

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	October 14, 2015
Time of Incident:	8:40 PM
Location of Incident:	XXXX S. Stony Island Ave,
Date of COPA Notification:	October 15, 2015
Time of COPA Notification:	10:56 AM

On October 14, 2015 at approximately 8:40 PM, the complainant, Civilian 1, was in the parking lot of his apartment complex, located at XXXX S. South Shore Drive. Civilian 1 alleged that when he was attempting to assist his neighbor regarding a traffic accident, police officers responding to the accident: used excessive force against Civilian 1, engaged in an unjustified verbal altercation with Civilian 1, took property from Civilian 1 that was not inventoried or returned, and detained Civilian 1 on an involuntary psychiatric hold without justification. Civilian 1 was taken to Hospital 1, located at XXXX S. Stony Island Ave., at approximately 9:45 PM for a psychological evaluation.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXX, Employee ID #XXXX, Date of Appointment: XXXXX XX, 20XX, Police Officer, Unit XXX, Date of Birth: XXXXX XX, 19XX, Male, Black
Involved Officer #2:	Officer B, Star #XXXX, Employee ID #XXXX, Date of Appointment: XXXXXX XX, 20XX, Police Officer, Unit XXX, Date of Birth: XXXXXX XX, 19XX, Male, Black
Involved Officer #3:	Officer C, Star #XXXX, Employee ID #XXXX, Date of Appointment: XXXXXX XX, 20XX, Police Officer, Unit XXX, Date of Birth: XXXXXX XX, 19XX Female, Black
Subject #1:	Civilian 1, Date of Birth: XXXXX XX, 19XX, Male, Black

III. ALLEGATIONS

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.

Officer	Allegation	Finding
Officer A	1. Used excessive force against Civilian 1 by striking him, in violation of Rule 2, Rule 6, Rule 8, and Rule 9.	Sustained
	2. Used excessive force against Civilian 1 by dragging him, in violation of Rule 2, Rule 6, Rule 8, and Rule 9.	Sustained
	3. Used excessive force while detaining Civilian 1 in violation of Rule 2, Rule 6, Rule 8, and Rule 9.	Exonerated
	4. Engaged in an unjustified verbal altercation with Civilian 1 in violation of Rule 2, Rule 8, and Rule 9.	Sustained
	5. Took property from Civilian 1 that was not inventoried or returned in violation of Rule 2, Rule 6, and Rule 40.	Unfounded
	6. Detained Civilian 1 on an involuntary psychiatric hold without justification in violation of Rule 2 and Rule 6.	Exonerated
	7. Provided COPA with a false statement regarding kicking or kneeing Civilian 1 in violation of Rule 14.	Sustained
Specifically, Officer A gave the following answer in response to the following question:		
Q: And you did not kick or knee Civilian 1		
A: No		
Officer B	1. Used excessive force while detaining Civilian 1 in violation of Rule 2, Rule 6, Rule 8, and Rule 9.	Sustained
	2. Took property from Civilian 1 that was not inventoried or returned in violation of Rule 2, Rule 6, and Rule 40.	Sustained
	3. Detained Civilian 1 on an involuntary psychiatric hold without justification in violation of Rule 2 and Rule 6.	Exonerated

Officer C	1. Detained Civilian 1 on an involuntary psychiatric hold without justification in violation of Rule 2 and Rule 6.	Exonerated
-----------	--	------------

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: prohibits, “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: prohibits, “Disrespect to or maltreatment of any person, while on or off duty.”

Rule 9: prohibits, “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”

Rule 14: prohibits, “Making a false report, written or oral.”

Rule 40: prohibits, “Failure to inventory and process recovered property in conformance with Department orders.”

General Orders

Chicago Police Department Directive, General Order G03-02, Use of Force Guidelines²

“When a Department member engages a member of the public, the member will do so in such a manner which affords that person the respect and dignity to which all persons are entitled. The use of excessive force or unwarranted physical force or unprofessional conduct by a Department member will not be tolerated under any circumstances.”

“Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.”

Chicago Police Department General Order G07-01, Processing Property under Department Control

“All property which is seized, recovered, found, or otherwise taken into custody by Department members will be inventoried as soon as it is practical to do so.”

² The Use of Force policy noted in this report was effective from October 1, 2002 until October 16, 2017. See Att. 75.

“Such property must be returned to the arrestee at the time of release or transfer. If the property will not be returned at that time, it will be inventoried in the eTrack system.”

“Members will not solicit or accept for their personal use any property taken into custody.”

Special Orders

Chicago Police Department Directive, Special Order S04-20-02, Persons Subject to Involuntary or Voluntary Admission Non-Arrestees

“A peace officer may take a person into custody and transport him or her to a mental health facility when the peace officer has reasonable grounds to believe that the person is subject to involuntary admission and in need of immediate hospitalization to protect such person or others from physical harm.”

Federal Laws

The Fourth Amendment to the Constitution of the United States

The Fourth Amendment to the Constitution of the United States guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

V. INVESTIGATION³

a. Interviews

In a statement given to IPRA on November 12, 2015, the complainant, **Civilian 1**, related that on October 14, 2015 at approximately 6:55 PM, he observed his neighbor, Civilian 2's vehicle being towed into his apartment complex's parking lot at XXXX S. South Shore Drive. Civilian 1 stated that Civilian 2 appeared to be upset so he went to talk to her and advised her to call 911, which she did. According to Civilian 1, Civilian 2 asked him to stay with her and talk to the police on her behalf. Civilian 1 stated that he agreed to do so and that Officer C arrived at approximately 8:40 PM. Civilian 1 described Officer C as having an “attitude” and being “lazy.” Civilian 1 said that Officer C told him to “get on” because he was not an involved party. Civilian 1 told Officer C that he was a witness and Civilian 2 had asked him to be present, at which point Officer C radioed for backup. Civilian 1 indicated that he then went to his apartment to get two cell phones and his camera before returning to the parking lot. According to Civilian 1, once he returned, two additional officers had arrived (identified as Officer A and Officer B) and Civilian 1 began recording on his cell phone and camera.

Civilian 1 stated that after he began recording, Officer B told Civilian 1 to, “Get that camera out of my face.” Civilian 1 indicated that he was approximately 10 feet away when this

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

occurred. According to Civilian 1, when he did not stop recording, Officer B approached Civilian 1 and pushed his camera, stating something to the effect of, "I told you to get the camera out of my face." Civilian 1 related that after Officer B pushed him back, he retreated approximately 20 – 30 feet away from the officers but eventually returned to being about 10 feet away and was still recording. Civilian 1 stated that Officer B approached Civilian 1 again and pushed the camera. Next, Officer B and Officer A aggressively approached Civilian 1 and handcuffed him. Civilian 1 related that Officer A also kneed and kicked Civilian 1 while Civilian 1 was in handcuffs and that Civilian 1 was thrown to the ground. According to Civilian 1, Officer A kicked him so hard that Civilian 1's colostomy bag ruptured. Civilian 1 related that when he was handcuffed, his three electronic devices fell out of his hands and pockets. Civilian 1 reported that he was upset, "cussing and fussing," and calling the officers names such as "low down dirty scoundrel" and "bitch." Civilian 1 further related that while he was on the ground, each time he tried to roll over and sit up, Officer A kicked/kneed him and that this occurred approximately two times.

