

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

**I. EXECUTIVE SUMMARY**

Date of Incident:	February 20, 2017
Time of Incident:	Approximately 1:23 p.m.
Location of Incident:	XXXX S. Keating Ave, Chicago, IL 60652
Date of IPRA Notification:	February 20, 2017
Time of IPRA Notification:	Approximately 3:10 p.m.

On February 20, 2017, Sgt. A (“Sgt. A”) initiated a complaint log following his response to a domestic battery at the residence of off-duty Officer A (“Officer A”) and his wife Civilian 1 (“Civilian 1”). Sgt. A’s initiation log relates that Civilian 1 told officers that during a verbal altercation between her and Officer A, Officer A destroyed her personal property in the basement and the master bedroom. She further alleged that when she went to the kitchen to call the police, Officer A pinned her against the kitchen wall and wrestled the phone away from her, after which he proceeded to call 911.<sup>2</sup> Officer A told 911 operators that Civilian 1 was attacking him, and he wanted a supervisor.<sup>3</sup>

On September 18, 2017, Civilian 1 informed COPA that she declined to provide a sworn statement. COPA requested an affidavit override from Chicago Police Department’s (“CPD”) Bureau of Internal Affairs (“BIA”). On January 8, 2018, BIA approved COPA’s request, authorizing the investigation to continue.

**II. INVOLVED PARTIES**

Accused Officer #1:	Police Officer A, Star #XXXX, Employee ID #XXXX, Unit XXX, Date of Appointment: XX XX, 2001, Date of Birth: XX/XX/ 1976, Male, Hispanic
Witness Officer #2:	Police Officer B, Star #XXXXX, Employee ID #XXXXX, Unit XXX, Date of Appointment: XX XX, 1995, Date of Birth: XX/XX/1971, Male, Hispanic

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (“COPA”) replaced IPRA as the civilian oversight agency of the Chicago Police Department (“CPD”). 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.

<sup>2</sup> See Attachment 4.

<sup>3</sup> See Attachment 7.

Witness Officer #3:	Police Officer C, Star #XXXXXX, Employee ID #XXXXXX, unit XXX, Date of Appointment: XX XX, 2002, Date of Birth: XX/XX/1976, Male, Caucasian
Witness Officer #4:	Sergeant A, Star #XXXX, Employee ID #XXXXXX, Unit XXX, Date of Appointment: XX XX, 1996, Date of Birth: XX/XX/1970, Male, Hispanic
Subject #1:	Civilian 1, Female, White Hispanic <sup>4</sup> , Date of Birth: XX/XX/1984

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer A	It is alleged that on February 20, 2017, at approximately 1:23 p.m., at XXXX S. Keating Ave, Chicago, IL, 60652, during an altercation with Civilian 1, Officer A: <ol style="list-style-type: none"> <li>1. Pushed Civilian 1;</li> <li>2. Pinned Civilian 1 against a counter/wall; and/or</li> <li>3. Grabbed a phone away from Civilian 1</li> </ol>	Not sustained  Not Sustained  Not Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules
<ol style="list-style-type: none"> <li>1. <b>Rule 2:</b> Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.</li> <li>2. <b>Rule 8:</b> Disrespect to or maltreatment of any person, while on or off duty.</li> <li>3. <b>Rule 9:</b> Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.</li> </ol>

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<sup>4</sup> See Attachment 4.

## V. INVESTIGATION

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

### a. Interviews

#### i. Witness Officer B<sup>5</sup>

On February 1, 2018, COPA interviewed Officer B. In summary, Officer B responded to a call for service over the radio by the Office of Emergency Management and Communications ("OEMC") that involved a possible domestic violence situation with an off-duty CPD officer. Upon arrival, he observed off-duty Officer A on the front steps. He described Officer A as calm. As he approached the steps, Civilian 1 came outside. He described her as upset. Both Civilian 1 and Officer A went back inside the house with Officer B. Officer A and Civilian 1 began arguing "back and forth," but Officer B could not recall what the argument was about. Officer A told him that Civilian 1 was the aggressor and that she always does this. After he made those statements, Officer B told Officer A to go outside, which he did.

After Officer A went outside, Civilian 1 told Officer B that the situation commenced over a receipt. The events unfolded from tossing mail in the living room, moved to the bedroom where Officer A tossed additional items around, and finally to the basement. From the basement, Civilian 1 went upstairs to call the police with the landline, which is when Officer A followed her, pinned her against the counter, and took the phone away from her. Next, Officer A went outside to call the police.

