

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	November 15, 2016
Time of Incident:	10:14 p.m.
Location of Incident:	XXXX E. 51st Street
Date of COPA Notification:	November 16, 2016
Time of COPA Notification:	3:12 a.m.

On November 15, 2016, Officer A was on a routine patrol when he noticed a minor (referred to as the “minor” or “Minor M.L.”) entering a liquor store past curfew. Officer A exited his vehicle and entered the store to investigate, where he learned that the unaccompanied minor was 15 years old. Since the minor was in violation of Chicago’s Curfew Ordinance, Officer A decided to take him into custody and drive him home.

While Officer A was getting ready to leave with the minor, Subject 1 entered the liquor store and immediately started interfering with the curfew investigation. Subject 1 told the minor to resist arrest and repeatedly attempted to pull the minor away from the officer. As Subject 1 attempted to create distance between the officer and the minor, Officer A tried to push him away. After Subject 1 disobeyed multiple requests to stop interfering, Officer A drew his Taser. Subject 1 again came towards the minor and officer, at which time Officer A deployed his Taser at Subject 1. Subject 1 fell to the ground and was handcuffed.

The following day, the Independent Police Review Authority (IPRA) received a Taser Discharge notification from the Chicago Police Department (CPD). On July 25, 2017, IPRA converted the notification from Log# XXXX into an investigation under Log# XXXX. On November 28, 2017, the Subject 1 gave his statement to the Civilian Office of Police Accountability (COPA). Subject 1 alleged that Officer A pushed him in the chest, tased him without justification, and kned him in the back while handcuffing him. After conducting a thorough investigation, COPA found that Officer A’s action of pushing Subject 1 in the chest was justified and that the remaining allegations were unfounded.

II. INVOLVED PARTIES

Involved Officer #1:	A, Star# XXXX, Employee ID# XXXX, DOA XXXX, Officer, Unit 002, DOB: XXXX, Male, Black
Subject #1:	Subject 1, DOB: November 21, 1988, 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.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. Pushed Subject 1 in the chest; 2. Discharged his Taser at Subject 1 without justification; and 3. Kneed Subject 1 in the back while handcuffing him.	Exonerated Unfounded Unfounded

IV. APPLICABLE RULES AND LAWS

Rules

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 6: Prohibits disobedience of an order or directive, whether written or oral.

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

General Orders

General Order G03-02-01: The Use of Force Model

General Order G03-02-02: Force Options

Special Orders

Uniform and Property U04-02-04: Taser Devices

State Laws

720 ILCS 5/12-2-B-4: Aggravated Assault to a Peace Officer

515 ILCS 5/1-200: Obstructing an Officer

MCC 8-16-020: Curfew Hours for Minor

MCC 8-16-022: Custody Procedure

V. INVESTIGATION²

a. Interviews

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

COPA interviewed Complainant Subject 1 ³ on November 28, 2017. Subject 1 stated that on the evening of November 15, 2016, he met his cousin, "Civilian A," who told him that police officers were following him. Subject 1 told his cousin to come with him and they entered Hyde Park Food & Liquor. Shortly after entering the liquor store, Subject 1 saw three police officers enter the store. The officers tried to apprehend Subject 1's cousin for violating curfew because he was a minor. Subject 1 told one of the officers that he was his cousin's guardian at the moment. The officer did not listen to Subject 1 and instructed him to get back. As the officer was instructing Subject 1, he began pushing him in the chest.

Subject 1 said that he complied with the officer's request to step back. Nevertheless, the officer pulled out his Taser and aimed it at him. Subject 1 said that he backed even farther away from the officer and put his hands in the air for fear of being tased. Subject 1 indicated that, as he was backing away with his hands up, the officer deployed the Taser at him and the prongs struck him in the chest. Subject 1 said that the officer then turned him over on the ground and kned him in the back while handcuffing him. Subject 1 said that the police took him to the hospital the next day, where he was treated for two puncture wounds from the prongs.

