

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	January 13, 2016
Time of Incident:	11:31 pm
Location of Incident:	XXXX E 90 th Street
Date of COPA Notification:	January 28, 2016
Time of COPA Notification:	9:14 am

Complainant, Subject 1, was driving near 90th St. and Cottage Grove Ave when officers stopped him and asked him for his driver's license and insurance. Subject 1 presented a photocopy of his driver's license and an expired insurance card. The officers observed Subject 1 to be inebriated and arrested him for, among other charges, driving under the influence, operating a motor vehicle without insurance, and failure to carry a driver's license.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A Star #XXXXXX / Employee #XXXXXXX Date of Appointment: XXXXXXXX XX, 2013 PO / Unit XXX DOB: XXXXXXXX XX, 1987 Male / White
Involved Officer #2:	Officer B Star #XXXXXX / Employee #XXXXXX Date of Appointment: XXXXXXXX XX, 2012 PO / Unit XXX DOB: XXXXXXXX XX, 1985 Male / White
Involved Officer #3:	Officer C Star #XXXXX / Employee #XXXXXX Date of Appointment: XXXXXXXX XX, 1996

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Subject #1:

Sgt. / Unit XXX
 DOB: XXXXXXXX XX, 1971
 Male / White

Subject 1
 DOB: XXXXXXXX XX, 1971
 Male / Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer B	<p>It is alleged that on January 13, 2016, at approximately 11 pm and thereafter, while in the vicinity of XXXX S. Cottage Grove Avenue and the District XXX station, Officer B:</p> <ol style="list-style-type: none"> 1. Handcuffed Complainant too tightly and refused to loosen the handcuffs upon request, in violation of Rule 8; and 2. Refused to provide Complainant medical attention upon request, in violation of Rule 8. 	<p>UNFOUNDED</p> <p>EXONERATED</p>
Officer A	<p>It is alleged that on January 13, 2016, at approximately 11 pm and thereafter, while in the vicinity of XXXX S. Cottage Grove Avenue and the District XXX Lockup, Officer A:</p> <ol style="list-style-type: none"> 1. Refused to provide Complainant medical attention upon request in violation of Rule 8. 	<p>EXONERATED</p>
Sergeant A	<p>It is alleged that, in the early morning hours of January 14, at the District XXX Lockup, Sergeant A:</p> <ol style="list-style-type: none"> 1. Refused to provide Complainant medical attention upon request in violation of Rule 8. 	<p>EXONERATED</p>

IV. APPLICABLE RULES AND LAWS²

Rules – The following acts are prohibited:

1. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
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General Orders

1. G-06-01-01: Field Arrest Procedures
 2. G-06-01-02: Restraining Arrestees
-

Special Orders

1. S-06-01: Processing Persons Under Department Control
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V. INVESTIGATION³

Investigators conducted in-person and written interviews, analyzed video, and reviewed reports generated by the Chicago Police Department (“CPD”) and medical providers.

a. Interviews**1. Subject 1 – Complainant⁴**

COPA interviewed Complainant Subject 1 on January 29, 2016, and the following is a summary of his account of the incident.

Subject 1, who had injured his right wrist when he was 19 and has a long-lasting cyst on the same wrist, had gone to a vehicle to move it from Cottage Grove Ave where parking is not permitted after a certain time. The vehicle’s battery had been giving Subject 1 trouble and he had replaced it earlier, but it was still malfunctioning. After Subject 1 turned onto a side street from Cottage Grove Ave, he parked the car and noticed a white car behind him. After parking, the vehicle turned its blue lights on and Subject 1 realized it was a police car.

Two officers approached Subject 1’s car, one from each side. Subject 1 asked why the officers stopped him and an officer responded that Subject 1’s vehicle had a malfunctioning headlight. An officer requested license and insurance, and Subject 1 provided him with an expired insurance card and a copy of his driver’s license. Subject 1 had a current insurance card in the vehicle but mistakenly gave the officer the wrong one. Subject 1 purposefully gave the officer a copy of the license because he had had a bad experience before where an officer claimed he did

² General Orders and Special Orders cited in this Summary Report of Investigation are those that were in effect when the conduct in question occurred.

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

⁴ IPRA interviewed Subject 1 on January 13, 2016 and the interview is attached to the file in two parts, Attachments (“Att.”) 7 and 8.

not have Subject 1's license at the end of a traffic encounter, only for Subject 1 to find his license on the ground behind the vehicle. Subject 1 needs his license for his work as a dump truck driver.

