

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

I. EXECUTIVE SUMMARY

Date of Incident:	September 13, 2017
Time of Incident:	5:40 p.m. (Arrest) 11:22 p.m. (Lockup)
Location of Incident:	XXXX S Cicero Ave, Chicago IL 60638 (Restaurant 1) xxxxx W 63 <sup>rd</sup> St, Chicago IL 60629 (District A Lockup)
Date of COPA Notification:	September 14, 2017
Time of COPA Notification:	11:03 p.m.

On September 13, 2017 at approximately 5:40 p.m., CPD District A Officers A and B were dispatched to the Restaurant 1 at XXXX S. Cicero Ave. in response to a 911 call made by the manager of the Restaurant 1, Civilian 1, and the security guard, Security Guard 1.<sup>2</sup> The call was made to 911 because Subject 1 was trespassing on the property. Subject 1 later filed a complaint to COPA about the incident.

Subject 1 had previously been a frequent customer of the Restaurant 1, but had engaged in several altercations, sometimes violent, with other customers. As a result of this behavior, Subject 1 was banned from the establishment, according to Restaurant 1 management. On the date above, Subject 1 attempted to enter the Restaurant 1 and make a purchase. He was immediately asked to leave by the staff, but did not comply. The police were called by both Civilian 1 and Security Guard 1, and Subject 1 was arrested for Criminal Trespassing. He later stated to COPA that he was not mirandized by the arresting officers and was treated with unnecessary physical force; namely, that his handcuffs were placed on too tightly.

<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.

<sup>2</sup> The security guard’s name was provided by the complainant, Subject 1. The manager, Civilian 1, could not confirm the security guard’s name at the time of her interview; however, she later contacted Security Guard 1 at the request of COPA to assist in getting a statement from Security Guard 1. Civilian 1 relayed to COPA that Security Guard 1 did not wish to provide a statement. COPA called the Restaurant 1 twice and left messages for Security Guard 1, but the calls were never returned.

**II. INVOLVED PARTIES**

Involved Officer #1 (Accused):	<b>Officer A</b> , Star #XXXXXX, Employee #XXXXXX, Appointed XXXXXXXXX, Police Officer, Unit XXX, DOB XXXXXXXXXX, Hispanic Female
Involved Officer #2 (Witness):	<b>Officer B</b> , Star #XXXXXX, Employee #XXXXXX, Appointed XXXXXXXXX, Police Officer, Unit XXX, DOB XXXXXXXXXX, Hispanic Female
Subject #1 (Reporting Party Victim):	<b>Subject 1</b> , DOB XXXXXXXXX, Male Black
Subject #2 (Witness):	<b>Civilian 1</b> , DOB unknown, Female Black
Subject #3 (Witness – <i>Statement Not Obtained</i> ):	<b>Security Guard 1</b> (security guard), First Name unknown, DOB unknown, Female, Black

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer A	1. The complainant alleged that Officer A touched the complainant's chest, grabbed the complainant's shirt and pulled the complainant toward him while placing him under arrest, in violation of Rule 9.	1. Not Sustained
	2. The complainant alleged that Officer A did not mirandize him or advise him of what he was being arrested for, in violation of Rule 10 and General Order G04-03.	2. Not Sustained
	3. The complainant alleged that Officer A handcuffed him too tightly, causing numbness and tingling in his fingers, in violation of Rule 9 and General Order G04-03.	3. Not Sustained
	4. The complainant alleged that Officer A pushed him against a door at District A lockup, in violation of Rule 9	4. Not Sustained
	5. Officer A confiscated a utility knife found on the complainant's person and failed to inventory the item or return it to the complainant, in violation of Rule 40	5. Not Sustained

#### IV. APPLICABLE RULES AND LAWS

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##### RULES

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**Rule 6:**

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

**Rule 10:** Inattention to duty.

**Rule 40:** Failure to inventory and process recovered property in conformance with Department orders.

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##### GENERAL ORDERS

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General Order **G04-03:** Custodial Interrogations.

“Before the interrogation of an individual who is in custody, including in the field, regardless of the offense, the sworn investigating member will, in the presence of another sworn Department member if possible, expressly warn the individual of their constitutional rights by orally reciting each of the warnings and obtaining a response for each warning.”

#### V. INVESTIGATION<sup>3</sup>

##### a. Interviews

##### Complainant Subject 1<sup>4</sup>

Subject 1 stated to COPA that he had a cordial relationship with the staff of Restaurant 1 prior to this incident. He was on a first-name basis with several managers and was also acquainted with the security guard, Security Guard 1. He acknowledged that he was in the habit of preaching his religious beliefs to other customers when visiting, and that he had been advised by one of the managers, Civilian 2, that he could visit the restaurant but not bother any customers. He did not acknowledge to COPA whether or not he was aware that he had been banned from the establishment.