Civilian 1 stated that eventually a squadrol arrived (which was manned by Officer D and Officer E). Officer C stated that the officers were going to take Civilian 1 to a hospital for a psychological evaluation. Civilian 1 indicated that Officer A then picked Civilian 1 up by his coat and made a derogatory comment to Civilian 1 before placing him in the squadrol. Civilian 1 was unable to recall the content of this derogatory comment. Civilian 1 related that the officers in the squadrol drove Civilian 1 to Hospital 1 and during the transportation, Civilian 1 stated that Officer D and Officer E asked him if he has "any mental problems." According to Civilian 1, he replied with something to the effect of, "No, they're just trying to do this to cover their ass." Next, Civilian 1 stated that while walking into the hospital, he saw Officer C and called her a, "low down, dirty bitch." Civilian 1 stated that once inside the hospital, he told the nurse his name was Kunta Kinte. However, when Civilian 1 was told by hospital staff that if he did not give his real name, he would lose his rights, he gave his correct information. Civilian 1 related that the hospital staff asked Officer C if Civilian 1 was in custody. She responded, "No" and his handcuffs were removed. The officers left at that point and Civilian 1 saw a doctor. According to Civilian 1, he was at the hospital for approximately 40 minutes before the doctor finished an evaluation and Civilian 1 was free to leave.

Civilian 1 said that after he was discharged, he called 911 and asked to speak to a supervisor. Then, Civilian 1 began walking home. According to Civilian 1, while he was walking he saw a police car driven by a sergeant (identified as Sergeant A) and he waived the car down. Civilian 1 gave Sergeant A a statement and went home. Civilian 1 stated that after he walked home from the hospital, he went to speak with Civilian 2 because while he was in handcuffs on the ground, he saw Civilian 2 pick up his camera and two cell phones. Civilian 2 informed Civilian 1 that the officers "forcibly took the camera" from her. Civilian 1 stated that the camera was not included in his property at the hospital. Neither his two cellphones nor his camera were returned to him, all of which he lost when he was handcuffed and put on the ground by the officers. Civilian 1 further indicated that he checked the parking lot when he got back from the hospital but did not see his property. Civilian 1 stated that he called the police station the next day to inquire about his property and was told it would not be there and it would not have been inventoried since Civilian 1 had not been arrested. Civilian 1 speculated that the officers took his recording devices, "to protect their ass" because what he had recorded, "was enough to sink their ass." Civilian 1 further stated that he was able to recover a video from cloud storage that was

recorded on one of his devices. However, Civilian 1 refused to share this video at this time as it does not show him, “in a good light.”⁴

On August 30, 2017, in her interview, **Officer C** recalled being at XXXX S. South Shore Drive and interacting with Civilian 1 on October 14, 2015. Officer C related that she was called to this address regarding a traffic accident but there was a third individual (identified as Civilian 1) who was intervening in her investigation. Officer C reported that since she was working alone, she asked Civilian 1 to step back multiple times but he refused. Officer C called an assist unit (identified as Officer A and Officer B) and because of Civilian 1’s actions and statements, he was transported to Hospital 1 for a psychological evaluation. Officer C could not recall what Civilian 1 said but she perceived Civilian 1 as a threat because of his refusal to comply with her request to step back and because he told her that he knew she was a woman after listening to a police scanner. According to Officer C, Civilian 1 acted like he did not understand what she was saying to him. Officer C recalled that Civilian 1 had recording devices in his hands but she did not have a problem with Civilian 1 filming.

Officer C reported that once Officer A and Officer B arrived, they stayed with Civilian 1 while she completed her traffic accident investigation. Officer C related that she did not recall hearing Officer A or Officer B asking Civilian 1 to stop recording. According to Officer C, she was not directly next to the other two officers or Civilian 1, so she was unable to observe all of their interactions. However, Officer C related that she assisted with handcuffing Civilian 1. According to Officer C, she was not aware of the events that lead to Officer A and Officer B handcuffing Civilian 1, but she observed them “scuffling” with Civilian 1 and went to assist her fellow officers. Officer C could not recall if Civilian 1 was resisting arrest. Officer C was not sure if Officer A or Officer B had any verbal or physical interaction with Civilian 1, aside from the three officers handcuffing Civilian 1. Officer C related that she did not see Officer A kick or knee Civilian 1. Officer C reported that she was not aware of what happened to Civilian 1’s recording devices after he was handcuffed. Officer C recalled that Civilian 1 had a colostomy bag because while Civilian 1 was seated on the ground, the colostomy bag had spilled or burst. Officer C believed the bag burst while Civilian 1 was being handcuffed because that was when she first noticed the colostomy bag.

Officer C related that she and the assisting officers decided Civilian 1 needed a psychological evaluation. Officer C reported that a squadrol transported Civilian 1 to the hospital and she signed a petition for his involuntary psychiatric evaluation. Officer C believed Civilian 1 to be mentally ill and not just upset or antagonistic. Officer C was unable to provide specific examples of the statements Civilian 1 made or describe what his demeanor was like, aside from saying he was belligerent in his actions and putting her in fear of her safety. Officer C elaborated that she did not understand why Civilian 1 was not complying. Officer C denied that she detained Civilian 1 on a psychiatric hold without justification and stated that taking Civilian 1 to Hospital 1 was justified. Officer C said that when Civilian 1 was taken to the hospital, he would not initially give hospital staff his real name and instead gave a “silly, obscene” name. Officer C could not recall the false name that Civilian 1 gave. According to Officer C, hospital staff informed Civilian 1 that he would be admitted if he did not give his real name, at which point

⁴ Atts. 12, 14, 15

Civilian 1 provided his correct information. Officer C related that she was not present when Civilian 1 was discharged.⁵

On August 18, 2017, in his interview, **Officer A** recalled being at XXXX S. South Shore Drive on October 14, 2015. Officer A related that he and his partner, Officer B, were called to this location to assist Officer C. Officer A stated that once he and Officer B arrived at the scene, he exited the vehicle and approached Officer C while Civilian 1 walked away. Officer C told Officer A that Civilian 1 was interfering with her accident investigation. Officer A related that he did not tell Civilian 1 to stop filming and was not aware if Officer C told him to stop filming.

Officer A related that he went to sit in his car because it was cold out when he heard a “commotion” outside the vehicle. Officer A stated he saw Officer B “tussling” with Civilian 1, at which point he exited the vehicle and both Officer A and Officer C approached the two men. According to Officer A, Civilian 1 was eventually handcuffed. Officer A related that he put one handcuff on Civilian 1 but he was unsure which officer put Civilian 1’s second handcuff on because there was a “tussle” involving Civilian 1 and the three officers. Officer A stated that he sat Civilian 1 down on his buttocks but denied that Civilian 1 was thrown to the ground.

