

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	November 19, 2011
Time of Incident:	7:07 p.m.
Location of Incident:	XXXX W. North Ave./ XXXX W. Grand Ave. (XX District)
Date of COPA Notification:	February 17, 2016
Time of COPA Notification:	9:34 a.m.

On November 19, 2011, the complainant, Subject 1, and Subject 2 entered a mobile phone store called XXXX located at XXXX W. North Ave. and conducted an armed robbery. Subject 1 and Subject 2 bound the employees and the patrons with duct tape and placed them in a bathroom in the back of the store. At this time, Subject 1 and Subject 2 began stealing money and phones from the store. The owner of the store, Civilian 1, entered the store and was told by Subject 1, who was not aware that Civilian 1 was the owner, that the store was closed. Civilian 1 immediately exited the store and notified the police.

Captain A² arrived on the scene, briefly spoke with Civilian 1, and then entered the store with his weapon drawn. Captain A encountered Subject 1 and Subject 2, and a struggle ensued. During the struggle, Subject 2 fled the scene and Subject 1 resisted Captain A who was attempting to place him into custody. Subject 1 attempted to flee the store, and Captain A was able to force Subject 1 to the ground until assisting officers arrived on the scene and helped place Subject 1 into custody. Assisting officers located Subject 2 and placed him into custody.

II. INVOLVED PARTIES

Involved Officer #1:	Captain A, Star #XX, Employee #XXXXXX, DOA XX XX, 1994, Captain, XXX District, DOB XX/XX/1965, Male, White
Involved Officer #2:	Detective A, Star #XXXX, Employee #XXXXXX, DOA XX XX, 1992, Detective, DOB XX/XX/1970, Male, Hispanic
Involved Officer #3:	Officer A, Star #XXXXXX, Employee #XXXXXX, DOA XX XX, 2006, P.O., DOB XX/XX/1982, Male, White
Subject #1:	Subject 1, DOB XX/XX/1961, Male, Hispanic (Complainant/Victim)

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. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendations set forth herein are the recommendations of COPA.

² At the time of the incident Captain A was a sergeant; he is currently a Captain.

Subject #2: | Subject 2, DOB XX XX, 1970, Male, Black (Witness)

III. ALLEGATIONS

Officer	Allegation	Finding
Captain A,	1.Put the muzzle of his gun to Subject 1’s chest. 2.Placed Subject 1 in a headlock. 3.Knead Subject 1 on the side of the body near his ribcage. 4.Threw Subject 1 to the ground. 5.Called Subject 1 a “motherfucker.” 6.Struck Subject 1 several times on the face with an open hand, while at the XXX District.	Not Sustained Not Sustained Not Sustained Exonerated Not Sustained Not Sustained
Officer Unidentified	1.Struck Subject 1 several times on the face with an open hand, while at the XXX District.	Not Sustained

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 or brings discredit upon the Department.

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

1. 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 the complainant, Subject 1,³ on July 25, 2016. Subject 1 stated that on November 19, 2011, he and his friend, Subject 2, planned on robbing a store on North Avenue. Subject 1 said that he agreed to be involved in the robbery only because he wanted to help his daughter, Civilian 2, with her legal fees. Subject 1 and Subject 2 entered the store and ordered everyone to go to the back of the store. Subject 1 related that Subject 2 gave him a silver-colored gun and told him that there were no bullets in the gun. Subject 2 was carrying a fake plastic gun.

³ Att. 51

Subject 1 indicated that when they were done robbing the store, they attempted to exit the store through the front door. Subject 1 and Subject 2 went toward the front door, and observed Captain A enter the store. Subject 1 and Subject 2 immediately ran to the back of the store in an attempt to exit the back door. When they realized they were cornered in the back of the store, they surrendered to Captain A. Captain A had his gun out and pointed at Subject 1 and Subject 2. Captain A ordered them to turn around, at which time Subject 2 began running toward the front door and was eventually able to flee the scene. Subject 1 began running behind Subject 2, but Captain A was able to grab hold of Subject 1. At this time, Captain A put his gun to Subject 1's chest. Subject 1 said he slapped Captain A's gun away from him and continued running. According to Subject 1, he and Captain A fell through the front door, shattering the glass. By this time, he and Captain A were outside of the store. Subject 1 indicated that an unknown civilian Hispanic male assisted in Subject 1's arrest. Subject 1 did not know the Hispanic male's name, and he did not specify what he did to assist Captain A.