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

<sup>4</sup> Attachment 21.

On the date of the incident, Subject 1 entered the restaurant and approached the cashier to make a purchase.<sup>5</sup> Security Guard 1 quickly appeared from the back of the restaurant and told the cashier not to take Subject 1's money. Subject 1 was then asked to leave the premises by Security Guard 1 and the manager, Civilian 1.<sup>6</sup> Subject 1 was not aware of why he was being asked to leave, but he exited the restaurant shortly after and stood outside. He was told that the police were called and waited outside the restaurant with Security Guard 1 and Civilian 1 for police to arrive. According to Subject 1, the police arrived at least thirty minutes later.<sup>7</sup>

Shortly after the police arrived, Subject 1 surrendered himself to the responding officers. Officer A touched him by his shirt, pulled him toward him, and instructed him to put his hands up on the car. Subject 1 pointed out that he was not asked his version of what just happened by the responding officers or advised why he was being arrested; instead, Officer A put on gloves, patted him down, and searched his pockets. During this time, Security Guard 1 and Civilian 1 were speaking to Officer B and filling out the complaint. Subject 1 went stated that he had a red tool in his pocket (specifically, a utility knife called a "Milwaukee"), which Officer A confiscated. Subject 1 was told by Officer B, who was within speaking distance, that it was against the law to have this tool.<sup>8</sup> Subject 1 stated he asked about getting his property back, but did not.<sup>9</sup>

Subject 1 went on to explain that he was not mirandized or advised of his arrest charges at any time. While he was being transported to the police station, his handcuffs were extremely tight on his wrists to the point where his fingers were numb. Upon arriving at the lockup, Subject 1 claimed that Officer A placed his hands on the handcuffs again and applied more pressure to Subject 1's hands. Officer A then pushed him up against the door; Officer B was in viewing distance at this time. Subject 1 was admittedly angry while being processed, but made no further allegations about the officers' use of force.<sup>10</sup> He was released from District A Lockup at approximately 2:00 AM the next morning.

Subject 1 voiced the discomfort in his hands to the arresting officers while being transported, but he did not indicate that he asked for medical treatment at the lockup facility. Subject 1 stated to COPA that his fingertips were still numb from the incident, and that he was missing work because of his discomfort.<sup>11</sup>

### **Witness Civilian 1<sup>12</sup>**

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<sup>5</sup> A statement was not taken from this cashier.

<sup>6</sup> Subject 1 stated that he was not familiar with Civilian 1 by name.

<sup>7</sup> This is consistent with the Event Queries, which reflected the first 911 call time as 1708 hours and the arrival of the officers as 1744 hours.

<sup>8</sup> Subject 1 was not charged with Possession of a Weapon per Department reports.

<sup>9</sup> The Inventory Logs from the arrest did not include anything resembling a tool, knife, etc.

<sup>10</sup> Subject 1 also mentioned that at first he was believed to be another Subject 1 since it is a common name, but that this was quickly corrected by his fingerprints.

<sup>11</sup> Subject 1 stated he does construction work for a living, which required him to carry the utility knife. The nature of Subject 1's employment was corroborated by Civilian 1.

<sup>12</sup> Attachment 9.

On November 21, 2017, COPA conducted an on-site interview of Civilian 1, the Restaurant 1 manager present at the time of the arrest.<sup>13</sup> Civilian 1 confirmed that Subject 1 had been prohibited from visiting the restaurant because he had been in physical fights with other customers despite having been banned several times. She also stated that the police arrived about an hour after being called, and when they did, Subject 1 immediately put his hands behind his back and told the officers to “arrest him.”

Civilian 1 mentioned that she observed Officer A remove a utility knife from Subject 1’s pocket. Subject 1 spoke to the officers about God for a few minutes, and then was placed in the police vehicle. Civilian 1 noted that Subject 1 did not physically resist the officers, and she did not observe anything out of the ordinary during the arrest.<sup>14</sup>

### **Witness Officer B<sup>15</sup>**

In her interview to COPA on January 22, 2018, Officer B stated that a dispatch call came in from the OEMC of an “irate male black” in the Restaurant 1 lobby who had been asked several times to leave and would not. When she and Officer A arrived, Subject 1 was outside in the parking lot, along with the security guard, who advised the officers that Subject 1 did not want to leave. Officer B confirmed that Officer A placed the handcuffs on Subject 1 while the manager and security guard signed the complaint. She stated that Subject 1 was compliant overall and not physically resisting, although he was yelling and screaming for the duration of the incident. She stated that Officer A mirandized Subject 1 once he was placed in the back of the vehicle, and that both she and Officer A advised Subject 1 of what he was being arrested for.<sup>16</sup>

Officer B went on to state that Subject 1 did not complain at any time of any discomfort or injuries, and no weapons were observed on him. Subject 1 was not resisting, and no use of force was necessary. She did not indicate anything out of the ordinary occurring, and that upon arriving at lockup, Officer A took Subject 1 into the search room for approximately three minutes. This was the only time Subject 1 was left alone with Officer A. Subject 1 was processed without incident.

