

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	June 8, 2015
Time of Incident:	Approximately 2:15 p.m.
Location of Incident:	XXXX S. Saginaw Avenue, Chicago, IL 60617
Date of COPA Notification:	June 11, 2015
Time of COPA Notification:	1:50 p.m.

On June 8, 2015, at approximately 2:15 p.m., officers were in pursuit of two subjects that just fled on foot from a stolen motor vehicle, which had stopped in the alley of the XXXX block of S. Saginaw Avenue. A flash message was sent out with a description of the subjects. One subject was wearing a white t-shirt and black shorts. The other subject was a black male possibly wearing a white V-neck shirt, camo pants and white gym shoes. Sergeant A was responding to the incident when he observed Subject 1 (“Subject 1”), who resembled one of the descriptions provided in the flash message, in the backyard of a residence located at XXXX S. Saginaw Avenue. When Sergeant A asked Subject 1 to show his hands, Subject 1 became tense, flexed his muscles, and tossed two hand-rolled, paper cigars, brown in color, to the ground, which Sergeant A suspected as cannabis. Sergeant A approached Subject 1 to detain him. At which point, Subject 1 pulled away and swatted at Sergeant A’s hands. Sergeant A performed an emergency takedown, and with the help of Officer A, placed Subject 1 into custody. The suspected cannabis cigars were recovered and inventoried. A well-being check was conducted at the residence of XXXX S. Saginaw Avenue because the rear doors of the residence near where Subject 1 was taken into custody were wide open.

## II. INVOLVED PARTIES

Involved Officer #1:	Sergeant A, Star #XXXX, Employee #XXXXXX, Date of Appointment: XX XX, 1991, Sergeant, XXX <sup>th</sup> District, DOB: XX XX, 1970, Male, White
Involved Officer #2:	Officer A, Star #XXXX, Employee #XXXXXX, Date of Appointment: XX XX, 2012, Police Officer, Unit XXX, DOB: XX XX, 1989, Male, White
Involved Officer #3:	Officer B, Star #XXXX, Employee #XXXXXX, Date of Appointment: XX XX, 2002, Police Officer, XXX <sup>th</sup> District, DOB: XX XX, 1976, Male, White

<sup>1</sup> 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.

Involved Officer #4	Officer C, Star #XXXX, Employee #XXXXX, Date of Appointment: XX XX, 1996, Police Officer, XXX <sup>th</sup> District, DOB: XX XX, 1972, Male, White
Subject #1:	Subject 1, DOB: XX XX, 1994, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Sergeant A	1. Pointed your weapon at Subject 1’s head, in violation of rules 2, 3, 8, 10, and 38.	Exonerated
	2. Took Subject 1 to the ground without justification, in violation of rules 2, 3, 6, 8, and 9.	Unfounded
	3. Knead Subject 1 in the stomach, in violation of rules 2, 3, 6, 8, and 9.	Sustained
	4. Knead Subject 1 in the back, in violation of rules 2, 3, 6, 8, and 9.	Exonerated
	5. Falsely charged Subject 1 with possession of cannabis, in violation of rules 2, 3, 8, 10, and 11.	Unfounded
	6. Falsely charged Subject 1 with resisting arrest, in violation of rules 2, 3, 8, 10, and 11.	Unfounded

**IV. APPLICABLE RULES AND LAWS**

Rules

1. **Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals and brings discredit upon the Department.<sup>2</sup>

2. **Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.<sup>3</sup>

<sup>2</sup> This Rule applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders or directives of the Department.

<sup>3</sup> This Rule prohibits any omission or failure to act by any member of the Department, whether on or off duty, which act would be required by the stated policy, goals, rules, regulations, orders and directives of the Department. It applies to supervisory and other members who, through carelessness, inefficiency or design fail to implement all policy goals, rules, regulations, orders and directives of the Department or fail to report to the Department any and all known violations of same, or who through carelessness, inefficiency or design fail to become aware of any such violation, when their assigned duty or supervisory responsibility would require them to become so aware.

3. **Rule 6:** Disobedience of an order or directive, whether written or oral.<sup>4</sup>
4. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
5. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.<sup>5</sup>
6. **Rule 10:** Inattention to duty.
7. **Rule 11:** Incompetency or inefficiency in the performance of duty.
8. **Rule 38:** Unlawful or unnecessary use of display of a weapon.