The officers told Subject 1 that his headlight was off and that they smelled alcohol on his breath. They asked him out of the car and Officer B handcuffed him and arrested him. Subject 1 warned the officers that he had an injury on his right wrist; nevertheless, the handcuffs were placed too tightly and were painful, especially while Subject 1's hands were pressed between his body and the back seat of the officers' car.

Subject 1 was placed in the back seat of the officers' SUV while the officers searched his vehicle, and then he was taken to the police station. While at the police station, Subject 1 complained multiple times that he needed medical attention and that he wanted a lawyer. Both requests were repeatedly ignored by the officers. After some time had elapsed, Subject 1 was informed that he would be leaving on an I-Bond. Subject 1 decided to leave and seek medical treatment on his own.

Subject 1 went to Cook County Provident Hospital and sought medical attention for his wrist. By that time, the cyst—at the time of the interview the size of a nickel; normally the size of a dime—had become bigger than a nickel. Subject 1 was given a prescription for Naproxen, an over-the-counter pain reliever.

2. Officer A – Accused Officer⁵

IPRA sent Officer A a list of questions and Officer A responded on April 14, 2016.⁶ The following is a summary of his account of the incident.

Officer A encountered Subject 1 during a traffic stop, during which Subject 1 was angry and vulgar, using many profanities along the way. Subject 1 threatened the officers with IPRA complaints, a lawsuit, and getting them fired because of his pre-existing skin boil. Officer A witnessed Officer B handcuff Subject 1 and he heard Subject 1 tell Officer B to be careful because of the skin boil. Officer A did not observe Officer B intentionally tightening the handcuffs and he did not recall any requests for medical attention from Subject 1.

3. Officer B – Accused Officer⁷

IPRA sent Officer B a list of questions and he responded on April 14, 2016.⁸ The following is a summary of his account of the incident.

Officer B encountered Subject 1 during a traffic stop. Officer B's physical interaction with Subject 1 involved handcuffing Subject 1 in accordance with CPD guidelines, and he did not over-

⁵ Att. 31.

⁶ Past practice of IPRA allowed for officer statements to be given by interview or by written statement. This practice has since been discontinued.

⁷ Att. 30.

⁸ See footnote 6.

tighten the handcuffs. Subject 1 mentioned a boil on his wrist while he was being handcuffed and Officer B observed the pre-existing lump. Subject 1 did request medical attention, but only after stating that he would blame the officers for his injury when he contacted IPRA. Officer B refused Subject 1's request to loosen the handcuffs after observing that they were comfortably and properly applied.

b. Digital Evidence

The involved officers' vehicle was equipped with In-Car Cameras; video and audio recordings are available from the vehicle both looking out ("Dashcam Video") and looking into the vehicle ("Backseat Video").

1. Dashcam Video⁹

The Dashcam video begins at 11:25 pm on January 13, 2016. It begins with the police vehicle driving east on 87th St. then turning right on Cottage Grove. The police vehicle speeds up and turns left to a side street behind an XXXXXX, later identified as the vehicle that Subject 1 was driving. The officers approach the car from either side, and the officer on the driver's side asks Subject 1 if the vehicle was his and requests license and insurance. Subject 1 seems to hand him an envelope and he states that "everything is in there."¹⁰ The officer asks Subject 1 what is wrong with the headlight, but Subject 1's response is inaudible. Meanwhile, the officer on the passenger side looks into the car from the outside.

The driver-side officer, seemingly unsatisfied with the documents, asks what Subject 1 gave him. Subject 1 responds that he does not have his ID on him. The driver-side officer walks backwards back to the police vehicle while the other officer stays behind and asks Subject 1, "What's in that cup?"¹¹ The officer proceeds to ask Subject 1 whether he had been drinking; Subject 1 answers in the negative. The officer informs Subject 1 that he smells alcohol and asks if there are any open containers in the car; Subject 1 answers in the negative and tells the officer that he can "check and see."¹² Subject 1 tells the officer to make sure that the officer knows what he is doing because, Subject 1 says, "I know everything."¹³ Subject 1 states that he does not even know why he was pulled over, and the officer answers that it was because a headlight was out. The officer then returns to the police vehicle.