According to Officer A, after Civilian 1 was handcuffed, Civilian 1 made belligerent and irate comments towards Officer A. Officer A denied that he was agitated with Civilian 1. Officer A stated that he had no verbal interaction with Civilian 1, aside from telling Civilian 1 to calm down. Officer A did not recall any officers directing profanity at Civilian 1. Officer A could not recall if he used any profanity directed towards Civilian 1 but related he may have stated something to the effect of “calm you ass down.” Officer A also related that he asked Civilian 1 if he was okay and had taken his medications. Officer A stated that he had no physical interaction with Civilian 1 after putting him in handcuffs, aside from attempting to get Civilian 1 to stay still. Officer A denied that he kicked or kneed Civilian 1, grabbed Civilian 1 by his collar, dragged Civilian 1, or in any way handled Civilian 1 roughly. Officer A denied that any of the officers used force against Civilian 1. Officer A stated that Civilian 1 was on the ground in handcuffs and kept scooting back onto Officer A’s feet, so Officer A kept stepping back to remove his feet from under Civilian 1’s body.

Officer A related that someone called for a wagon and Civilian 1 was taken to Hospital 1 for a psychological evaluation. Officer A stated that it was decided Civilian 1 needed a psychological evaluation based on Civilian 1’s behavior. According to Officer A, Civilian 1 was acting belligerent, swearing, claiming to be cousins with President Obama, and saying things like “fuck my medications,” when asked if he needed medication. Officer A stated that Civilian 1’s behavior was “mental” and not normal. In Officer A’s opinion, it did not appear that Civilian 1 was just upset. Officer A denied seeing what happened with Civilian 1’s recording devices after Civilian 1 was handcuffed. Officer A denied that he took anything from Civilian 2 but was not certain if Officer B took anything from Civilian 2. Officer A claimed he did not see any injuries on Civilian 1 or see a colostomy bag on Civilian 1. Officer A stated that after Civilian 1 was placed in the squadrol, he and Officer B went back to the police station.

Officer A was given the opportunity to view in-car camera footage obtained from Officer C’s police vehicle. After viewing this video, Officer A related that he was not agitated during his

⁵ Atts. 47, 48

interaction with Civilian 1 and he maintained that he did not say anything derogatory or offensive to Civilian 1. In reference to the 8:42 PM mark of this video, where Officer A appears to make a hand motion with his finger circling around his ear in a common gesture used to indicate someone is mentally ill. Officer A stated he made this motion because he wanted to signal to his partner that Civilian 1 is “mental” and Officer A did not think Civilian 1 would have been able to see this motion. Officer A further denied that he kicked or kneed Civilian 1 after reviewing the video, despite several points in the video where it appeared Officer A was kicking or kneeling Civilian 1. In reference to a portion of the video from 8:43 PM, in which it appeared the officer was kicking Civilian 1, Officer A related that Civilian 1 scooted onto the officer’s foot, so Officer A “snatched his foot” out from under Civilian 1. Officer A elaborated that he was not going to slowly remove his foot because Civilian 1 was trying to “goad” the officer. Officer A denied that he used any excessive force while detaining Civilian 1. Officer A maintained that Civilian 1 was scooting back onto Officer A and the officer was moving his foot out from under Civilian 1. Officer A related that he grabbed Civilian 1 by the shoulder area to control Civilian 1 and was not grabbing Civilian 1 by the collar. Officer A denied that he was excessive in his physical interactions with Civilian 1.

On November 27, 2017, Officer A gave COPA a second interview and he stood behind the answers and statements he made in his first statement on August 18, 2017.

On December 27, 2017, Officer A was given the allegation that he provided COPA a false statement on August 18, 2017. The officer provided COPA a third interview and Officer A stood behind his statements given on August 18, 2017.⁶

On September 12, 2017, in his interview, **Officer B** related that on October 14, 2015, he was partners with Officer A. Officer B recalled being at XXXX S. South Shore Drive on this date and interacting with Civilian 1. According to Officer B, a unit was on the scene (identified as Officer C) who had requested an assist car. Officer B related that when he and Officer A arrived, Officer C informed them that she was investigating a traffic accident but Civilian 1 was interfering, yelling, and had nothing to do with the accident. After speaking with Officer C, Officer B then spoke with Civilian 1, who threatened to sue the officers and related that he did not want the officers on his property. Officer B stated that Civilian 1 was, “yelling and screaming and holding a camera phone up in the air.” Officer B stated that he had no problem with Civilian 1 filming but had asked Civilian 1 to “step back” because Civilian 1 was too close to the traffic investigation. Officer B related that he had escorted Civilian 1 away from the scene and returned to where Officer C was standing when Civilian 1 “started rushing” towards the officers. Officer B stated that he was giving Civilian 1 verbal commands to step back, grabbed Civilian 1’s wrist, and tried to handcuff Civilian 1. After viewing the in-car camera video, Officer B recalled that he and Civilian 1 both lost their balance and fell while the officer was trying handcuff Civilian 1. Officer A approached and assisted Officer B in handcuffing Civilian 1. Officer B stated that Civilian 1 was cursing at the officers, so Officer B told Civilian 1 that he was going to be placed in handcuffs and Civilian 1 resisted. Officer B reported that Civilian 1 was struggling, swinging his arms, and attempting to pull away from the officers.

Once Civilian 1 was in handcuffs, one of the three officers called for a transport wagon. Officer B did not recall Civilian 1 threatening the officers. Per Officer B, he was “getting

⁶ Atts. 19, 41, 42, 64, 70

agitated” with Civilian 1. Officer B reported that Civilian 1 continued to yell and scream at the officers after he was handcuffed. Officer B indicated that when he and Civilian 1 fell to the ground, he heard Civilian 1 tell the woman he was with (believed to be Civilian 2) to get Civilian 1’s phone. Officer B denied taking any property from Civilian 2, including recording devices. Officer B related he did not know what happened to Civilian 1’s recording devices. Officer B stated he observed no injuries on Civilian 1, nor did he observe a colostomy bag.

Officer B reported that on October 14, 2015, he believed Civilian 1 needed psychiatric care because Civilian 1 was yelling, screaming, and interfering with a police investigation. Officer B did not believe an arrest of Civilian 1 would have been beneficial. Officer B related that Civilian 1 was taken to the hospital instead of being arrested because Officer B was aware that Civilian 1 has mental health problems through the officer’s previous interactions with Civilian 1. Officer B recalled that on previous occasions, Civilian 1 was observed running down the street, yelling at people, and taking his pants off. Officer B further elaborated that on one occasion, Civilian 1 was walking down the street and fighting with “gang bangers.” Officer B stated that he was aware Civilian 1 had previously been taken to the hospital by law enforcement but Officer B had never personally done so prior to October 14, 2015. Officer B believed that Officer A had also previously interacted with Civilian 1, but was not certain.