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## General Orders

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### 1. G03-02-02: Force Options

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## V. INVESTIGATION

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

### a. Interviews

COPA interviewed **Subject 1** on June 15, 2015. During the interview, Subject 1 stated that On June 8, 2015, he walked out of his back door to take the garbage out when an officer (now known as Sergeant A) put a gun to his head and kept saying “get down on the ground, get down.” When Subject 1 asked the officer what he had done, the officer responded by knocking the garbage bag from Subject 1’s hand, knocking the hat off Subject 1’s head, kneeling Subject 1 in the stomach, throwing Subject 1 to the ground, and putting his knee on Subject 1’s back. Subject 1’s cousin, Civilian 2 (“Civilian 2”), looked out of the window and told the officer that he was recording the interaction. The officer got up and handcuffed Subject 1. After that, the officer ran onto Subject 1’s back porch and yelled “police, get down” and then proceeded into Subject 1’s grandmother’s house. Additional detectives and police officers started to arrive. One of these arriving officers pointed at Subject 1 and stated that Subject 1 was the offender who was driving the stolen motor vehicle, which Subject 1 denied.

Subject 1 stated that the officer who ran into his grandmother’s house also went into his bedroom, and tried to enter his grandmother’s bedroom too. Subject 1’s grandmother stopped the officer when she asked him what he was doing inside her home without a search warrant. When

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<sup>4</sup> This Rule prohibits disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior.

<sup>5</sup> Rules 8 and 9 prohibit the use of any excessive force by any member. These rules prohibit all brutality, and physical or verbal maltreatment of any citizen while on or off duty, including any unjustified altercation of any kind.

responding to Subject 1's grandmother, Subject 1 believed the officer stated, "okay ma'am that's why we're leavin' right now."<sup>6</sup> Once back outside, the officer walked Subject 1 to a squad car as Subject 1 demanded to know what he was getting locked up for. Officers advised Subject 1 was getting arrested for possession of a stolen car. Subject 1 tried to explain to the officer that he was not in a stolen car, and that he had been home all day. The officer countered by telling Subject 1 that he matched the description of an offender in possession of a stolen motor vehicle.

Upon arrival at the police station, Subject 1 was placed into a holding cell. Shortly thereafter, an officer came into Subject 1's cell to visually inspect Subject 1's tattoos and to check Subject 1's hands for gun powder. The officer left, but then approximately an hour later the officer returned and advised Subject 1 that he was not the offender from the stolen motor vehicle, and that he would only be charged for possession of the two marijuana blunts recovered from his porch.

Subject 1 further stated that when the officers went into his home he stayed outside, and that his grandmother told him that officers ransacked his room. As Subject 1 was being placed into the squad car his girlfriend showed up and saw Subject 1's bedroom ransacked. Civilian 2 recorded some of Subject 1's ransacked room as well.<sup>7</sup> Finally, Subject 1 estimated the officers were inside his grandmother's house for ten (10) minutes.<sup>8</sup>

COPA interviewed **Civilian 1 ("Civilian 1")** on August 14, 2015. Civilian 1 is the grandmother of Subject 1. Civilian 1 stated that on June 8, 2015, she was watching television and on the telephone when an officer (now known as Sergeant A) rushed into her home with his gun drawn. The officer entered her home through an open back door without knocking, which frightened her. Civilian 1, now off the phone, was asked by the officer if she saw anyone come through her home. Civilian 1 told the officer that no one was in her home besides her. The officer then asked if he could take a look in her bedroom. Civilian 1 reiterated that no one was in the home besides her, which is when the officer exited the residence.<sup>9</sup>

After the officer exited her home, Civilian 1 went to the back door and looked out. From there, she saw two officers seemingly drag Subject 1 by his arms away from her backyard.<sup>10</sup> Civilian 1 asked Subject 1 what was wrong, and Subject 1 replied that the officers told him he was in a stolen car. Subject 1 then asked Civilian 1 to explain that he had not done anything, and that he just walked outside to take the garbage out.