The officers discuss what they will do and decide that they will be taking Subject 1 to the station. They leave the police vehicle and walk to Subject 1's car, asking him to step out of the car. Subject 1 hesitates but then complies with their orders. An officer proceeds to handcuff Subject 1—with no complaints of pain or discomfort coming from Subject 1. The officers then search Subject 1 on the outside of his garments after asking him whether he had any weapons or sharp objects, and place him in the car without incident.

⁹ Att. 36.1, In-Car Video, Dashcam.

¹⁰ Att. 36.1, 1:35-1:45.

¹¹ *Id.* at 2:03.

¹² *Id.* at 2:30-37.

¹³ *Id.* at 2:37-45.

When an officer asks Subject 1 if there are open containers of alcohol in the car, Subject 1 once again encourages them to look in the car. One of the officers opens the driver door and searches that side of the car. Meanwhile, Subject 1 says to the officer that they should make sure to do everything right because Subject 1 knows about IPRA.

After Subject 1 is placed in the police vehicle, the second officer goes to the passenger side and begins searching that side. He informs his partner of what Subject 1 said about IPRA and about them doing their jobs right.

The officers get the address at XXXX E. 90th, lock the car, and get back in the police vehicle.

2. Backseat Video¹⁴

The Backseat Video begins at 11:36 pm. Subject 1 is in the backseat with his seatbelt on for about a minute before the vehicle begins moving and the audio begins recording. During most of the video, the Officers' voices are not clearly audible.

Subject 1 sways with the car movements and sometimes rests his head back or leans with it to the side. One of the officers starts whistling. On more than one occasion, Subject 1 sticks his upper body, neck, and head forward, as if to see something in the front of the vehicle or in front of the vehicle more clearly.

Around four and a half minutes into the video, Subject 1 begins speaking but the sound is inaudible. The words are for the most part inaudible until 7 minutes and 30 seconds (7:30) into the video, except for some phrases. At 5:40, Subject 1 asks, "Hey, why the fuck am I going to the police station?" At 6:10, Subject 1 repeats the word "IPRA" multiple times. Subject 1 expresses disbelief at the idea of someone being taken to the police station because that person did not have identification. At 6:53, Subject 1 states that he has "been through this shit a million times."

At 7:30, Subject 1 expresses relief that the officers had not shot him, because, he says, officers like to shoot black people. At 7:42, Subject 1 says, "Why didn't y'all shoot me? I wish you would have." At 8:09, after once again accusing officers of targeting and shooting black people, Subject 1 declares that the officers are members of the KKK. At 8:13 he continues, "How the fuck do y'all get hired, in our town, when y'all the KKK? I don't get that." Subject 1 continues for a few more seconds with remarks about the KKK, then goes silent. During part of the silence, the officers seemingly discuss a previous DUI on Subject 1's record.

At 11:27, Subject 1 asks the officers a question. "Hey, did you check my wrist for injuries? You know I got a big-ass boil on my fucking wrist, right? Before you put them handcuffs on me? That's a lawsuit bro; you should've checked it. I [will] sue your ass for that... That's going to be your asses right there." Subject 1 continues to inform the officers about his boil and about his plans to sue the officers once he gets out until the video ends.

¹⁴ Att. 36.2, In-Car Video, Backseat.

c. Documentary Evidence

1. Arrest Report¹⁵

An Arrest Report (CB #XXXXXXXX) authored by Officer A provides the following:

The officers observed Subject 1 driving westbound on 87th with a malfunctioning headlight (they were driving eastbound on the same street). The officers turned on Cottage Grove and curbed Subject 1's car. The narrative in the Arrest Report is generally consistent with the video. The arrest report states that the officers smelled alcohol on Subject 1's breath, that he had mumbled speech, that he had glassy/bloodshot/watery eyes, and that he had poor manual dexterity and balance.¹⁶

Additionally, the report states that, at the station, Subject 1 refused to perform sobriety and breathalyzer tests and became more aggressive and vulgar, again threatening the officers with a lawsuit and asking them to shoot him. At the end of the encounter, according to the report, Subject 1 apologized for calling the officers KKK and stated that he would drop his complaint against them.

Under the Watch Commander Comments section of the report, Sergeant A wrote the following:

14JAN2016 0320- After booking in the XXXth district lockup, the arrestee related his wrist was swollen and needed medical attention. R/Sgt inspected the arrestee's wrist to observe a callused lump on the offender's inside right wrist. Per the arrestee, this was an old medical condition, which he called a "boil." The arrestee showed no signs of distress, will monitor until fingerprints clear and he can be released.