Officer B recalled a verbal interaction between Officer A and Civilian 1, but did not recall that Officer A was upset. Officer B did not hear Officer A use profanity against Civilian 1. Officer B did not observe any physical interaction between Civilian 1 and Officer A after Civilian 1 was handcuffed. Officer B did not see Officer A drag, kick, or knee Civilian 1, nor did he observe Officer A grabbing Civilian 1 by the collar. Officer B could not recall which officers put Civilian 1 into the transport wagon. Officer B heard Civilian 1 stating he was going to sue and “get” the officers while being placed in the transport wagon. Officer B stated that once Civilian 1 was placed in the wagon and Officers B and A determined Officer C was okay, they left the scene. Officer B related that he and Officer A did not go to the hospital.⁷

On February 9, 2016, in his witness interview, Civilian 3 stated that on October 14, 2015, he was present at XXXX S. South Shore Drive, performing a mechanics job and pulling a car into the parking lot. Civilian 3 related that Civilian 1 came into the parking lot and started asking Civilian 3 if he towed Civilian 2’s car. Civilian 1 informed Civilian 3 that he had called the police, so Civilian 3 waited in the parking lot. Civilian 3 described Civilian 1’s demeanor as “messed up.” Civilian 3 stated that the police officer (identified as Officer C) began talking to Civilian 3 and Civilian 2 when Civilian 1 retrieved a camera from his apartment and began recording the officer. Civilian 3 stated that two officers (identified as Officer C and Officer B) told Civilian 1 to stop recording but Civilian 1 refused and was cursing and “jabbering” at the officers. According to Civilian 3, Civilian 1 told the officers he had the right to record the incident. Civilian 3 related that Civilian 1 was not involved in the traffic incident with Civilian 3 and Civilian 2, but Civilian 1 was attempting to represent Civilian 2. Civilian 3 stated that Officer C asked Civilian 1 what his involvement was and Civilian 1 related that he was a witness. Civilian 3 said that Civilian 1 was holding a camera in his hand and an officer (believed to be Officer B) attempted to take it from Civilian 1, which Civilian 1 deflected.

⁷ Atts. 56, 57

Civilian 3 related that after Civilian 1 refused to comply with the officers' requests to stop recording, the officers took Civilian 1 to the ground. Civilian 3 indicated that before Civilian 1 was handcuffed, an officer kned Civilian 1 to gain control. Civilian 3 related that once Civilian 1 was on the ground, he was moving and rolling but every time he did so, an officer (identified as Officer A) would sit Civilian 1 back up. Civilian 1 remained belligerent with the officers while they tried to get Civilian 1 to calm down. Civilian 3 also indicated that Civilian 2 picked up Civilian 1's telephone and camera. Officers approached her and asked where the items were, but Civilian 2 refused to give the recording devices to the officers. The officers then told Civilian 2 she would go to jail, at which point she gave them the phone and camera. Civilian 3 related that the officer who took the items from Civilian 2 was a black male with a mustache and a bald head (believed by COPA to be Officer B). Civilian 3 stated that Civilian 1 had threatened the officers, but Civilian 3 did not specifically hear Civilian 1 threaten to kill the officers. Civilian 3 stated he did not hear any officers cursing at or being verbally abusive towards Civilian 1. Civilian 3 also related that he did not see any officers physically maltreat Civilian 1. After Civilian 1 did not calm down, a squadrol was called to retrieve Civilian 1 and he was placed inside.⁸

On October 19, 2016, IPRA contacted witness **Civilian 2** via telephone. Civilian 2 refused to provide her full name or date of birth. However, her first name was identified through commercial database records. Civilian 2 related that she witnessed a police officer push Civilian 1's cellphone away while Civilian 1 was recording, but she did not witness any additional physical contact between Civilian 1 and the police. Civilian 2 provided no additional details.⁹

On August 18, 2017, in his interview, witness **Officer D** related that on October 14, 2015, he was working Beat 372 in a squadrol with Officer E. Officer D stated that he and Officer E received a request for a squadrol at XXXX S. South Shore Drive to transport Civilian 1 to Hospital 1. Officer D related that he saw two police vehicles and an officer (identified as Officer A) standing next to an individual who was seated on the ground (identified as Civilian 1). Officer D described the officers already on scene as a black male with medium build (identified as Officer A), a bald male with a mustache and glasses (identified as Officer B), and black female officer with braids (identified as Officer C). Officer D related that Officer A informed him that Civilian 1 was being irate, yelling, and interfering with the officers' investigation. Officer D was uncertain if Civilian 1 had directly threatened the officers but believed Civilian 1 had been behaving in a threatening manner towards the officers prior to Officer D's arrival. Civilian 1 was already handcuffed when Officer D arrived on scene. Officer D did not recall seeing any officers with a cell phone or camera, or seeing a cell phone or camera at all on the scene. Officer D did not recall any verbal or physical interactions between Civilian 1 and any of the officers. Officer D could not remember who put Civilian 1 into the squadrol.

According to Officer D, he briefly spoke with Civilian 1 while Civilian 1 was in the squadrol. Officer D related that during the transportation, Civilian 1 was calm and said something to the effect that he was alright, but angry at the three officers he interacted with earlier. Officer D related that he was aware Civilian 1 had a colostomy bag because he could smell it and he believed Civilian 1 mentioned that his colostomy bag had broken. Officer D did not know how the colostomy bag had been broken but thought it may have happened when

⁸ Atts. 33, 34

⁹ Att. 18

Civilian 1 was taken down and handcuffed. Officer D stated that he was not aware how it was decided Civilian 1 needed a psychological evaluation. According to Officer D, he was confused because Civilian 1 was irate when Officer D and his partner first arrived but was calm once in the squadrol. Officer D elaborated that once at the hospital, Civilian 1 was giving “off the wall answers” to questions from the hospital staff, so Officer D was uncertain what Civilian 1’s mental state was. According Officer D, it can be difficult to tell the difference between an individual who is upset and one who is in need of psychiatric help, and Officer D could not tell which category Civilian 1 fell into. Officer D stated that once at the hospital, Civilian 1 was admitted and Officer D and his partner were free to live. Officer D stated Officer C was also at the hospital but he was uncertain as to when she left.¹⁰

On September 13, 2017, in his interview, witness **Officer E** stated that on October 14, 2015, he was working in a transport wagon and partnered with Officer D. Officer E recalled being at XXXX S. South Shore Drive on this date and vaguely recalled Civilian 1. Officer E related that he and his partner were assigned to transport Civilian 1 through the Office of Emergency Management Communications (OEMC). Officer E related that Civilian 1 was in handcuffs when he and Officer D arrived. Civilian 1 was placed in their transport wagon and was taken to Hospital 1. Officer E did not know why Civilian 1 was being transported. According to Officer E, he and his partner had no problem with Civilian 1. Officer E did not recall Civilian 1 being upset, nor did he recall any officers on scene being upset. Officer E denied observing any physical or verbal interactions between Civilian 1 and the other officers. Per Officer E, Civilian 1 was talking to Officer D during the transportation, but Officer E did not recall the content of that conversation. Officer E recalled that Civilian 1 mentioned his colostomy bag to Officer D, but Officer E did not remember exactly what Civilian 1 said about it. Officer E stated that, in his opinion, Civilian 1 was “fine” while Officer E and his partner were with Civilian 1.¹¹

b. Digital Evidence


In-car camera footage was obtained from Officer C’s police vehicle that included Civilian 1’s interaction with the police on October 14, 2015 and Civilian 1’s subsequent transportation to Hospital 1. Noteworthy details from this video and their approximate times of occurrence are listed below.¹²



Time	Description of Events
8:29 PM	Officer C’s vehicle pulls into the parking lot known to be located at XXXX S. South Shore Drive.