COPA interviewed Accused Officer A ⁴ on January 16, 2018, after he reviewed relevant footage from his Body Worn Camera (BWC). Officer A stated that on November 15, 2016, he was assigned to Beat XXXX, working routine patrol with his partner, Officer B. On November 15, 2016, at approximately 10:15 p.m., Officer A was in the vicinity of XXXX E. 51st Street. Officer A had been driving westbound on 51st Street when he observed a minor enter a liquor store. Since it is an ordinance violation for minors to be out past 10:00 p.m. on weekdays, Officer A exited his vehicle to conduct further investigation while his partner stayed in the car. Officer A confronted the minor, who was alone in the store purchasing snacks, who told him that he was 16 years old. Officer A told him to finish purchasing his snacks and then he would take him home because he was in violation of the curfew ordinance.

After the minor completed his purchase, Subject 1 entered the store. Subject 1 told the minor that he did not have to go with Officer A. As Officer A was trying to leave the store with the minor, Subject 1 came between the two. Officer A said that he was unsure of Subject 1's intentions, but that Subject 1 must have known that he was a police officer because he was in uniform. Officer A said that he lightly pushed Subject 1 back as he was coming at the minor.

Subject 1 kept impeding the minor from leaving with Officer A. Officer A said that he ordered Subject 1 to stop several times, but that Subject 1 refused to comply. Since Officer A's verbal direction was not working, Officer A decided that he needed to take further police action against him. Officer A also felt that Subject 1 was acting aggressively towards both himself and the minor. Officer A said that, as an officer, he was responsible for the safety of the minor in his custody. When Officer A felt that Subject 1 was going to commit a battery against himself or the minor, he deployed his Taser at him. Two prongs hit Subject 1's center mass, causing him to fall to the ground, after which Officer A handcuffed him.

³ Att. 34

⁴ Att. 44

Officer A admitted that he pushed Subject 1 in the chest to create a safe space between Subject 1 and the minor. Officer A also admitted that he deployed his Taser at Subject 1 , but denied that it was without justification. Officer A believed that he was justified in using the Taser because Subject was acting at a level between resistor and assailant. Finally, Officer A denied kneeling Subject 1 in the back.

b. Digital Evidence

The **Body Worn Camera Video**⁵ of the incident records Officer A investigating a curfew violation involving an individual, now known as Minor M.L. (“M.L.”). The video further captures Subject 1 appearing to intervene in Officer A ’s detention of M.L. Subject tells the minor to resist arrest and then places his body between Officer A and the minor. When Subject 1 attempts to pull the minor away from Officer A, Officer A directs him to let go. Nevertheless, Subject 1 continues instructing the minor to resist arrest.

As Subject 1 is walking towards the officer and the minor, Officer A attempts to push Subject 1 away from the minor by placing his hand on Subject 1 ’s chest. Officer A , the lone officer inside the store, calls for backup and commands Subject 1 to stop interfering. Officer A pulls his Taser out and points it at Subject 1 , warning Subject 1 not to come towards him. Subject 1 then steps towards Officer A, who deploys his Taser at Subject 1 , causing him to fall to the ground.

Officer A then handcuffs Subject 1. After Subject 1 has been arrested, five other officers arrive at the store to assist. The officers take Subject 1 outside of the store where he thanks Officer A for tasing him. The Taser prongs appear to be stuck on Subject 1 ’s clothes or skin. The officers call for EMS. The rest of the video captures the officers speaking with the curfew violator’s mother, who arrived on scene after receiving a call from her son. She does not appear to know Subject 1 .

c. Physical Evidence

Medical Records⁶ from St. Bernard Hospital show that the hospital admitted Subject 1 on November 15, 2016, at 11:02 p.m. The records document the removal of two Taser prongs and treatment of the remaining puncture wounds. They also describe Subject 1 as intoxicated and “belligerent and uncooperative.”

d. Documentary Evidence

A authored the **Arrest Report**⁷ for RD# XXXX. The report states that officers were investigating a curfew violation at Hyde Park Food and Liquor. During the investigation, Subject 1 entered the store. Subject 1 walked between the officer and the curfew violator several times in an attempt to impede the investigation. Subject 1 told the curfew violator to ignore the officers and that he did not have to go with them. Subject 1 then began pulling the curfew violator away from