Officer B confirmed that she and Officer A were not assigned Body Worn Cameras at the time of this incident. The vehicle’s In Car Camera was functional at the time of the incident, but she did not recall whether it was turned on. She also did not recall whether the lights and sirens in the police car had been activated when arriving on scene.

### **Accused Officer A<sup>17</sup>**

In his interviews to COPA on February 8, 2018 and February 20, 2018, Officer A also attested that when he and Officer B responded to the call of a disturbance at the Restaurant 1, he

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<sup>13</sup> This manager was indicated by name on the Arrest Report.

<sup>14</sup> Civilian 1 was not asked if she heard the officers mirandize Subject 1; however, the arresting officers stated to COPA that they did not mirandize Subject 1 until later.

<sup>15</sup> Attachment 22.

<sup>16</sup> Officer B mentioned that Subject 1 also had an outstanding warrant at the time of the arrest; However, no such warrant was indicated in the arrest report, and he was only charged with Trespassing.

<sup>17</sup> Attachments 34 & 37.

saw a black male and two black females standing outside arguing. He stated he then placed Subject 1 under arrest and mirandized him later at the station. Officer A stated Subject 1 did not resist at any time; he only yelled profanities at both responding officers. He also confirmed that he placed Subject 1's handcuffs on, tested the tightness by placing his pinky finger through each cuff on each hand, and double-locked the cuffs. He stated Subject 1 was transported to District A and processed.

Officer A stated that any physical action taken against Subject 1 would have been the result of routine arrest procedures, or of Subject 1 resisting. Officer A denied that excessive force was used.

Officer A mentioned that during transport, he turned on his rear-facing In Car Camera so that he could see Subject 1's reflection and actions, but he did not recall pressing the "record" button.<sup>18</sup> He has received training in Crisis Intervention from the Department, but did not record Subject 1 because he saw nothing about Subject 1's behavior that warranted recording the transport. He also did not observe any signs from Subject 1 that warranted psychiatric action at any time.

When pressed about recovering a utility knife on Subject 1, Officer A stated he did not recall recovering any instrument of this kind. When presented with the third party testimony of witness Civilian 1, Officer A again stated he did not recall recovering any weapons. He also stated that he conducted a pat-down on scene, but did not conduct a full search until later at lockup, and at no time was a utility knife recovered. Officer A explained that any item of this type would have resulted in an additional charge of Unlawful Use of a Weapon, and the item would have been inventoried. When asked if Subject 1 was wearing a sweatshirt with strings that required removal, Officer A could not recall.

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

Recordings of the **911 Calls** and **Radio Transmissions**<sup>19</sup> were obtained from the OEMC, which included a total of four calls made by Civilian 1 and Security Guard 1 to police between the hours of 5:03 PM and 5:32 PM reporting irate black male the Restaurant 1 property. The follow up calls were made by each party due to the fact that police had not arrived on scene yet.

On November 21, 2017, COPA conducted a **Canvass** of the Restaurant 1.<sup>20</sup> There were security cameras observed at several locations on the immediate premises of the property.

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<sup>18</sup> Chicago Police Department Directives do not dictate if and when officers are required to record those in custody during every transport. According to Officer A, he only records when individuals are behaving in a threatening or violent manner. Also, the officer did not perceive the event to be high priority, which is why the emergency-roof lights were not activated. ICC video obtained does not depict this incident.

<sup>19</sup> Attachments 24-29.

<sup>20</sup> No Canvass Report was completed, as the canvass included only the immediate premises of the restaurant's exterior and parking lot.

Attempts were made by COPA to obtain this footage and any other **Video Footage**<sup>21</sup> that may have depicted the incident; however, no footage of the incident existed.<sup>22</sup>

### c. Documentary Evidence

The **Arrest Report, OEMC Event Queries, and Case Report**<sup>23</sup> confirmed that responding Officers A and B were dispatched to a Criminal Trespass in Progress. No indication was made on these reports of weapons or physical confrontations with Subject 1. The **Inventory Sheet**<sup>24</sup> did not reflect any weapons were recovered.