¹⁰ Att. 39

¹¹ Att. 62

¹² Att. 19

<p>8:35 PM</p>	<p>A second police car, known to be occupied by Officer A and Officer B, is seen parking.</p>
<p>8:35 PM</p>	<p>Civilian 1 is seen with his hands raised above his head and each hand appears to be holding objects believed to be his recording devices.</p> <p><i>(See photo below.)</i></p> 
<p>8:36 PM</p>	<p>Civilian 1 is seen walking backwards, then returning forward and out of view.</p>
<p>8:36 PM</p>	<p>Civilian 1 is seen walking backwards with his recording devices still in hand and with Officer B walking forward towards Civilian 1.</p> <p><i>(See photo below.)</i></p>

	
<p>8:36 PM</p>	<p>Officer B is seen grabbing Civilian 1's hands and pulling them down towards Civilian 1's waist.</p> <p><i>(See photo below.)</i></p> 
<p>8:36 PM</p>	<p>Officer A is seen exiting the police vehicle and walking towards Civilian 1 and Officer B. Officer C is also seen walking towards Civilian 1 and Officer B at approximately the same time. Civilian 1 has his hands in the air and is walking backwards away from the officers.</p>

<p>8:36 PM</p>	<p>While Civilian 1's hands are still in the air, Officer A grabs Civilian 1's right arm and pulls it behind Civilian 1's body.</p> <p><i>(See photo below.)</i></p> <p>Shortly after Officer A grabs Civilian 1's arm, Civilian 1 is seen struggling with the three officers who are attempting to handcuff Civilian 1.</p> 
<p>8:37 PM</p>	<p>Civilian 1 is seen falling onto the ground while Officer A has his right arm and Officer B is holding onto Civilian 1's left arm. Officer C is seen behind Civilian 1.</p> <p><i>(See photo below.)</i></p>



8:37 PM


A woman believed to be Civilian 2 is seen bending down next to the officers and Civilian 1 to pick something up off the ground.


(See photo below.)







8:37 PM


It appears Civilian 1 is handcuffed in front of his body.


<p>8:39 PM</p>	<p>The woman believed to be Civilian 2 is seen bending down a second time and picking something up off the ground while Civilian 1 turns his head and looks at her. Officer A is standing above Civilian 1. Shortly after, the woman is seen putting an item that appears to be a cellphone in her coat pocket.</p> <p><i>(See photos below.)</i></p>  <p>The top photograph shows a police officer in a light-colored uniform and vest standing on a street at night. A woman in a dark jacket is bending down to pick up an object from the ground. A red circle highlights the woman's hands and the object. The bottom photograph shows the same scene, but the woman is now standing and looking towards the officer. A red circle highlights her hands as she puts an object into her coat pocket.</p>

<p>8:39 PM</p>	<p>Civilian 1 and Officer A appear to be talking and Officer A appears to be agitated.</p>
<p>8:39 PM</p>	<p>Officer A reaches down and grabs Civilian 1. However, Civilian 1 is out of view at this point.</p> <p><i>(See photo below.)</i></p> 
<p>8:40 PM</p>	<p>Officer A makes a motion where he pulls his right foot back and returns it in front of his body in a kicking motion. Civilian 1 cannot be seen on camera at this point but he is believed to be seated on the ground in front of Officer A.</p>
<p>8:42 PM</p>	<p>Officer A makes a circular motion with his finger around his ear in a common gesture used to indicate someone is crazy/mentally ill. Officer A is laughing and talking to someone off camera.</p>
<p>8:43 PM</p>	<p>Officer A is seen making a kicking motion towards Civilian 1's body. Shortly before this occurs, Civilian 1's head can be seen in the photo and does not</p>

	<p>appear to move towards Officer A before this kicking motion.</p> <p><i>(See photo below.)</i></p> 
<p>8:43 PM</p>	<p>Officer A appears to bend down and pick Civilian 1 up by his collar and/or shoulder area and put Civilian 1 into a seated position.</p>
<p>8:43 PM</p>	<p>Officer A appears to drag Civilian 1 slightly by the collar.</p> <p><i>(See photo below.)</i></p> 

8:44 PM	<p>Officer A appears to make a jerking motion in which he lifted Civilian 1 by the collar and brought him back down.</p> <p><i>(See photo below.)</i></p> 
8:45 PM	<p>Officer A is seen looking down towards Civilian 1 and making hand and facial gestures that suggest Officer A was agitated.</p> <p><i>(See photo below.)</i></p> <p>Officer A appears to be engaged in conversation with Civilian 1, in which Officer A appears upset or frustrated with Civilian 1. This occurs off and on over the next approximately five minutes.</p> 

<p>8:50 PM</p>	<p>Officer D is seen on camera and Officer A bends down towards Civilian 1. Both officers pick Civilian 1 off the ground and Officer A appears to have Civilian 1 by the collar.</p> <p><i>(See photo below.)</i></p> 
<p>8:50 PM</p>	<p>Officer A and Officer D walk Civilian 1 out of view.</p>
<p>9:00 PM</p>	<p>Officer A walks towards the area where Civilian 1 was originally detained and picks something up off the ground.</p> <p><i>(See photo below.)</i></p> <p>It appears this item was a flashlight because of how the officer held it and because Officer A is seen touching the object while a light emanates from the object onto the ground below. Officer A then enters the driver's side of his police vehicle.</p>

	
<p>9:11 PM</p>	<p>The vehicle manned by Officer A and Officer B drives out of view.</p>
<p>9:12 PM</p>	<p>Officer C’s vehicle starts driving out of the parking lot behind the squadrol occupied by Officer D and Officer E. Both vehicles drive down the street with Officer C’s vehicle behind the squadrol until they arrive at Hospital 1.</p>
<p>9:17 PM</p>	<p>The two police vehicles arrive outside Hospital 1 and park near what appears to be the Emergency Room entrance.</p>
<p>9:20 PM</p>	<p>Officer C and one of the squadrol officers are seen walking with Civilian 1 into the hospital entrance, shortly followed by the second squadrol officer. It is unclear from the quality of the video which male officer is which.</p>
<p>9:51 PM</p>	<p>The three officers exit the hospital without Civilian 1 and are seen briefly talking outside before Officer C enters her vehicle and drives away.</p>

c. Physical Evidence

Civilian 1 was admitted to **Hospital 1** at 9:46 PM for an involuntary in-patient admission with an admitting complaint of “Bizarre/Paranoid behavior.” Officer C signed the petition to

have Civilian 1 placed on an involuntary psychiatric evaluation because Civilian 1 had approached Officer C, refused to back away when asked, attempted to hit an officer, and stated he would kill the officers. Officer A and Officer B were provided as witnesses. Documents stated that Civilian 1 was escorted to the hospital by the police because he was physically and verbally “aggressive with police officers.” Documents also stated that Civilian 1 threatened to kill the police officers. Civilian 1 related to hospital staff that he was assisting a neighbor regarding a car accident because the neighbor speaks limited English. A police officer told Civilian 1 to stop filming and they got into a verbal altercation when Civilian 1 refused. Officer C then called for assistance and the assisting officers shoved Civilian 1 when they arrived, so Civilian 1 threatened to kill them. According to Civilian 1, after he refused to stop recording, the officers handcuffed and pushed him to the ground. Civilian 1 also related that the officers yelled and cursed at him, so Civilian 1 responded by yelling and cursing. Civilian 1 told the hospital staff that he had no homicidal ideation but he was angry. Civilian 1 denied previous psychiatric history. Available documents confirmed that Civilian 1 has Crohn’s disease and a colostomy bag on the right side of his abdomen. Civilian 1 received a final diagnosis of an unspecified mood disorder and was told to “follow up [...] for anger management.” Civilian 1 was discharged on October 14, 2015 at 11:20 PM.¹³

d. Documentary Evidence

Chicago Police Department **Event Query Reports** were obtained regarding Civilian 1’s police interaction on October 14, 2015. Civilian 1 called the police at approximately 7:09 PM on October 14, 2015 regarding a car accident Civilian 2 was involved in. Civilian 2 called at approximately 7:34 PM and at 8:25 PM seeking an update. Civilian 3, the tow truck driver involved in the accident with Civilian 2, called for an update at 7:18 PM, 7:53 PM, and 8:38 PM. Beat 0331 (identified as Officer C) arrived on the scene at approximately 8:40 PM. On October 15, 2015 at approximately 3:00 PM, Civilian 1 called the police wanting to speak to a supervisor and claiming he was physically abused by officers including kicks to the stomach and groin. Available details related that on October 15, 2015, Evidence Technicians attempted to reach Civilian 1 and document his injuries but were unable to reach him via telephone.¹⁴