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<sup>6</sup> Subject 1 admitted that he did not personally witness any of the events which took place inside of his grandmother's house, and that this was information he obtained from his grandmother.

<sup>7</sup> After multiple attempts, Civilian 2's video was not obtained. A letter was sent to Civilian 2 on June 11, 2015, with no response. A home visit was conducted on August 17, 2015, at which time Civilian 2 was not home, but Subject 1 was asked again about the videos. Subject 1 provided a short clip which showed Subject 1 on the ground in the backyard. Subject 1 was asked to email the remainder of any video or to stop by COPA offices with a copy. See attachments 16, 23, and 46.

<sup>8</sup> Attachments 13 & 18

<sup>9</sup> Civilian 1 stated later in her statement that Subject 1 was home all day; however, she didn't even know that he had gone to throw out the garbage until the officer came into her residence. She further stated that she was also unaware they ransacked Subject 1's room because she didn't hear or see anything while she was talking on the phone. Civilian 1 stated that when she went to look out back to see what was going on, she noticed that stuff was pulled out of Subject 1's cabinet and on the floor in his room.

<sup>10</sup> Civilian 1 stated that Subject 1 was dragging his feet because he didn't want to go.

An officer returned to speak with Civilian 1 and accused her of lying because she had just advised them that no one was at the home with her. Civilian 1 then told the officer that she really meant that no one was home besides her grandson and her, and she thought the officer was initially asking about a stranger who may have ran into the house. The officers continued to take Subject 1 down the gangway and place him into a squad car. At some point during the incident, a concerned Civilian 1 told the officers they searched her house illegally, to which an officer replied, “that’s why I’m leavin’.”<sup>11</sup> The officers then left her property.<sup>12</sup>

COPA interviewed **Officer C (“Officer C”)** on December 12, 2016.<sup>13</sup> Officer C stated that on June 8, 2015, he was assigned as either a school sergeant or an administrative sergeant. Officer C stated that there was an offender who fled from a stolen vehicle near his location, and he responded to assist. A flash message was sent out which included a description of the fleeing offender and he assisted by walking around the area in search of the described offender. At some point, Officer C came through a gangway between two residences and arrived in the backyard at XXXX S. Saginaw Avenue. Subject 1 and Sergeant A were the only ones present in the backyard that he could recall. Officer C did not recall seeing Officer A, nor did he even know who Officer A was. Officer C stated that as he approached the backyard he heard Sergeant A give Subject 1 verbal commands. He did not recall Sergeant A having his weapon drawn. Instead, he remembered Sergeant A attempting to handcuff Subject 1 in the lawn near the back of the house.

Except for the enclosed back porch attached to the residence, Officer C never saw Sergeant A enter the residence at XXXX S. Saginaw Avenue. Despite not seeing him enter the residence, Officer C indicated that Sergeant A was in the residence a “matter of minutes,” and that himself, Subject 1, and other officers remained in the backyard while Sergeant A was inside the residence.<sup>14</sup>

COPA interviewed **Officer A (“Officer A”)** on December 21, 2015. Officer A stated that on June 8, 2015, he was assigned to a X<sup>th</sup> District tactical team, beat XXXX, and was working a post-shooting incident near XX<sup>th</sup> Street and S. Saginaw Avenue. Officer A and his partner, Officer B (“Officer B”)<sup>15</sup>, observed an erratically driven vehicle with two occupants who appeared scared. When the officers ran the vehicle’s license plate it came back stolen. The officers then pursued the vehicle until it came to a stop in an alley. Two male occupants fled from the vehicle after it stopped.

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<sup>11</sup> Later in Civilian 1’s statement she stated that she made that comment to the officer because she seen Subject 1’s room had been ransacked. Civilian 1 again clarified that she doesn’t know who actually searched the room and that Subject 1 doesn’t know either. Civilian 1 further stated that Subject 1’s girlfriend came by later and picked up his room, and she doesn’t know if any photos were taken of the room or not.

<sup>12</sup> Attachment 21 & 49

<sup>13</sup> Officer C provided a To/From report on February 9, 2016, addressing questions the IPRA investigator had regarding this incident. In Officer C’s To/From he reported that he seen Sergeant A perform an emergency take down of Subject 1 who appeared to be pulling away from Sergeant A. Officer C reported that he did not observe Sergeant A point his gun at anyone’s head or knee anyone in the stomach or back.