During this time, other Chicago Police Officers arrived on the scene and assisted in Subject 1's arrest. Subject 1 related that during his arrest Captain A put his knee into Subject 1's ribcage area. Subject 1 was arrested and taken to the XXX District Police Station located at XXXX and XXX (detectives' Area XX also was at this location). The officers placed Subject 1 in an interview room located on the second floor. Subject 1 related that while he was in the interview room, Captain A struck him in the face about four times with an open hand. He further reported that an unidentified male Hispanic detective also struck him on the face about four times with an open hand. Subject 1 stated that a white male detective, Det. B, was also present and took his money and stated that he would use the money to purchase the other officers lunch. Subject 1 explained that Det. B took about \$600.00 U.S.C. that Subject 1 had allocated for his daughter's legal fees. According to Subject 1, none of that money was stolen from the store.⁴

Subject 1 sustained injuries to his face, ribs, and shoulder and he received medical treatment at Resurrection Hospital. Subject 1 further reported that he had surgery on his shoulder while he was at Stateville Prison.

COPA interviewed the witness, Officer A,⁵ on January 17, 2018. Officer A related that on November 19, 2011, he was in full uniform, assigned to Beat XXXX, and was partnered with Officer B. Officer A responded to XXXX W. North Ave. after receiving a radio call of a robbery in progress. When they arrived at the location, Officer A observed Captain A on the ground wrestling with Subject 1. There was also an unidentified Hispanic male civilian who was assisting in the arrest of Subject 1. Officer A immediately assisted Captain A in the apprehension of Subject 1 by grabbing his arm and handcuffing him. Officer B left the area to find the other suspect, now known as Subject 2, who was involved in the robbery. Once Subject 1 was secured, Officer A entered the store to see if there were any other suspects still present. Officer A did not locate any other suspects, just the victims of the robbery. Officer A placed Subject 1 in his squad car and transported him to the XXX District. Officer A did not recall seeing Captain A put Subject 1 in a headlock or put his knee into the side of his body. Officer A indicated that he did not witness

⁴ No allegation was presented to Det. B because he is no longer with CPD. Moreover, \$672, described as "prisoner money," was inventoried in Inventory Report #1243093, Att. 127.

⁵ Att. 112

Captain A throw Subject 1 down to the ground. Officer A denied hearing any officer call Subject 1 a “motherfucker,” or a “fucking Puerto Rican.”

When they arrived at the XXX District, Subject 1 was placed in an interview room in the detectives’ office on the second floor. Officer A left Subject 1 with the detectives and started the arrest report. Officer A did not observe any interaction between Captain A and Subject 1 while they were in Area X. Officer A did not recall observing any injuries to Subject 1, nor did he complain of any injuries. Officer A related that he viewed the video from the store that recorded Captain A and Subject 1 crashing through the front door of the store, shattering the glass. Officer A did not provide any additional information.

COPA interviewed the witness, Detective A,⁶ on January 17, 2018. Detective A reported that on November 19, 2011, at approximately 9:00 p.m., he responded to a “XXXXXX” store for a burglary call. Upon arrival, Det. A observed the owner of the store and the employees and customers who were victims of the robbery. Det. A said that the two offenders, Subject 1 and Subject 2, had been transported to the district station/Area X before his arrival. Det. A spoke with Captain A who gave him a brief description of what occurred. Det. A also observed broken glass inside the “XXXXXX” store and broken cash registers. Det. A observed two weapons (a real pistol and a replica gun) in the back of the store. Det. A then gathered witnesses and conducted the interviews at Area X.