## VI. ANALYSIS

### Officer A: Allegation #1

COPA recommends a finding of **Exonerated** that Officer A touched Subject 1's chest, grabbed his shirt and pulled Subject 1 toward him while placing him under arrest, in violation of Rule 9. Although Subject 1 complained that Officer A's actions were inappropriate, his own description of the incident did not identify actions that are inconsistent with officers taking someone into custody and placing them in handcuffs. There is an element of force and control exerted when placing cooperative subjects into custody. Subject 1 did not provide details that would support his allegation Officer A's actions were inappropriate or excessive. The statements of Officers A, B and Civilian 1 denied that Officer A's actions were inappropriate. Therefore, the evidence establishes that Officer A's actions were within CPD policy and should be Exonerated.

### Officer A: Allegation #2

*(Officer A did not mirandize the complainant or advise him of what he was being arrested for).*

Based on the totality of the evidence, COPA determined that there was insufficient evidence to support or refute the allegation that Officer A did not mirandize Subject 1 or advise him of his arrest charges. Since there was no audio or video footage of the arrest or transport, there was no way to verify that Subject 1 was not mirandized. Further, Subject 1 was also advised by the manager that he was not welcome on the premises and would be trespassing if he were to return. He also immediately surrendered to the officers upon their arrival, indicating he had knowledge of the consequences of his actions. Therefore, it is reasonable to conclude that Subject 1 was aware of the reason for his arrest.

### Officer A: Allegation #3

*(Officer A handcuffed the complainant too tightly, causing numbness and tingling in his fingers).*

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<sup>21</sup> Attachments 12, 18, 20, & 35.

<sup>22</sup> COPA attempted to obtain POD Camera Footage, Red Light Camera Footage, and Restaurant 1's Security Camera Footage. Footage of the District Lockup interior was obtained, but did not depict Subject 1. Civilian 1 was asked by the COPA investigator to contact the store's owner and obtain any footage captured by the restaurant's exterior security cameras. Civilian 1 later advised COPA that there was no video footage per the store owner.

<sup>23</sup> Attachments 7, 13, & 14-17.

<sup>24</sup> Attachment 11.

Based on the totality of the evidence, COPA determined that there was insufficient evidence to support or refute the allegation that Officer A handcuffed Subject 1 too tightly. According to Officer A’ testimony to COPA, he double-locked the handcuffs and also tested the tightness with his pinky finger. Subject 1 did not report any injuries or seek medical attention to the officers, and there was no evidence to suggest that Subject 1 has sought medical treatment for the numbness and tingling he claims to have experienced since the incident.

**Officer A: Allegation #4**

*(Officer A pushed the complainant against a door at District A lockup).*

Based on the totality of the evidence, COPA determined that there was insufficient evidence to support or refute the allegation that Officer A pushed Subject 1 against the door of the lockup unnecessarily. No video footage was obtained from the district lockup, and again, there were no injuries or need for medical attention documented by Department personnel. Officer B did not corroborate this occurring, and there were no other possible witnesses provided by Subject 1 to observe this.

**Officer A: Allegation #5**

*(Officer A confiscated a utility knife found on the complainant's person and failed to inventory the item or return it to the complainant).*

Based on the totality of the evidence, COPA determined that there was insufficient evidence to support or refute the allegation that Officer A confiscated a utility knife from Subject 1 and did not inventory it. Although both Subject 1 and Civilian 1 testified that such a tool was removed from Subject 1’s person, this was contradicted by the officers’ testimony. The inventory sheets also reflected no such item, even though they included several other items taken from Subject 1. It is not especially reasonable to conclude that the officers inventoried all items except for the utility knife. Officer A insisted in his statement that if such an item were to be found on Subject 1, he would have been charged with Unlawful Use of a Weapon; and per the arrest report, this was not the case. There is also no video of the pat-down or search.

**VII. CONCLUSION**

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

Officer	Allegation	Finding
Officer A	1. The complainant alleged that Officer A touched the complainant's chest, grabbed the complainant's shirt and pulled the complainant toward him while placing him under arrest, in violation of Rule 9.	1. Not Sustained
	2. The complainant alleged that Officer A did not mirandize him or advise him of what he was being arrested for, in violation of Rule 10 and General Order G04-03.	2. Not Sustained



3. The complainant alleged that Officer A handcuffed him too tightly, causing numbness and tingling in his fingers, in violation of Rule 9 and General Order G04-03.	3. Not Sustained
4. The complainant alleged that Officer A pushed him against a door at District A lockup, in violation of Rule 9	4. Not Sustained
5. Officer A confiscated a utility knife found on the complainant's person and failed to inventory the item or return it to the complainant, in violation of Rule 40	5. Not Sustained

Approved:

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[Name]  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	
<b>*Attorney:</b>	