<sup>14</sup> Attachments 34, 50, & 71

<sup>15</sup> Officer B also provided an audio statement and To/From Report. He stated that he assisted Officer C with arresting one of the individuals, but then went back to his car next to the stolen vehicle. Officer B stated that he was unable to turn off the stolen vehicle, so he remained with the vehicle until someone could help him turn it off and secure it. Officer B stated that he did go to the backyard of XXXX S. Saginaw Avenue later, and Sergeant A was exiting the residence at that time. In Officer B’s To/From, he reported that Sergeant A entered the residence through an open door to check the well-being of an older lady that lived at the residence. Attachments 30, 55, & 73

After the officers radioed for backup, Sergeant A arrived on-scene. Shortly after his arrival, Sergeant A found Subject 1 in the backyard of XXXX S. Saginaw Avenue. Officer A heard Sergeant A yell for backup from the backyard. Officer A responded to Sergeant A's call for help. Upon his arrival in the backyard of XXXX S. Saginaw Avenue, he saw Sergeant A on top of Subject 1 as Sergeant A struggled with Subject 1's hands as he attempted to place him into custody. Officer A assisted by placing handcuffs on Subject 1, and Subject 1 was ultimately taken into custody.<sup>16</sup>

Officer A stated that he was not present when Subject 1 was first observed in the backyard by Sergeant A, or when he performed an emergency takedown during his struggle with Subject 1. Officer A stated that when he arrived, Subject 1 was still tensing up and that Sergeant A was fighting for control of Subject 1's hands while on the ground. When Officer A arrived in the backyard, he was focused on the interaction between Sergeant A and Subject 1; however, Officer A never saw Subject 1 throw any cigars. Once Subject 1 was placed into custody, Sergeant A pointed out the cigars to Officer A and they were subsequently recovered from the lawn.

Prior to this interaction with Subject 1 and Sergeant A, Officer A provided a description over the radio of the suspected offender driver and passenger. Officer A stated that when he saw Subject 1, Subject 1 positively matched the description of the driver of the stolen vehicle. Officer A did not recall any bags or garbage being on the ground when he arrived in the backyard. Officer A further explained that when officers complete an arrest report it is often a collaborative effort which generally includes information provided by various officers who were involved and/or present during the incident. Officer A stated that everyone had their guns drawn when they saw the stolen car, because they were responding to a call of shots fired. However, Officer A did not know if Sergeant A had his weapon drawn during his encounter with Subject 1. Nevertheless, Officer A speculated that if Sergeant A did have his weapon drawn it was because he was responding to a call of shots fired.<sup>17 18</sup>

COPA interviewed **Sergeant A ("Sergeant A")** on January 27, 2017. Sergeant A stated that on June 8, 2015, he responded to a unit under his command that was chasing two offenders that had fled from a stolen vehicle. Sergeant A stated that the officers had provided over the radio a description of the subjects. Sergeant A located Subject 1, who matched a description he heard over the radio, in the backyard of XXXX S. Saginaw Avenue. Sergeant A approached Subject 1 and gave him verbal commands. When he moved in to detain Subject 1, Subject 1 tensed up, pulled away, and swatted at his hands numerous times. Sergeant A stated that he wanted to take control of Subject 1's arms. Sergeant A then kicked Subject 1's inner thigh, brought him to the ground, and placed him into custody.

According to Sergeant A, the description he heard of the subject(s) indicated that one of them was a black male wearing a V-neck type shirt white in color, which Subject 1 matched.

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<sup>16</sup> Officer A stated later in his statement that he never saw Sergeant A with his weapon unholstered when he came to the backyard.

<sup>17</sup> Officer A provided a To/From report on February 9, 2016, which essentially provided the same information he provided during his audio statement. In his To/From he reported that he was made aware after the incident of Sergeant A entering an open door at XXXX S. Saginaw Avenue for a well-being/safety check. He reported that he saw no other officers enter the residence.