Civilian 1 claimed an injury to her lower right-side area resulting from her interaction with Officer A. She declined an ambulance. Personally, Officer B did not see any physical marks or signs of any physical injury on Civilian 1. Officer B further provided Civilian 1 with information on orders of protection.

In Officer B's opinion and perspective of the situation, it was an argument gone wrong. When asked if Civilian 1 mentioned previous incidents, he recalled her telling him and Sgt. A that nothing ever gets done which he interpreted as meaning there had been prior incidents.<sup>6</sup>

#### ii. Witness Officer C<sup>7</sup>

COPA interviewed Officer C on February 14, 2018. Officer C described the scene upon arrival as a gentleman, now identified as Officer A, sitting on the porch followed by an irate

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<sup>5</sup> Officer B recalled Officer A stating that he had a personal body worn camera on his person. Officer B confirmed that Officer A had a device hanging around his neck and that Officer A referred to it as a camera. Officer B did not ask him if he had been recording, nor did he ask to view it. Officer A did not state that he had used the camera during the incident. (See Attachments 46 and 66).

<sup>6</sup> See Attachments 46 and 66.

<sup>7</sup> When asked if Officer A had a camera on him, Officer C answered that he remembered that Officer B had something on him, describing it as a small, black device which was either hanging or clipped on his shirt. He said that the device could have been a camera, but he did not know or recall for certain what the device was.

woman, now identified as Civilian 1, who came to the door of the residence and stated that she had contacted the police.<sup>8</sup> Officer C, Officer A, and Civilian 1 proceeded inside the residence. Once inside, Civilian 1 and Officer A began to talk over one another as they tried to explain what happened. Officer C asked Officer A to step back outside the residence with him. Once outside, he spoke with Officer A about work-related topics, and ensuring that Officer A did not have any weapons on his person. In general, Officer C did not remember the extent of their conversation, what Officer A and Civilian 1 had been arguing about in the residence following the officers' initial arrival, or what the initial argument between Officer A and Civilian 1 was even about. Officer C recalled Officer A's demeanor as calm throughout the entire time they were there, and at times, sarcastic, e.g., when asked about his argument with Civilian 1. At some point following their conversation, Officer C accompanied Officer A back inside the residence so Officer A could pack a bag. During this time, Officer C asked him if he had any weapons on him, and if so, to ensure that they remain secured.

Finally, Officer C indicated that he did not feel as if there was potential danger to either party. In response to COPA asking him to summarize his impression of the situation, Officer C surmised that it must have been a verbal altercation, and that it seemed to him as if this had happened before.<sup>9</sup>

### **iii. Witness Sgt. A**

On January 31, 2018, COPA interviewed Sgt. A. When Sgt. A arrived on scene he first noticed an officer speaking with Officer A outside the residence on the stairwell. Sgt. A stated that Officer A primarily spoke with Officers B and C. Per Sgt. A, Officer A appeared coherent, not under the influence, and slightly agitated; though he exhibited a calm demeanor when he spoke with the officers.

Sgt. A proceeded inside the residence where he spoke to Civilian 1. Civilian 1 told him that there had been an argument, and that she and Officer A have been having problems. She continued to tell Sgt. A that in the bedroom items had been thrown from the dresser to the floor, and that the same occurred in the basement. Sgt. A described Civilian 1 as very upset and she appeared as if she had been crying. Civilian 1 continued to tell Sgt. A that Officer A is a police officer and that nothing would happen. She asked for Officer A to leave the residence. Civilian 1 also complained of injury to her back; however, she refused medical attention and Sgt. A did not observe any injuries to Civilian 1.

Sgt. A stated that he and Officers B and C conferred to determine what happened. Sgt. A affirmed the OCIR's narrative as the product of that conversation.<sup>10</sup> Sgt. A had never encountered Officer A or Civilian 1 prior to responding to this call, nor has he since. Overall, Sgt. A described the situation as unfortunate. When asked if he would describe the incident as a bona fide domestic incident, he responded in the affirmative; nonetheless, he did not arrest either party.<sup>11</sup>

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<sup>8</sup> OEMC records show that Officer A called 911. (See Attachments 7 and 17).

<sup>9</sup> See Attachments 49 and 66.

<sup>10</sup> See Attachment 9.

<sup>11</sup> See Attachments 47 and 66.