Office of Emergency Management and Communications (OEMC) **Event Query Reports** were located regarding the events related to this report. Available documents related that Civilian 1 called 911 on October 15, 2015 at approximately 12:18 PM, wanting to speak to a supervisor regarding police abuse and stating that he would consistently call until a sergeant arrived.¹⁵

No Tactical Response Reports (TRR) were generated by Officer C, Officer A, or Officer B regarding their interactions with Civilian 1 on October 14, 2015.¹⁶

VI. ANALYSIS

¹³ Att. 31

¹⁴ Att. 22, 54

¹⁵ Att. 21

¹⁶ Att. 30

Officer A

COPA recommends a finding that **allegation #1**, that Officer A used excessive force by striking Civilian 1, be **Sustained**.

COPA recommends a finding that **allegation #2**, that Officer A used excessive force by dragging Civilian 1, be **Sustained**.

COPA recommends a finding that **allegation #3**, that Officer A used excessive force while detaining Civilian 1, be **Exonerated**.

In the instant case, Civilian 1 complained of (and the CPD in-car video depicts) multiple uses of force by the officers. Specifically, the video shows the officers take down and cuff Civilian 1. Officer A appears to knee or kick Civilian 1's back and drag Civilian 1 by the shirt collar. Each incident must be analyzed separately. The level of an officer's force used as a response to a subject must be appropriate based on the subject's level of aggression. The directives of the Chicago Police define a subject's level of aggression in several categories ranging from cooperative subject, to a passive and active resister, and finally an assailant. The first step in the analysis is determining the subject's level of aggression and then determining whether the force used was appropriate.

Civilian 1 alleged he was kicked while cuffed and on the ground. Civilian 1 claimed that Officer A kicked him so hard his colostomy bag ruptured. Statements from multiple sources, including the transport officers, hospital staff, and Civilian 3, report that Civilian 1's colostomy bag broke during the struggle. However, the evidence indicates that it more likely ruptured during the initial take down of Civilian 1. Officer A contends he never kicked or kneed Civilian 1. Officer A claims that Civilian 1 was scooting back onto Officer A's feet while seated on his buttocks with his hands cuffed in front, as the officer stood behind Civilian 1. According to Officer A, the video footage that appears to show the officer kicking Civilian 1 actually depicted Officer A stepping back to remove his feet from under Civilian 1's body. COPA does not agree. The video clearly shows Officer A kick Civilian 1 in the back forcefully while Civilian 1 is sitting on the ground and cuffed on at least one occasion, at approximately 8:43 in the video. The video shows Officer A's leg first moving toward Civilian 1's body, not moving backward from Civilian 1's body, as it would have if Officer A were pulling his foot out from under Civilian 1. In addition, Civilian 1's head can be seen during this portion of the video, and his head does not appear to move upward or closer to Officer A as one would expect if Civilian 1 were scooting onto Officer A's foot. Prior to this force, Officer A can be seen appearing agitated, and he and Civilian 1 can be seen exchanging words throughout the video. We also note that in the moments leading up to Officer A's movement of his foot toward Civilian 1, Civilian 1 is not seen moving closer to Officer A. Rather, Officer A can be seen moving closer to Civilian 1. Civilian 3 also denied that Civilian 1 was "goin' at any of the officers['] feet or anything." Finally, COPA's interpretation of Officer A's movement as a kick is consistent with Civilian 1's statement that Officer A "kicked [him] about twice with his knee" while Civilian 1 was on the ground, trying to sit up.

Officer A's kick was unjustified. At the time, Civilian 1 was cuffed on the ground and seated on his buttocks. Civilian 1 was seated and although he did move around at certain times, it is not clear that he was trying to avoid physical control or that he was making any attempt to

escape. Accordingly, COPA doubts whether Civilian 1 could be considered an active resister.¹⁷ However, even if Civilian 1 was an active resister, kicking is not a response option when dealing with an active resister. Therefore, Officer A's actions violated policy and **allegation #1 is Sustained.**

Additionally, the in-car video depicts Officer A dragging Civilian 1 by his shirt collar while handcuffed. When confronted with the video, Officer A claimed that he never grabbed Civilian 1 by the collar. Rather, Officer A reported that he grabbed Civilian 1 by the shoulder area to control Civilian 1. The video clearly depicts Officer A move Civilian 1 by grabbing his collar and dragging Civilian 1. As argued above, according to CPD policy on the use of force, COPA finds that Civilian 1 was a cooperative subject, handcuffed, and seated on the ground. Officer A, out of apparent frustration, dragged Civilian 1 by the collar and at one point picked Civilian 1 up by his collar. Just before Officer A grabbed Civilian 1 near the collar, Civilian 1 laid down in front of the car. Officer A grabbed his jacket or shirt collar in response, in an apparent effort to sit Civilian 1 back up, yet Officer A kneed Civilian 1 in the ensuing scuffle. Even if Officer A believed Civilian 1 was an "active resister" at that point, his use of force was not permissible. The use-of-force policy allows for "holding techniques" against active resisters. Examples of holding techniques are "a firm grip, grabbing an arm, wristlocks, and come-along holds." But grabbing a subject by the shirt is not a holding technique outlined in the order. Regardless, Officer A's use of force was clearly punitive rather than necessary to gain Civilian 1's compliance. As such, **allegation #2 is Sustained.**

We turn to the next allegation, that Officer A used excessive force while detaining Civilian 1. In referring to whether Officer A used excessive force while detaining Civilian 1, COPA is referring only to Officer A's initial detention of Civilian 1 and not the force Officer A used that was addressed in allegations 1 and 2.

The initial physical contact between CPD and Civilian 1 was when Officers B, A, and C collectively took Civilian 1 to the ground and handcuffed him. The video depicts Civilian 1 backing up with his hands in the air. Civilian 1 possessed what appeared to be a camera and phone in each hand as Officer B alone rushed toward Civilian 1. Officer B grabbed Civilian 1's wrists and jarred the items from Civilian 1's hands at the same approximate time Officers A and C stepped in to assist. Civilian 1 appears to resist the cuffing to some degree until he is overpowered by all three officers. Civilian 1's resistance is further evidenced by the officers cuffing Civilian 1 in front of his body, which is used in emergency situations. At the point Officer A engages with Civilian 1, Officer B has already gone hands on and Civilian 1 has begun to resist.