<sup>18</sup> Attachments 32, 52, and 74

Sergeant A first saw Subject 1 in the backyard of XXXX S. Saginaw Avenue as Subject 1 stood near the back-entryway door, which was open. Subject 1 had just dropped blunts (rolled cannabis cigars) from his hand. Sergeant A stated that when he was on the ground with Subject 1 attempting to place him into custody Officer A entered the backyard from the alleyway. Sergeant A remembered seeing Officer C in the backyard, but he did not know if Officer A or Officer C arrived first. Once Subject 1 was in custody, Sergeant A picked up the cigars and took possession of them.

Sergeant A was specifically asked whether his weapon was drawn as he approached Subject 1 in the backyard. He could not recall if he had his weapon drawn. Furthermore, Sergeant A could not recall if the stolen vehicle was taken as part of an armed robbery, but if it was, he would have protected himself.

Sergeant A stated that although he initially encountered Subject 1, Officer A assisted with arresting Subject 1. Sergeant A explained that he instructed Officer A to complete the reports.<sup>19</sup> Sergeant A stated that once the reports were written he reviewed them for accuracy but another sergeant signed off on them.

From past calls, Sergeant A was familiar with the residence located at XXXX S. Saginaw Avenue. Specifically, he knew an elderly woman resided there, and that past calls for service consisted of gun calls and sometimes shots fired. During this incident, Sergeant A stated that he entered the residence through two (2) open rear doors. Sergeant A stated that upon entering the residence there was an elderly woman present and he asked her about her well-being. Sergeant A stated that he did not search any rooms inside the residence, nor did he see anyone else search any rooms.<sup>20</sup>

#### **b. Digital Evidence**

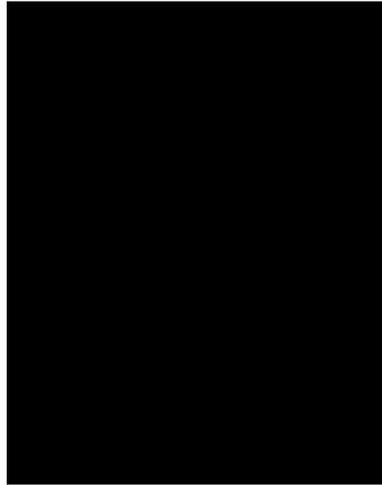
The **mugshot** for Subject 1 taken on June 8, 2015, shows him wearing a white polo t-shirt that buttons at the collar and appears to form a “V” shape on Subject 1’s chest just below his neck. A copy of Subject 1’s mug shot immediately follows.<sup>21</sup>

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<sup>19</sup> Sergeant A verbally conferred with Officer A prior to Officer A’s completion of any written reports.

<sup>20</sup> Attachments 39, 65, & 70

<sup>21</sup> Attachment 7



A **video** captured by Civilian 2<sup>22</sup> was obtained and is approximately thirty-one (31) seconds in length. During the video Subject 1 is seen handcuffed lying on the ground as officers stand around him.<sup>23</sup>

### c. Documentary Evidence

An **Event Query Report** from the Office of Emergency Management and Communications (OEMC) indicated that Officer A and Officer B tried to conduct a traffic stop on a vehicle possibly used during a shooting. During the attempted traffic stop, the vehicle proceeded southbound in the alley from XX<sup>th</sup> Street, which is when two (2) subjects bailed from the vehicle and fled on foot. One of the fleeing subjects was described as wearing a white t-shirt and black shorts.<sup>24</sup>

The **Arrest Report**<sup>25</sup> of Subject 1 was authored by Officer A. The report's narrative indicated that officers responded to a stolen motor vehicle fleeing from police, which stopped in the alley of the XXXX block of S. Saginaw Avenue. Upon the vehicle stopping subjects fled from the vehicle. A description of the offenders included a black male wearing a V-neck t-shirt, white in color. Subject 1 was observed in the backyard of XXXX S. Saginaw Avenue and matched the description of a fleeing offender. Officers announced their office and told Subject 1 to show his hands. Subject 1 became tense, flexed his muscles, and tossed two (2) rolled, brown-paper cigars, suspect cannabis, to the ground. Officers approached to detain Subject 1. Upon the officers' approach, Subject 1 pulled away, attempted to flee, and swatted at the officers' hands. Sergeant A performed an emergency takedown and placed Subject 1 into custody. The suspect cannabis cigars were recovered.<sup>26</sup>

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<sup>22</sup> Numerous attempts to obtain a statement from Civilian 2 were unsuccessful. Attachment 46

<sup>23</sup> Attachment 45

<sup>24</sup> Attachment 28

<sup>25</sup> The case incident report, also prepared by Officer A, similarly described the incident.