**iv. Accused Officer A<sup>12</sup>**

On March 2, 2018, COPA interviewed accused Officer A. On the date of the incident, Officer A and Civilian 1 had an argument over a receipt for bedroom furniture. The argument elevated when Civilian 1 refused to give Officer A the receipt and Officer A started to search through a pile of Civilian 1's receipts. As he continued to look through the pile, Civilian 1 walked over to Officer A, started hitting him, and stated that the receipt was not there. Civilian 1 was hitting Officer A on the shoulder, attempting to get to his face. In response, Officer A stuck his arm out in an effort to create distance between the two of them so Civilian 1 would stop hitting him.

Next, Civilian 1 ran to Officer A's bedroom room and with one arm swept some of Officer A's personal items off the dresser and onto the floor. Officer A reciprocated by going downstairs to the laundry room tossing some of Civilian 1's clothing to the floor. Meanwhile, Civilian 1 was still upstairs in the bedroom destroying his stuff. Eventually, Civilian 1 came downstairs as well. While downstairs, Civilian 1 smashed Officer A's Xbox on the ground. Officer A felt the situation was getting out of control, so he told Civilian 1 that he was going to call the police. Officer A wanted Civilian 1 out of the house, and he told her the same as he headed upstairs to call the police.

As he went to get the phone, a landline located on the wall in the kitchen, Civilian 1 also ran to get the same phone. Officer A believed that since he was bigger than<sup>13</sup> Civilian 1, and because they "both went in" at the same time to get the phone, Civilian 1 ended up getting pushed against the counter.<sup>14</sup> Once he was at the phone, Civilian 1 unsuccessfully tried to push him out of the way. Civilian 1 did not make any statements of being injured to Officer A, nor did he perceive her to be injured. Officer A called 911 and went outside.

When the responding officers first arrived, they spoke with Officer A first and then Civilian 1. Sgt. A arrived shortly thereafter. When asked if he made any statements to the officers as to who the aggressor had been, Officer A responded that he told the responding officers that Civilian 1 had started hitting him first and that he put his arm out to create distance and stop her. Officer A asserted that he felt in fear of his safety and in physical danger. He described his relationship with Civilian 1 as tumultuous. The couple had been arguing about various things for the last 12 to 18 months; however, fights, similar to what just occurred, were a rare occurrence. When asked if he had ever hit Civilian 1, he responded that he defends himself and that he won't let her hit him.

Additionally, COPA investigators asked Officer A if the narrative contained in the OCIR accurately depicted what occurred on February 20, 2017. Officer A felt that it was in the

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<sup>12</sup> Officer A was asked if he recorded any of the arguments or altercations that had occurred between Civilian 1 and himself. He responded not that he knew of and that he had not recorded the incident that day. COPA additionally asked him if he had a camera or body-worn camera on his person during the incident to which he initially responded no, and stated that he believed - but wasn't sure - he bought a camera shortly after the February 20, 2017 incident. His purpose in buying the body-worn camera was so that Civilian 1 could not make wild accusations and have a situation result of "he-said, she-said."

<sup>13</sup> Officer A estimated Civilian 1 to be 5'3" and her weight at that time to be approximately 120-130 lbs. (See Attachments 47 and 66). The OCIR lists Officer A's height as 5'6" and his weight as 180 lbs. (See Attachment 9).

<sup>14</sup> Officer A speculated that Civilian 1 went up against the counter based on the layout of the kitchen relative to the phone.

“ballpark,” but it was more from Civilian 1’s point of view. Specifically, Officer A disagreed with the parts of OCIR that indicated that he pinned Civilian 1 against the counter and grabbed the phone away from her.

In responding to the allegations directly, Officer A denied the allegations that he pinned Civilian 1 to the counter and/or grabbed the phone away from her. On the allegation that he pushed Civilian 1, he stated that he extended his arm, such as he had been taught in the academy, to create distance so that she wouldn’t hit him anymore. He answered in the affirmative that in extending his arm he made contact with Civilian 1 and she moved as a result.<sup>15</sup>

## **b. Digital Evidence**

### **i. Crime Scene Processing Report**

The Crime Scene Processing Report documented that when Evidence Technician (“ET”) A arrived Civilian 1 told the ET that she had no injury to photograph. Nevertheless, the ET took multiple photographs, included of the frontal views of the residence located at XXXX S. Keating Avenue and the general disarray in the bedroom and laundry room.<sup>16</sup>

### **ii. OEMC CPD Event Query Report and 911 Call**

The Event Query Report indicated that Officer A called 911 at approximately 1:23 p.m. requesting the police and a supervisor. Officer A identified himself as an off-duty police officer and stated that his wife was attacking him. OEMC dispatched beat XXX, Officers B and C, and beat XXX, Sgt. A.<sup>17</sup>