While at Area X, Det. A and his partner, Det. B, conducted the interviews of the involved parties, which included Capt. A and Subject 1. Det. A stated that Subject 1 never told him that he was physically abused by an officer. Det. A denied witnessing any officer having any type of physical contact with Subject 1, other than escorting him to the lockup. Det. A did observe scrapes and scratches on Subject 1’s face, but he was unaware of how he sustained the injuries. According to Det. A, Subject 1 never made any complaints to him about being injured.

COPA interviewed the accused, Captain A,⁷ on February 13, 2018, and he reported that on November 19, 2011, he was assigned as a sergeant in the XXX District. Captain A responded to a robbery in progress at the location, XXXX W. North Ave. Upon arrival, he spoke to the owner of the store who informed him that someone was robbing the store. Captain A immediately entered the store, drew his weapon from his holster and announced his office. Captain A said that the lights were off and it was completely dark inside of the store. During this time, Captain A observed a masked individual, now known as Subject 1, rise from behind one of the front display counters and run to the back of the store.

With a flashlight in his hand, Captain A pursued Subject 1 to the back of the store. Capt. A searched one of the rooms and observed hostages tied up inside. Captain A continued towards the back of the store and observed Subject 1 and another offender, now known as Subject 2, running toward a door in the back area of the store. Captain A indicated that Subject 1 and Subject 2 were not armed during this time. Captain A ordered the individuals to get on the floor, and they complied. While they were on the floor, Captain A called for assistance. Subject 1 and Subject 2 then looked at each other and stood up. Captain A said that he had holstered his weapon when

⁶ Att. 111

⁷ Att. 123

they initially complied with his orders. Subject 1 and Subject 2 attempted to escape through the back, but the door was locked. Captain A ordered them to get back on the floor, and they complied.

Captain A said he approached Subject 2 and knelt next to him to place him into custody. Subject 1 stood up, turned away from Captain A and reached for his waistband area. Captain A stepped away from Subject 2 and ordered Subject 1 to stop. Subject 1 tossed a gun (a small semi-automatic) that slid across the floor. Captain A ordered him to the floor again, and he complied. According to Captain A, Subject 2 stood to his feet, ran toward the front of the store and fled the store. Captain A, who now was holding his weapon, holstered his weapon and attempted to place Subject 1 into custody. Subject 1 resisted Captain A in that he stood up and punched, kicked and grabbed Captain A. Captain A tried several times to grab Subject 1 in an attempt to place him into custody, but he was unable to secure him. Captain A said he reached for his weapon several times, but Subject 1 grabbed his arms to prevent him from retrieving his weapon. As they moved closer to the front of the store, Captain A grabbed Subject 1 and tossed him to the floor, which caused them to crash through the front glass door.

Captain A and Subject 1 landed on the sidewalk and Subject 1 continued to resist. Captain A attempted to place Subject 1 in handcuffs, during which time Captain A struck him on the hands to get his hands behind his back. Captain A placed one handcuff on Subject 1 and then got the other one with the assistance of Officer A who just arrived on the scene. Captain A further added that an unknown Hispanic male helped him place Subject 1 into custody, but he left before officers were able to obtain his name and personal information. Once Subject 1 was in handcuffs, he was placed in a squad car and transported to the XXX District/Area X. Captain A did not recall placing the muzzle of his gun to Subject 1's chest, placing him in a headlock or kneeling him on the side of the body. Captain A did not recall calling Subject 1 a "motherfucker," nor did he observe anyone verbally abusing Subject 1. Captain A related that he had no contact with Subject 1 while at the XXX District Police station/Area X.

b. Digital Evidence

The **CB photographs**⁸ of Subject 1 depicted an abrasion on the right side of his face on the cheek area. The photographs also depicted two red marks on the right side of Subject 1's face near his temple area.

The **evidence technician photographs**,⁹ depicted several photographs of the scene, XXXX W. North Ave. The photographs also depicted two semi-automatic weapons: a silver Davis Industries semi-automatic and a black handgun that appeared to be a toy. There were no photographs taken of Subject 1. A red substance, which appeared to be blood, was depicted on the sidewalk in front of the phone store.