<sup>26</sup> Attachments 4 & 5

A **Tactical Response Report** authored by Sergeant A documented that Subject 1 did not follow verbal direction, stiffened, and pulled away. Sergeant A responded with member presence, verbal commands, an armbar, a takedown/emergency handcuffing, and a kick. The narrative of Subject 1's statement to Lieutenant A stated the following:

The arrested subject stated that he didn't know what all the officers were doing and he was just scared after coming from his house. He said he didn't understand what the officer wanted him to do, but after it was explained to him, he now realizes that he should comply with the verbal commands of the officers.<sup>27</sup>

The **Property Inventory** reports documented the recovery of two (2) hand-rolled cigars containing a plantlike substance-suspected cannabis. The cigars were recovered by Sergeant A.<sup>28</sup>

## VI. ANALYSIS

### Allegation 1

COPA recommends a finding of **Exonerated** for **Allegation 1** against Sergeant A, in that he pointed his weapon at Subject 1's head. CPD general regulations dictate when an officer may discharge their firearm as a use of force, but the order(s) do not specifically address when an officer may take the lesser step of displaying their firearm. Rule 38 clarifies when an officer may display their firearm by prohibiting an officer from unlawfully or unnecessarily using or displaying a weapon.

In the case at hand, Sergeant A could neither confirm nor deny if his gun was unholstered and possibly aimed as he approached Subject 1. Conversely, Subject 1 was consistent in the fact that Sergeant A's gun was aimed at him. Without making a factual determination as to whether Sergeant A displayed and/or aimed his gun, COPA finds that Sergeant A knew that the offenders being pursued fled from a stolen vehicle. Furthermore, OEMC records established that the stolen vehicle was possibly used previously in a shooting. Armed with this knowledge, as Sergeant A combed the area in pursuit of the described subject(s) that fled from the stolen vehicle, he had an objectively reasonable belief that he may encounter a dangerous subject. Therefore, COPA finds it would have been reasonable for Sergeant A to have his weapon unholstered and in a ready position in the anticipation of danger. Furthermore, when it appeared to Sergeant A that Subject 1 matched the known description of one of the fleeing subjects from a stolen vehicle believed to have been previously used in a shooting, he would have been also reasonable in pointing his weapon at Subject 1. Therefore, based on the forgoing, COPA recommends a finding of **Exonerated** for **Allegation 1**.

### Allegation 2

COPA recommends a finding of **Unfounded** for **Allegation 2**, in that Sergeant A took Subject 1 to the ground without justification. General Order G03-02-02, *Force Options*, regulates when an officer may use force against a subject and the level of force that may be used. In the

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<sup>27</sup> Attachment 6

<sup>28</sup> Attachment 27

case at hand, when Sergeant A attempted to place Subject 1 into custody. Subject 1 failed to listen to verbal commands, tensed up/flexed, pulled away, and swatted at Sergeant A. CPD General Order G03-02-02 defines an active resister as follows:

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. This type of resistance includes gestures ranging from evasive movement of the arm, through flailing arms, to full flight by running.

Subject 1 displayed the characteristics of an active resister – his failure to follow verbal commands, swatting, and tensing up. Furthermore, it was still unknown to Sergeant A if Subject 1 was armed. Given the totality of the circumstances, and the fact that the general order G03-02-02 explicitly permits holding and compliance techniques against an active resister, Sergeant A was objectively reasonable in performing a takedown. Therefore, COPA recommends a finding of **Unfounded** for **Allegation 2**.