## **c. Documentary Evidence**

### **i. Original Case Incident Report (“OCIR”), RD #XXXXXXX**

The OCIR narrative indicated that upon arriving at XXXX S. Keating Avenue, the reporting officer, listed as Officer B, observed Officer A (referred to as the offender in the report) sitting on the steps outside the residence. Civilian 1 (referred to as the victim) exited the residence. The investigation uncovered that Officer A and Civilian 1 had a verbal argument over the whereabouts of a receipt. Civilian 1 told officers that Officer A became upset, started tossing mail to the ground, and then went to the bedroom where he tossed Civilian 1’s personal effects to the ground. Officer A then went to the basement and tossed Civilian 1’s personal effects from the closet. Civilian 1 told officers that as she went to call the police, Officer A pushed her and then pinned her against the counter and took away the phone from her. After taking the phone, Officer A went outside to call the police. Civilian 1 claimed an injury to her lower, right-side, hip/buttock area; however, the reporting officer did not observe and visible marks or injury on Civilian 1.

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<sup>15</sup> See Exhibit 65.

<sup>16</sup> See Attachments 5 and 32.

<sup>17</sup> See Attachments 7 and 17.

When offered by the responding officers, Civilian 1 refused medical aid and information on resources for domestic violence victims.<sup>18</sup>

## VI. ANALYSIS

Any finding of Sustained, Exonerated, or Unfounded would require a substantive finding by a preponderance of the evidence. In other words, COPA would need to determine if it was more likely than not that the alleged conduct did occur in violation of a CPD rule. However, in the case at hand, COPA was unable to make a determination beyond a preponderance of the evidence; therefore, COPA recommends a finding of Not Sustained for all allegations.

The evidence gathered in this case was overwhelmingly testimonial; however, Civilian 1, the key-witness complaint, did not provide a statement to COPA investigators. COPA's investigation then proceeded based on Officer A's interview, the interviews of responding officers and their authored narratives contained within CPD reports, and the initiation report. This limited pool of evidence provided an insufficient basis to substantiate Civilian 1 allegations of domestic violence.

COPA does not doubt that an altercation did occur between Civilian 1 and Officer A on the February 20, 2017. In fact, during his interview, Officer A openly admitted to a dispute/disagreement with Civilian 1 which led both to the phone to summon the police via a 911 call. Despite this admission, something beyond a ubiquitous disagreement between two individuals is needed for a sustained finding in this case. Officer A categorically denied the disagreement was physical, at least on his part, by denying the allegations against him that he pinned Civilian 1 against a counter/wall and/or grabbed a phone away from her. While this assertion of no wrongdoing does not disprove the allegations, it certainly doesn't prove them either. While COPA finds the responding officers' accounts, both testimonial and in documentation, as credible, the fact remains that they arrived after the altercation occurred. The accounts of these officers were directly derived from information provided by either Civilian 1 or Officer A, and arguably there is the possibility of their statements being made with self-interest considerations.

Equally important questions arise when considering that although Civilian 1 claimed injury to her lower right side of her hip and butt area, Officer B did not observe visible marks on her. Evidence Technician A wrote in the associated Crime Scene Processing Report that Civilian 1 related to him that she had no injury to photograph. Civilian 1 also refused medical attention on scene. Additionally, there were no independent witness to the alleged acts, the call to 911 did not capture any relevant background noise or statements, and there was no known video recording of the incident.

In considering the totality of the evidence, obtained and lacking, a preponderance of the evidence is lacking to support a substantive finding. As such, COPA recommends a finding of **NOT SUSTAINED** for all three allegations.

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<sup>18</sup> See Attachment 9.

**VII. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer A	<p>It is alleged that on February 20, 2017, at approximately 1:23 p.m., at XXXX S. Keating Ave, Chicago, IL, 60652, during an altercation with Civilian 1, Officer A:</p> <ol style="list-style-type: none"> <li data-bbox="597 590 1226 653">1. Pushed Civilian 1 in violation of rules 8 and 9;</li> <li data-bbox="597 705 1226 768">2. Pinned Civilian 1 against a counter/wall in violation of rules 8 and 9; and/or</li> <li data-bbox="597 821 1226 884">3. Grabbed a phone away from Civilian 1 in violation of rules 8 and 9.</li> </ol>	<p>Not sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

Approved:

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*Deputy Chief Administrator 1 – Chief Investigator*

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 Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	X
<b>Investigator:</b>	Investigator 1
<b>Supervising Investigator:</b>	Supervising Investigator 1
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator 1