⁵ Att. 22

⁶ Att. 26

⁷ Att. 11

the officer. Officer A deployed his Taser at Subject 1 in order to protect himself and the curfew violator from a potential battery. The report states that the taser was effective. Officer A placed Subject 1 under arrest at 10:14 p.m. and EMS subsequently transported him to St. Bernard Hospital. Subject 1 was charged with Aggravated Assault to a Peace Officer and Obstructing an Officer.

A **Tactical Response Report**⁸ authored by Officer A indicates on November 15, 2016, at approximately 10:14 p.m., he deployed his Taser, serial number X30003539, via probe discharge at Subject 1. The report states that Subject 1 did not follow verbal direction, pulled away, and presented an imminent threat of battery.

Officer A authored a **Curfew Violation Report**⁹, which describes his observation of Minor M.L., age 15, buying a soda in Hyde Park Food and Liquor on November 15, 2016, at 10:13 p.m. Officer A released the minor to his mother on November 15, 2016, at 11:15 p.m.

VI. ANALYSIS

The burden of proof COPA must reach for a finding on each allegation is the preponderance of the evidence standard.

It is alleged that Officer A: (1) pushed Subject 1 in the chest; (2) discharged his Taser at Subject 1 without justification; and (3) kned Subject 1 in the back while handcuffing him.

a. Allegation 1: Pushed Subject in the Chest

The evidence shows that Officer A did push Subject 1 in the chest. Subject 1 alleged that Officer A pushed him in the chest, Officer A admitted that he did so, and the BWC footage confirms these accounts. However, Subject 1 was interfering with Officer A's investigation of the curfew violation. Subject 1 continually tried to pull the curfew violator away from the officer and demanded that he resist arrest. Although Subject 1 claimed that he was the minor's cousin, that is highly unlikely since he did not know the minor's name.¹⁰ Officer A said that he had a responsibility to keep the minor safe from Subject 1, whose intentions were unknown. Officer A said that he pushed Subject 1 away as he approached the minor to create a safe space for the minor. Based upon the evidence, COPA determined that Officer A's action of pushing Subject 1 in the chest was justified, and therefore recommends a finding of Exonerated for this allegation.

b. Allegation 2: Discharged his Taser at Subject 1 without Justification.

The evidence shows that Officer A did not discharge his Taser without justification. Subject 1 was acting as an active resistor by pulling the minor curfew violator away from the officer, directing the minor to disobey the officer, and taking actions to create distance between the officer and the minor. Further, Officer A said that he felt threatened by Subject 1's actions and

⁸ Att. 8

⁹ Att. 15

¹⁰ Subject 1 incorrectly told COPA that the minor's name was, "Civilian A."

needed to prevent him from committing a battery against him or the minor. Based on the totality of the circumstances, Officer A was justified in using his Taser on Subject 1 . Therefore, COPA recommends a finding of Unfounded for this allegation.

c. Allegation 3: Kneed Subject in the Back while Handcuffing Him.

The evidence collected in this investigation shows that Officer A did not knee Subject 1 in the back while handcuffing him. Although Subject 1 claimed that this occurred, much of Subject 1 ’s description of the events conflicts with the footage from Officer A ’s BWC. On the other hand, Officer A ’s description of events was much more consistent with the video evidence. Officer A denied kneeling Subject 1 in the back and the video evidence reviewed supports his denial. Therefore, COPA recommends a finding of Unfounded for this allegation.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	1. Pushed Subject 1 in the chest;	Exonerated
	2. Discharged his Taser at Subject 1 without justification; and	Unfounded
	3. Kneed Subject 1 in the back while handcuffing him.	Unfounded

Approved:

Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	11
Investigator:	Investigator 1
Supervising Investigator:	Supervisor 1
Deputy Chief Administrator:	Deputy Chief Administrator 1