The **video footage**¹⁰ from XXXXX phone store, XXXX W. North Ave., depicted two apparent robbers, now known as Subject 1 and Subject 2, entering the store. The first robber displayed what appeared to be a gun. The lights inside of the store were turned off at

⁸ Atts. 10,11

⁹ Att. 27

¹⁰ Atts. 115 & 116

approximately 7:05 p.m. An unidentified person walked in different areas in the store and looked into a display counter, apparently removing some items. Soon after, a female, now known to be the owner of the store Civilian 1, opened the front door and moved a sign to a position in front of the entrance.

At approximately 7:11 p.m., a police officer, now known as Captain A, entered the store through the front door with his gun displayed and held a lit flashlight. At approximately 7:11:40 p.m. an apparent male, Subject 2, ran from the rear of the store and jumped over the south part of the counter. Subject 2 pushed aside a sign and ran outside, headed west. At approximately 7:12:12 p.m., Captain A held onto a person, now known as Subject 1, as they both were propelled outside through the front door entrance. It appeared that Captain A and Subject 1 hit the front door glass and broke it. Captain A was on the back of Subject 1, who was on his hands and knees on the sidewalk and was moving toward the street. An unknown person¹¹ in dark clothing walked up from the west and appeared to assist the Captain. A sign that was positioned in front of the glass door partly blocked the view of the incident. Captain A appeared to take out his handcuffs from the back of his duty belt. A second Detective Approached from the east and apparently assisted Captain A. The unknown civilian appeared to walk away to the west. Officers picked up Subject 1 from the sidewalk and led him away to the east. No unusual contact between the officers and Subject 1 was observed.

c. Physical Evidence

The **medical records from Our Lady of the Resurrection Hospital**¹² for Subject 1 indicated that during triage he complained of pain to his left shoulder. Subject 1 was in the custody of the Chicago Police when he was brought to the hospital. Subject 1 sustained the injury to his shoulder while he was being arrested. Subject 1's X-Rays indicated that he had a dislocation of the left shoulder. Subject 1 told the hospital staff that he had a prior injury to his shoulder that required surgery that he never received. Subject 1 diagnosis was a left shoulder dislocation.

d. Documentary Evidence

The **arrest and case reports**¹³ for Subject 1 indicated that he was arrested on November 19, 2011, at 7:07 p.m., by Captain A and Officer A. Subject 1 was charged with robbery, aggravated battery/ peace officer; attempt disarming of a peace officer; issuance of warrant, robbery/armed with a firearm and aggravated unlawful restraint. The narrative of the report indicated that Captain A responded to a call of a robbery. Upon arrival, Captain A spoke with the witness, Civilian 1 (owner of the phone store), who informed him that the offenders¹⁴ were still in the store. Captain A located the offenders in the back of the store and ordered them several times to get on the floor. The offenders disobeyed the orders and forced themselves past Captain A. Subject 1 charged and tried to gain control of Captain A's arms to disarm him of his firearm.

¹¹ This person was a civilian who assisted Captain A with the arrest of Subject 1, but he left the scene before anyone could obtain his name and personal information.

¹² Att. 33

¹³ Atts. 10, 14

¹⁴ Subject 1 and Subject 2.

During the struggle, Captain A managed to holster his weapon. Subject 1 continued to disregard verbal direction, and Subject 2 fled the scene.

At this point, Captain A observed Subject 1 throw a gun to the floor and attempt to escape. Captain A grabbed Subject 1, and they both moved toward the front of the store, when Subject 1 and Captain A crashed through the glass front door. Captain A was able to place one handcuff on Subject 1 at which time an unknown witness assisted in handcuffing Subject 1. Subject 1 was identified by the other witnesses on the scene as the person who demanded proceeds while brandishing a handgun. Subject 2 was later located and placed under arrest.