As specified in CPD General Order G03-02-02 IV B, a person is a passive resister if they fail to comply to verbal commands. An active resister is when a person attempts to create distance between themselves and the Department member's reach. A person who gestures with evasive movements of the arm is considered an active resister. Officer B ordered Civilian 1 to back away. When he went hands on with Civilian 1, Civilian 1 appeared to be compliant, backing away with his hands up.¹⁸ By the time Officer A engaged, Civilian 1 moved from being

¹⁷ See General Order 03-02-02 (an active resister is defined as "a person whose actions attempt to create distance between that person and the member's reach with the intent to avoid physical control and/or defeat the arrest").

¹⁸ Officer B's liability will be discussed later in this report.

a passive resister to an active resister, which allowed officers to use wrist locks, pain compliance, including stunning techniques such as open hand slaps. Officer A jumped in to help his partner cuff Civilian 1 while Civilian 1 began to resist. The video shows Officer A grab Civilian 1 by his wrists, pin him against the squad, and eventually help take Civilian 1 to the ground. At the point Officer A engaged, his use of force was reasonable and within the limits of the general order to gain compliance of Civilian 1 and get him handcuffed. It is irrelevant to the analysis of Officer A's use of force that Officer B may not have been justified when he went hands on. Therefore, **allegation #3 is Exonerated.**

COPA recommends that **allegation #4**, that Officer A engaged in an unjustified verbal altercation with Civilian 1, be **Sustained.**

Civilian 1 indicated that when Officer A picked Civilian 1 up by his coat, the officer made a derogatory comment before placing Civilian 1 into the squadrol. Civilian 1 was unable to recall the content of this derogatory comment. Officer A denied that he was agitated with Civilian 1, despite his appearance on the video. Officer A further denied engaging in a verbal altercation with Civilian 1, but related he stated something to the effect of "calm your ass down." Based on Officer A's admission, he clearly violated department rules by directing profanities at Civilian 1.

COPA recommends a finding that **allegation #5**, that Officer A took property from Civilian 1 that was not inventoried or returned, be **Unfounded.**

Officer A denied seeing what happened with Civilian 1's recording devices after Civilian 1 was handcuffed. Officer A denied that he took anything from Civilian 2, but was not certain if Officer B may have done so. The majority of the time Officer A was on scene, he was visible in the in-car camera footage, thereby giving the officer a narrow window in which he could have taken property from Civilian 2. Additionally, a witness, Civilian 3, stated that an officer matching Officer B's description took property from the woman believed to be Civilian 2.

COPA recommends a finding of **Exonerated** that:

- Officer A (**allegation #6**), Officer B (**allegation #3**), or Officer C (**allegation #1**) detained Civilian 1 on an involuntary psychiatric hold without justification.

Per the accused officers, a witness, and Civilian 1 himself, Civilian 1 was irate with the officers, used profane language, and was acting disrespectfully. Per Officer C, she was working alone and asked Civilian 1 to step back multiple times but he refused. Officer C alleged that because of Civilian 1's actions and statements, he was transported to Hospital 1 for a psychological evaluation. Officer C could not recall what Civilian 1 said, but she perceived Civilian 1 as a threat because of his refusal to comply and because he told her that he knew she was a female officer after listening to a police scanner. According to Officer C, Civilian 1 acted like he did not understand what she was saying to him. Officer C believed Civilian 1 to be mentally ill and not just upset or antagonistic. However, Officer C was unable to provide specific examples of the statements Civilian 1 made or describe in detail what his demeanor was like, aside from saying he was belligerent in his actions and putting her in fear of her safety. Officer C elaborated that she did not understand why Civilian 1 was not complying. Officer C related that she and the assisting officers decided Civilian 1 needed a psychological evaluation.

According to Officer A, Civilian 1 was acting belligerent, swearing, claiming to be cousins with President Obama, and saying things like “fuck my medications.” Officer A stated that Civilian 1’s behavior was “mental” and not normal. In Officer A’s opinion, it did not appear that Civilian 1 was just upset. A witness, Civilian 3, described Civilian 1’s demeanor as “messed up.” Officer B related that his previous experience with Civilian 1 had informed the officer that Civilian 1 has mental health issues. However, Officer B too was unable to fully articulate why, in this situation, Civilian 1 appeared to be mentally unstable, especially since Officer B did not recall Civilian 1 threatening the officers on October 14, 2015. According to Officer D, he was confused because Civilian 1 was irate when Officer D and his partner first arrived, but was calm once in the squadrol. Officer D elaborated that once at the hospital, Civilian 1 was giving “off the wall answers” to questions from the hospital staff. Furthermore, Civilian 1 acknowledged his odd behavior and reported that he acted in such a manner out of anger.

While there are concerns regarding the officers’ inability to articulate why Civilian 1 needed mental health care in this specific instance, officers are given discretion regarding a decision to arrest or transport an individual to the hospital. COPA believes that it was reasonable in this situation to air on the side of caution and bring Civilian 1 to the hospital for a mental health evaluation. The officers are not medical professionals and Civilian 1 was displaying bizarre behavior. It ultimately appears, based on hospital records, that Civilian 1 was expressing anger. However, the officers could not have known what was causing Civilian 1’s inappropriate outbursts and demeanor. Civilian 1 was behaving in an obnoxious and unpleasant manner. The officers chose to let the mental health professional determine if Civilian 1 was in need of psychiatric care, which was the wise thing to do. Per medical records, Civilian 1 told the hospital staff that he had no homicidal ideation but was angry. Civilian 1 denied previous psychiatric history. Civilian 1 received a final diagnosis of mood disorder not otherwise specified and was told to “follow up [...] for anger management.” Based on available evidence, it does appear Civilian 1 has anger issues and/or handled his anger in an inappropriate manner in this specific situation. While it does not appear that Civilian 1 was experiencing a mental health emergency, it was best that the officers let hospital staff determine such as a safety precaution.

COPA recommends a finding of **Sustained** for **allegation #7**, that Officer A provided COPA a false statement on August 18, 2017.

Chicago Police Rule 14 prohibits the falsification of any report, written or oral. The relevant sections of the Collective Bargaining Agreement (hereinafter CBA), 6.1 M., state that a Rule 14 violation will be charged when “the Officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.” Accordingly, to constitute a Rule 14 violation, an officer’s false statement must be willful and must be about a fact that was material to the incident under investigation.

The in-car camera footage shows Officer A kicking Civilian 1 at approximately the 8:43 timestamp. While Officer A provided a consistent version of events both before and after viewing video of himself and Civilian 1 from October 14, 2015, his version of events is not believable. Officer A claimed that he pulled his foot away after Civilian 1 scooted on top of it. However, the video does not depict Officer A’s leg first moving backward from Civilian 1’s

body; instead, it shows Officer A's leg first moving forward toward Civilian 1's body, in a kicking motion. In addition, Civilian 1's head can be seen during this portion of the video, and his head does not appear to move upward or closer to Officer A as one would expect if Civilian 1 were scooting onto Officer A's foot. In this regard, we note that in the moments leading up to Officer A's movement of his foot toward Civilian 1, Civilian 1 is not seen moving closer to Officer A. Rather, Officer A can be seen moving closer to Civilian 1. In addition, when Civilian 3 was asked whether Civilian 1 was "goin' at any of the officers['] feet or anything," Civilian 3 responded, "No." Finally, COPA's interpretation of Officer A's movement as a kick is consistent with Civilian 1's statement to COPA that Officer A "kicked [him] about twice with his knee" while Civilian 1 was on the ground, trying to sit up. In sum, the video of Officer A with Civilian 1 indicates that Officer A was upset and reacting to Civilian 1's inappropriate behavior of moving around and making derogatory comments to the officers in kind.

