

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 26, 2015
Time of Incident:	6:30 pm
Location of Incident:	XXXX W. Fullerton Ave., Elmwood Park, IL XXXXX
Date of COPA Notification:	November 17, 2017
Time of COPA Notification:	1:26 pm

Complainant, Subject 1, was arrested by the Elmwood Park Police Department in conjunction with the Internet Crimes Against Children Task Force. He filed a *pro se* civil complaint alleging misconduct on the part of the arresting officers and the Assistant State’s Attorney who attempted to interview him. Subject 1 also alleged that he was unlawfully denied access to legal counsel while being interviewed by Chicago Police Department Detective A.

II. INVOLVED PARTIES

Involved Officer #1:	Detective A, Star #XXXX, Employee ID #XXXXX, Appointment Date XXXXX XX, 1997, Unit XXX, Male, White, Birth Date XXXX XX, 1968.
Subject #1:	Subject 1, Male, Black, Birth Date XXXX XX, 1989.

III. ALLEGATIONS

Officer	Allegation	Finding
Detective A	1. Unlawfully denied Complainant legal counsel, in violation of Rule 6.	Unfounded.

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Prohibits disobedience of any order or directive.

General Orders

1. General Order: G04-03 – Interrogations: Field and Custodial – effective April 3, 2014.

V. INVESTIGATION¹

a. Documentary Evidence

In a **handwritten *Pro Se Civil Complainant***,² filed in the Northern District of Illinois, on August 28, 2017, Subject 1 made the above listed allegation.³ Regarding his complaint against CPD Detective A, Subject 1 stated that he initially declined to talk to detectives without an attorney and sent a message to the detectives via the officer who processed him. He stated that Elmwood Park Detective B informed him they would get a warrant to search his phone and home. Subject 1 later changed his mind and freely gave a statement.

b. Digital Evidence

An **Electronically Recorded Interview**,⁴ (ERI) from the January 26, 2015 interview of Subject 1 depicts Detective A reading Subject 1 a Notice of Constitutional Rights and Waivers form (“Rights form”). It also depicts Subject 1 verbally acknowledging he understood his rights, signing the Rights form, and stating he did not need counsel prior to providing a statement. During the ERI, Subject 1 acknowledged that Detective A did not ask any questions related to the criminal investigation prior to the start of the recording. Finally, Subject 1 never request legal counsel during the ERI.

c. Documentary Evidence

An **Elmwood Park Police Department Investigative Action Report**,⁵ documents the investigation that led to Subject 1’s arrest. Regarding his interview with the detectives, the report indicates that Subject 1 initiated the interview process and was given a sandwich, chips, and a bottle of water prior to the interview.

An **Elmwood Park Police Department Notice of Constitutional Rights and Waivers form**,⁶ dated January 26, 2015, contains Subject 1’s signature under the phrase: “I understand what my rights are and I am willing to answer questions.” Detective A and Elmwood Park Detective B signed the form as witnesses.

VI. ANALYSIS

COPA recommends a finding of **UNFOUNDED** for the allegation made against Detective A. Section VII(A) of General Order G04-03 states, “[b]efore the interrogation of an individual who is in custody ... the sworn investigating member will ... expressly warn the individual of their

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. 2.

³ COPA accepted Subject 1’s *Pro Se* complaint, which was sworn to and notarized, as fulfillment of the affidavit requirement. Additionally, because Subject 1 provided numerous handwritten letters detailing his allegations against Detective A, a formal statement from Subject 1 was not needed. *See* Atts. 2, 5, 6, 9, 15, 16.

⁴ Att. 15.

⁵ Att. 11. The relevant section of the report is on page 6.

⁶ Att. 12.

constitutional rights by orally reciting each of the warnings and obtaining a response for each warning.” Additionally, G04-03VIII(B) states, “[a]n express statement by the individual, after hearing the warnings, that they are willing to make a statement and that they do not want a lawyer, constitutes a waiver.” Both sections are applicable in this instance.

Here, Detective A fully complied with G04-03VII(A), when he read the entire Rights form to Subject 1 and allowed Subject 1 to respond after each right was read. Further, Subject 1’s verbal and written confirmation that he understood his rights and desired to provide a statement without legal counsel constituted a waiver under G04-03VIII(B). Finally, at no time during the ERI did Subject 1 request counsel. Based on this information Detective A actions were proper and lawful. Because the allegation is clearly unfounded, it is not necessary that Detective A address it in any way.

VII. CONCLUSION

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

Officer	Allegation	Finding
Detective A	1. Unlawfully denied Complainant legal counsel, in violation of Rule 6.	Unfounded.

Approved:

Deputy Chief Administrator – Chief Investigator A

 Date

Appendix A

Assigned Investigative Staff

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