The **Tactical Response Report (TRR)**¹⁵ completed by Captain A for Subject 1 indicated that Subject 1 did not follow verbal direction, fled, pulled away, and attacked without a weapon (punched, kicked, shoved). Captain A responded with member presence, verbal commands, armbar, open hand strike, takedown/emergency handcuffing and closed hand strike/punch.

The **arrest report**¹⁶ of Subject 2 indicated that he was arrested on November 19, 2011, at 7:22 p.m., by Officers C and D. Subject 2 was charged with robbery, aggravated battery/peace officer; attempt disarming of a peace officer, issuance of warrant, robbery – armed with a firearm, and aggravated unlawful restraint. Subject 2 was taken into custody at XXXX N. Keeler Ave. The narrative of the report indicated that Subject 2 violently flailed his arms and shoved Captain A in an attempt to defeat the arrest before he fled the scene (XXXX W. North Ave.).

The **(TRR)**¹⁷ completed by Captain A for Subject 2 indicated that Subject 2 did not follow verbal direction, fled, pulled away, and attacked without a weapon (punched, kicked, shoved). Captain A responded with member presence, verbal commands, open hand strike, takedown/emergency handcuffing and closed hand strike/punch.

The **Detective Supplementary Report**¹⁸ related essentially the same information as the arrest reports and general offense case report. The detectives interviewed the victims and witnesses involved in the robbery: Civilian 3, Civilian 4, Civilian 5, Civilian 6, Civilian 7, and Civilian 1. The victims reported that Subject 1 and Subject 2 robbed the store, bound some of their hands with duct tape and placed them in a bathroom. The victims did not witness the arrests of Subject 1 and Subject 2.

The detectives interviewed Subject 1, who related essentially the same account as he did during his interview with COPA. He further added that he robbed the store because he is a heroin user with a drug habit. Subject 1 told detectives that he was not trying to hurt Captain A -- he was trying to get away.

The detectives interviewed Subject 2, who said he and Subject 1 were involved in several armed robberies. Subject 2 reported that he entered the store carrying a black plastic gun, and Subject 1 was carrying a real silver gun. Subject 2 duct-taped the employees while Subject 1 took

¹⁵ Att. 18

¹⁶ Att. 20

¹⁷ Att. 22

¹⁸ Att. 16

cell phones and other items from the store. Subject 2 observed Captain A enter the store and attempt to arrest them. Subject 2 related that he got past Captain A and ran out the store through the front door. Subject 2 was apprehended a short time later and was brought back to the store.

2. ANALYSIS

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

It is alleged that Captain A: (1) put the muzzle of his gun to Subject 1's chest; (2) placed Subject 1 in a headlock; (3) kned Subject 1 on the side of the body near his ribcage; (4) threw Subject 1 to the ground; (5) Called Subject 1 a "motherfucker"; (6) struck Subject 1 several times on the face with an open hand, while at the XXX District.

a. Allegation 1: Put the muzzle of his gun to Subject 1's chest

The evidence did not reveal if Captain A put the muzzle of his gun to Subject 1's chest. Subject 1 reported in his interview that Captain A put the muzzle of his gun to his chest. Captain A reported that he had his gun out during the arrest of Subject 1, but he did not specifically remember if he ever had the gun to Subject 1's chest. The video footage of the incident depicted Captain A entering the store with a gun in his hand. There were no camera angles that showed the encounter in the back area of the store. Subject 1 admitted that he and Subject 2 were armed when he entered the store. There were no witnesses to the allegation that Captain A put the muzzle of his gun to Subject 1's chest.

