded as shots fired, and that the officers were in fact dispatched to such a call. It was later discovered that there were no shots fired, and that it was a burglary investigation instead. Because the evidence shows that the officers did not lie when they testified that they responded to a “shots fired” call, it is not necessary to address this allegation in any way.

In his November 9, 2017 **statement to COPA**¹², **Accused Officer C** provided essentially the same account as Officer B. He also added that he observed Subject pounding his head against the wall when he was handcuffed to the bench and hitting his handcuffed hands against the bench, which lead their lieutenant to instruct them to take Subject to the hospital for medical observation. Officer C also confirmed that he was in the next room and did not observe Subject's and Officer B's physical altercation. Officer C denied all allegations against him.

In his December 28, 2017 **statement to COPA**,¹³ **Accused Sergeant** stated that Subject attacked Officer B while the police were processing his arrest. Sergeant heard Subject threaten to kill the officers and their families and say he would blow up the station. Sergeant witnessed Subject kick Officer B in the leg, spit at him, and then bite Officer B's shirt. Officer B performed an open hand strike against Subject and struck him with the palm of his hand more than once. Officer B stopped striking Subject once Subject let go of his shirt. Officer C was in the next room and could not see what was happening. Sergeant also saw Subject bang his head against the wall and his handcuffed hands against the bench. He did not hear Subject complain about the handcuffs being too tight. Sergeant did not hear any profanity directed at Subject. Sergeant denied all allegations against him.

In his December 27, 2017 **statement to COPA**,¹⁴ **Witness Officer A** provided essentially the same account as the other officers.

In their February 2, 2017 **trial testimony**¹⁵ in Cook County Criminal Court (Case No XX CR XXXX), Officers B and C and Sergeant provided essentially the same testimony as in their statements to COPA.¹⁶

b. Digital Evidence

Photographs¹⁷ taken on March 22, 2015 by Cook County Public Defender Investigator Gutierrez, #283 shows Subject's face, wrists and leg. There is a small laceration next to Subject's right eye with one visible suture. There are small, dark marks on Subject's wrists. Additionally, there is a scab on one of Subject's knees that appears partially healed.

c. Physical Evidence

Medical records¹⁸ from Hospital detail the treatment Subject received on March 21, 2015. Medical staff noted that Subject arrived at the hospital wildly combative and severely agitated while screaming obscenities at police and hospital staff. Subject spit on several people at the

¹² Attachment 33

¹³ Attachment 54

¹⁴ Attachment 49

¹⁵ Attachment 39

¹⁶ Officer C testified that during the altercation with Subject, he was in the next room with an obstructed view. He also testified that he heard Subject spit on Officer B, and had an obstructed view of Subject kicking Officer B. He stated that he was unable to see the physical altercation between Officer B and Subject, but did see Subject fall backwards.

¹⁷ Attachment 22

¹⁸ Attachment 26

Hospital and threatened to kill everyone. Hospital staff applied physical restraints for staff safety and treated Subject with intravenous sedatives. He was diagnosed with alcohol abuse, physically aggressive behavior, abrasions of multiple sites, head contusion, and adjustment reaction. Subject denied feeling any pain. The records also reveal that Subject had an approximately .75cm laceration to his left temple that was treated with one stitch.

d. Documentary Evidence

The **related CPD reports**¹⁹ provide essentially the same account of the events as the officer's statements.

VI. ANALYSIS

COPA recommends a finding of **UNFOUNDED** for Allegations #1, #2, #4 and #5 against Officer B, Allegations #1-#4 against Officer C, and Allegations #1-#4 against Sergeant. Subject claimed that he was abused by Officers B and C while being processed at the XXth District station. This investigation revealed that it was actually Officer B and Sergeant who were present during the physical altercation with Subject and that Officer C was not involved. Therefore, the allegations against Officer C are unfounded. Furthermore, regarding the allegations that Officer B and Sergeant abused Subject, the medical records offer an independent corroboration of the officers' version of events. The medical records reveal that Subject was intoxicated, belligerent and violent. The medical records also echo the officers' accounts, showing that Subject was spitting, kicking and threatening to kill people. Additionally, two officers recounted that they witnessed Subject banging his handcuffed hands against a bench, which offers a plausible explanation for the small, dark marks on Subject's wrists. It is also worth noting that all four officers were consistent with one another, with their court testimony, and with the various CPD reports. Conversely, Subject was inconsistent throughout his various statements. His allegations were first noted when he testified in court, where he claimed he was beaten, yet made no mention of being handcuffed too tightly. Subject's allegations became more detailed and expansive as time went on, so that his statement to COPA included the claim that he was beaten with a handcuff, bled excessively and was choked for upwards of ten minutes while losing consciousness. If Subject had been beaten that severely, his injuries most certainly would have been reflected in the medical records and his own attorney's photographs. Tellingly, they were not. Because the officers provided consistent testimony throughout, because the medical records and photographs offer independent corroboration, and because Subject was clearly intoxicated during his police encounter and then provided inconsistent statements, the officers' version of events is more credible than Subject's.

COPA recommends a finding of **EXONERATED** for Allegation 3 against Officer B. Officer B's use of an open hand strike against Subject was appropriate under CPD's Use of Force Policy. CPD defines the stunning technique as a, "diffused-pressure striking or slapping and is an attempt to increase control by disorienting the subject and interfering with the subject's ability to resist."²⁰ Officers are permitted to use the stunning technique on active resisters and assailants.²¹

¹⁹ Attachments 5, 7, 8, 9 and 47

²⁰ CPD General Order G-03-02-02 (IV) (B) (2) (a)

²¹ *Id.*

Subject became an assailant once he kicked Officer B and bit his shirt. Therefore, considering the evidence showing that Subject was an assailant when he battered Officer B prior to Officer B's use of an open hand strike, Officer B was acting within CPD's Use of Force Policy.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer B	1. It is alleged that Officer B handcuffed Subject too tightly, in violation of Rule 8.	Unfounded
	2. It is alleged that Officer B directed profanity at Subject, in violation of Rules 8 and 9.	Unfounded
	3. It is alleged that Officer B slapped Subject, in violation of Rules 8 and 9.	Exonerated
	4. It is alleged that Officer B choked Subject, in violation of Rules 8 and 9.	Unfounded
	5. It is alleged that Officer B punched Subject, in violation of Rules 8 and 9.	Unfounded
Officer C	1. It is alleged that Officer C directed profanity at Subject, in violation of Rules 8 and 9.	Unfounded
	2. It is alleged that Officer C slapped Subject, in violation of Rules 8 and 9.	Unfounded
	3. It is alleged that Officer C choked Subject, in violation of Rules 8 and 9.	Unfounded
	4. It is alleged that Officer C punched Subject, in violation of Rules 8 and 9.	Unfounded
Sergeant	1. It is alleged that Sergeant directed profanity at Subject, in violation of Rules 8 and 9.	Unfounded
	2. It is alleged that Sergeant slapped Subject, in violation of Rules 8 and 9.	Unfounded
	3. It is alleged that Sergeant choked Subject, in violation of Rules 8 and 9.	Unfounded

4. It is alleged that Sergeant punched Subject, in violation of Rules 8 and 9.	Unfounded
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Approved:

COPA Deputy Chief Investigator
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad:	X
Investigator:	COPA Investigator
Supervising Investigator:	COPA Supervising Investigator
Deputy Chief Administrator:	COPA Deputy Chief Investigator