### **Allegation 3**

COPA recommends a finding of **Sustained** for **Allegation 3**, in that Sergeant A kned Subject 1 in the stomach. During his interview, Sergeant A admitted to kicking Subject 1's thigh. Furthermore, Sergeant A confirmed kicking Subject 1 by documenting it in his TRR. However, Subject 1 instead alleged that he was kned in the stomach by Sergeant A. While COPA understands that there is a difference in the kick admitted to by Sergeant A and the alleged knee to the stomach by Subject 1, COPA also understands that what was perceived by Sergeant A as a kick to Subject 1's thigh could have simply been perceived by Subject 1 as a knee to the stomach. Therefore, COPA finds that it's more likely than not that Subject 1 and Sergeant A are referencing the same use of force – in a fraction of a second Sergeant A attempted to kick Subject 1 in the thigh and Subject 1 remembered this action as a knee to the stomach.

Technically, COPA is unable to determine where Sergeant A's kick landed on Subject 1's body; however, regardless if the impact was to Subject 1's stomach or thigh, both would be in violation of CPD general order G03-02-02. Direct mechanical blows – described in the general order as striking movements, punching movements, kicks, or forced pressure strikes – are only permitted against an assailant<sup>29</sup>, which Subject 1 was not. Even Sergeant A himself described Subject 1 as an active resister in his TRR opposed to an assailant. Furthermore, no one interviewed during this investigation ever indicated that Subject 1 used or threatened to use force against any officer, person, or himself which could cause physical injury. Therefore, based on the foregoing, COPA recommends a finding of **Sustained** for **Allegation 3**.

### **Allegation 4**

COPA recommends a finding of **Exonerated** for **Allegation 4**, in that Sergeant A kned Subject 1 in the back. Given the permissible takedown (discussed above) COPA finds that it was highly probable that a knee and/or some other force was applied to Subject 1's back during the

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<sup>29</sup> CDP General Order G03-02-02, *Force Options*, defines an assailant as “a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury.”

takedown – especially when considering Subject 1 was handcuffed, which would have required Subject 1’s hands to be pushed up into and against Subject 1’s back as he was lying on the ground. Therefore, COPA recommends a finding of **Exonerated** for **Allegation 4**.

### Allegations 5 & 6

COPA recommends a finding of **Unfounded** for **Allegations 5 & 6** against Sergeant A, in that he falsely charged Subject 1 with possession of cannabis and resisting arrest. Subject 1 admitted that officers found two marijuana cigars on his back porch in his vicinity. Furthermore, Subject 1 never denied the cigars as his. Instead, Subject 1 believed the officers had no probable cause to be on his property. Additionally, multiple witness officers also saw the marijuana cigars that were ultimately inventoried. Based upon the forgoing, COPA finds it more likely than not that Sergeant A had sufficient probable cause to place Subject 1 under arrest for possession cannabis.

Subject 1’s statement to Lieutenant A documented in a Tactical Response Report indicated that Subject 1 acknowledged that he did not comply with verbal commands given by the officers. This was a clear admission by Subject 1 to resisting his arrest. Even Subject 1’s grandmother’s perception was that Subject 1 did not want to be arrested, and that he was resisting as the officers escorted Subject 1 to the squad car. Also, multiple witness officers described Subject 1’s actions as resisting arrest. Finally, Subject 1 pled guilty to the resisting arrest charge on June 9, 2015. Therefore, COPA recommends a finding of **Unfounded** for **Allegations 5 & 6**.

## VII. CONCLUSION

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

Officer	Allegation	Finding
Sergeant A	1. Pointed your weapon at Subject 1’s head, in violation of rules 2, 3, 6, 8, 10, and 38.	Exonerated
	2. Took Subject 1 to the ground without justification, in violation of rules 2, 3, 6, 8.	Unfounded
	3. Knead Subject 1 in the stomach, in violation of rules 2, 3, 6, 8, and 9.	Sustained
	4. Knead Subject 1 in the back, in violation of rules 2, 3, 6, 8, and 9.	Exonerated
	5. Falsely charged Subject 1 with possession of cannabis, in violation of rules 2, 3, 8, 10, and 11.	Unfounded
	6. Falsely charged Subject 1 with resisting arrest, in violation of rules 2, 3, 8, 10, and 11.	Unfounded

Approved:

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Deputy Chief A  
*Deputy Chief*

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Date

**Appendix A**

Assigned Investigative Staff

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<b>Squad#:</b>	X
<b>Investigator:</b>	Investigator A
<b>Supervising Investigator:</b>	Supervising Investigator A
<b>Deputy Chief Administrator:</b>	Deputy Chief A