Based on the nature of the call that Captain A responded to, and the fact that he was attempting to place two possible armed men into custody by himself, COPA believes that this action would have been warranted. Because there is insufficient evidence to prove or disprove the allegation, COPA can recommend only a finding of Not Sustained.

b. Allegation 2: Placed Subject 1 in a headlock

The evidence did not reveal if Captain A put Subject 1 in a headlock. Captain A informed COPA that he struggled with Subject 1 when he attempted to place him under arrest. Captain A did not recall if he placed Subject 1 in a headlock or not. Based on the nature of the incident and the fact that Captain A was at a clear disadvantage during the encounter, Captain A would have been within the parameters of the Use of Force Model. Since there was no evidence of the allegation, COPA recommends a finding of Not Sustained.

c. Allegation 3: Knead Subject 1 on the side of the body

The evidence did not show that Captain A kned Subject 1 on the side of the body. Captain A admitted that he struggled with Subject 1, but he did not specifically recall if he kned Subject 1 on any part of his body. The medical records did not indicate that Subject 1 had any injuries to the side of his body, nor did he tell the hospital staff that the officers kned him on the side of the body. There were no witnesses who could support or refute Subject 1's allegations. The video

footage of the incident did not depict Captain A kneeling Subject 1 on the side of his body. Based on the available evidence, COPA recommends a finding of Not Sustained.

d. Allegation 4: Threw Subject 1 to the ground

The evidence shows that Captain A threw Subject 1 to the ground. Subject 1 indicated that he attempted to flee Captain A, during which time Captain A grabbed Subject 1 and pushed him to the ground. Captain A admitted that he took Subject 1 down to the ground because he attempted to flee the store. The surveillance video depicted Subject 1 running toward the front door as Captain A held on to him. When they got close to the front door, they both fell and shattered the glass of the front door.

Based on the available evidence, COPA recommends a finding of Exonerated. Captain A attempted to place two armed robbers in custody by himself. One of the offenders, now known as Subject 2, had fled the scene during this time. Captain A was still in the process of placing Subject 1 into custody, but he was not cooperative and attempted to flee the scene. Captain A had no other choice but to get Subject 1 to the ground by any means within the allowable use of force.

e. Allegation 5: Called Subject 1 a “motherfucker”

The evidence did not show that Captain A called Subject 1 a “motherfucker.” Other than Subject 1’s account of the incident, there was no other evidence to support the allegation made against Captain A. Captain A did not recall calling Subject 1 a “motherfucker.” There were no other witness accounts to substantiate or refute the allegation. Based on the available evidence, COPA recommends a finding of Not Sustained.

f. Allegation 6: Struck Subject 1 several times on the face with an open hand, while at the XXX District

The evidence did not reveal that Captain A struck Subject 1 several times on the face with an open hand while at the XXX District. Captain A stated in his interview that he did not have any contact with Subject 1 once he was transported to the XXX District. Subject 1 did not sustain injuries consistent with the allegation and did not report being struck on the face to hospital personnel. There were no witnesses to the alleged incident. Based on the evidence, COPA recommends a finding of Not Sustained.

It is alleged that an Unidentified Officer: (1) struck Subject 1 several times on the face with an open hand, while at the XXX District.

a. Allegation 1: Struck Subject 1 several times on the face with an open hand, while at the XXX District

The evidence did not reveal that an Unidentified Officer struck Subject 1 several times on the face with an open hand while at the XXX District. Subject 1 was unable to identify the accused officer who allegedly struck him on the face. There were no witnesses to support the allegation made by Subject 1. Subject 1 did not sustain injuries consistent with the allegations and did not

report being struck on the face to hospital personnel. Based on the available evidence, COPA recommends a finding of Not Sustained.

3. CONCLUSION

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

Officer	Allegation	Finding
Captain A	1. Put the muzzle of his gun to Subject 1’s chest. 2. Placed Subject 1 in a headlock. 3. Knead Subject 1 on the side of the body near his ribcage. 4. Threw Subject 1 to the ground. 5. Called Subject 1 a “motherfucker.” 6. Struck Subject 1 several times on the face with an open hand, while at the XXX District.	Not Sustained Not Sustained Not Sustained Exonerated Not Sustained Not Sustained
Officer Unidentified	1.Struck Subject 1 several times on the face with an open hand, while at the XXX District.	Not Sustained

Approved:

Acting Deputy Chief Administrator 1 – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	X
Investigator:	Investigator 1
Supervising Investigator:	Supervising Investigator 1
Acting Deputy Chief Administrator:	Acting Deputy Chief Administrator 1