Based on all of the foregoing, COPA finds that a preponderance of the evidence establishes Officer A kicked Civilian 1 and that, therefore, Officer A made a false statement when he said he did not kick Civilian 1.

COPA further finds that Officer A's false statement went directly to the heart of the allegations against him, *i.e.*, that he struck Civilian 1. Accordingly, the false statement was about a fact that was material to the incident under investigation. Further, a preponderance of the evidence establishes that Officer A's statement was willful. Officer A was shown the in-car camera video and given multiple opportunities to explain the kick, but he continued to claim that he only pulled his foot away from Civilian 1 and did not kick Civilian 1. Even if Officer A did not initially recall kicking Civilian 1, viewing the in-camera footage would have refreshed Officer A's recollection such that he would have been able to recall kicking Civilian 1. Accordingly, we find that Officer A willfully made a false statement about a material fact and thus violated Rule 14.

Therefore, **allegation #7** against Officer A is **Sustained**.

COPA recommends a finding for **allegation #1**, that Officer B used excessive force while detaining Craig Civilian 1, be **Sustained**.

COPA recommends a finding that **allegation #2**, that Officer B took property from Civilian 1 that was not inventoried or returned, be **Sustained**.

Officer B and Civilian 1 both acknowledged that there was a struggle of some sort between the two men. Officer B alleged that Civilian 1 "rushed towards him." However, Civilian 1 alleged that Officer B aggressively approached Civilian 1 and pushed Civilian 1's camera. A witness, Civilian 3, reported that Officers C and B told Civilian 1 to stop recording, but Civilian 1 refused and was cursing at the officers. Civilian 3 related that after Civilian 1 refused to comply with the officers' requests to stop recording, the officers took Civilian 1 to the ground. Civilian 3' version of events more closely resembles Civilian 1's version. As Civilian 3 was largely critical of Civilian 1 in his IPRA statement, it seems unlikely Civilian 3 was being biased towards Civilian 1. Rather, COPA believes Civilian 3 truthfully related what he observed. In the in-car camera footage from Officer C's CPD vehicle, Civilian 1 is seen with his hands raised

above his head and each hand appears to be holding objects believed to be his recording devices. Civilian 1 is then seen walking backwards, followed by Officer B walking towards Civilian 1. Officer B is then seen grabbing Civilian 1’s hands and pulling them down towards Civilian 1’s waist.

When Officer B approached Civilian 1, and grabbed Civilian 1’s arms/hands, Civilian 1 was retreating and had his hands in the air. After three officers engaged Civilian 1 physically, Civilian 1 was taken to the ground and eventually handcuffed. As stated above, G03-02-02 asserts that the level of force used by an officer in response to a subject must be appropriate based on the subject’s level of aggression. It does not appear that Civilian 1 was initially an assailant or a resister. In fact, it appears Civilian 1 would be defined as a compliant subject given that Officer B said he had directed Civilian 1 to back away and Civilian 1 is seen doing so in the video footage. It is unclear why Officer B would approach and grab Civilian 1 when Civilian 1 was doing as the officer instructed. Civilian 1 had a right to be on the property and further, had a right to record the officers. Per Officer B, he was “getting agitated” with Civilian 1. It is possible that due to this agitation, Officer B used force to get Civilian 1 to stop annoying the officers. However, as with Officer A, force is not an acceptable outlet simply because an officer is annoyed and dislikes an individual’s behavior. In sum, Officer B engaged Civilian 1 physically, grabbing Civilian 1’s wrists and forcefully shaking the recording devices from his hands. The level of force used was not in compliance with allowable force based on the general order.

Civilian 1 related that when he was handcuffed, his three electronic devices fell out of his hands and pockets. Civilian 1 stated that after he walked home from the hospital, he went to retrieve his devices from Civilian 2 who informed Civilian 1 that the officers “forcibly took the camera” from her. Unfortunately, Civilian 2 refused to participate in the COPA/IPRA investigation and COPA was unable to question her regarding Civilian 1’s property. Officer B denied taking any property, including recording devices, from Civilian 2. Officer B related he did not know what happened to Civilian 1’s recording devices. A woman believed to be Civilian 2 is seen on in-car camera footage two times, bending down to pick something up off the ground believed to be Civilian 1’s recording devices. Civilian 3 also indicated that Civilian 2 picked up Civilian 1’s telephone and camera. According to Civilian 3, officers approached Civilian 2 and asked where the items were, but Civilian 2 refused to give them to the officers. Civilian 3 further related that the officers told Civilian 2 she would go to jail, at which point she gave the officers the phone and camera. Civilian 3 related that the officer who took the items from Civilian 2 was a black male with a mustache and a bald head. Officer B is the only responding officer who matches that description. In sum, the video evidence and witness statements support Civilian 1’s claim; therefore **allegation #2 is Sustained.**

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	1. Used excessive force against Civilian 1 by striking him, in violation of Rule 2, Rule 6, Rule 8,	Sustained

	<p>and Rule 9.</p> <p>2. Used excessive force against Civilian 1 by dragging him, in violation of Rule 2, Rule 6, Rule 8, and Rule 9.</p> <p>3. Used excessive force while detaining Civilian 1 in violation of Rule 2, Rule 6, Rule 8, and Rule 9.</p> <p>4. Engaged in an unjustified verbal altercation with Civilian 1 in violation of Rule 2, Rule 8, and Rule 9.</p> <p>5. Took property from Civilian 1 that was not inventoried or returned in violation of Rule 2, Rule 6, and Rule 40.</p> <p>6. Detained Civilian 1 on an involuntary psychiatric hold without justification in violation of Rule 2 and Rule 6.</p> <p>7. Provided COPA with a false statement regarding kicking or kneeling Civilian 1 in violation of Rule 14.</p> <p>Specifically, Officer A gave the following answer in response to the following question:</p> <p>Q: And you did not kick or knee Mr. Civilian 1</p> <p>A: No</p>	<p>Sustained</p> <p>Exonerated</p> <p>Sustained</p> <p>Unfounded</p> <p>Exonerated</p> <p>Sustained</p>
<p>Officer B</p>	<p>1. Used excessive force while detaining Civilian 1 in violation of Rule 2, Rule 6, Rule 8, and Rule 9.</p> <p>2. Took property from Civilian 1 that was not inventoried or returned in violation of Rule 2, Rule 6, and Rule 40.</p> <p>3. Detained Civilian 1 on an involuntary psychiatric hold without justification in violation of Rule 2 and Rule 6.</p>	<p>Sustained</p> <p>Sustained</p>
<p>Officer C</p>	<p>1. Detained Civilian 1 on an involuntary psychiatric hold without justification in violation of Rule 2 and Rule 6.</p>	<p>Exonerated</p>

--	--	--

Approved:

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad# XX	
Investigator:	Investigator 1
Supervising Investigator:	Supervising Investigator 1
Deputy Chief Administrator:	Deputy Chief Administrator 1