The report shows that Subject 1 was arrested around 11:30 pm, was received in lockup at 3:01 am, fingerprinted at 3:09 am, photographed at 3:18 am, and released from lockup at 3:55 am.

2. Medical Records

COPA obtained medical records for Subject 1. Those records included discharge papers from a January 15, 2016 visit to the emergency department at Provident Hospital as well as a new patient evaluation on February 17, 2016 from Family Care Partners—Stony Island.

The emergency department records¹⁷ show that Subject 1 visited the hospital complaining of a wrist injury and a swollen right wrist. Subject 1 was given a prescription for Naproxen and

¹⁵ Att. 4.

¹⁶ These statements reflect the officers' impressions and they are neither contradicted nor corroborated by the video evidence—the conditions are not easily discernable on video and audio of this quality and different people may reasonably interpret Subject 1's condition differently.

¹⁷ Att. 14.

instructions on how to care for a sprained wrist. He was instructed to talk with his doctor if the symptoms do not improve or worsen. Subject 1 was also given information on ganglion cysts that can appear on the front or back of the wrist. The information states that such cysts are painful and that they can get enlarged because of constant use of the hand or wrist or even by themselves.

The new patient records¹⁸ from FCP-Stony Island describe a new patient physical. The records state that Subject 1 complained of wrist pain and that he stated that “he had [right] wrist surgery 20 years ago and wrist pain flare[s] up off and on.”¹⁹

VI. ANALYSIS

Based on a review of the evidence, including digital recordings, interviews, and documents generated by CPD and medical providers, the allegations made by Subject 1 cannot be sustained.

a. Officer B – Allegation 1: Tight handcuffs

The first allegation against Officer B is that he handcuffed Subject 1 too tightly and refused to loosen the handcuffs upon request. COPA finds that it is more likely than not that the conduct described by Subject 1 did not occur; therefore, this allegation is UNFOUNDED.

General Order G-06-01-01 instructs CPD members to follow procedures outlined in the Department directive entitled “Restraining Arrestees” (G06-01-02). That directive instructs officers to handcuff arrestees unless one of four exceptions applies. None of the exceptions are applicable in this case. Based on the statement of Officer B and the video evidence, it is more likely than not that Officer B followed the correct protocols by handcuffing Subject 1 with both hands behind the back and palms positioned outward. Additionally, it is more likely than not that Officer B did not over-tighten the handcuffs on Subject 1. Subject 1 did not complain about the tightness of the cuffs during his arrest or in the ride to the police station.

In fact, Subject 1 only brings up the handcuffs and his pre-existing “boil” when he starts threatening the officers with filing a report with IPRA and with a lawsuit. Even then, Subject 1’s chief complaint is not that he is in pain or that he is hurting or that he wishes the cuffs to be loosened, but rather that the officers did not check on his cyst and ask him about it before they handcuffed him.

The evidence provides no indication that Subject 1 was in pain or that his cuffs were too tight during the arrest and transportation. The video and audio evidence show nothing out of the ordinary in the handcuffing procedure, and do not show Subject 1 asking for the handcuffs to be loosened. Subject 1 sought medical treatment at the emergency department about 40 hours after being released from lockup. The medical records do not, however, describe any lingering signs of tight handcuffs, nor do they indicate that the patient described what caused the pain or swelling. Additionally, the records state that the cyst from which Subject 1 suffers can enlarge simply through routine use of the hand or wrist or even on its own.

¹⁸ Att. 21.

¹⁹ *Id.* at 3.

Based on the evidence, it is more likely than not that the allegation against Officer B that he placed the handcuffs too tightly and refused to loosen them is not factual, and the allegation is therefore UNFOUNDED.

b. Officer B – Allegation 2: Refusal to provide medical attention
Officer A – Allegation 1: Refusal to provide medical attention

Additional allegations in this case pertain to Officer B and Officer A refusing to provide Subject 1 with medical treatment. COPA finds that, while Subject 1 likely did ask for medical attention, it was reasonable—based on the totality of the circumstances—for the officers to deny Subject 1 such attention. Therefore, Officer B and Officer A are EXONERATED as it relates to these allegations.

General Order G06-01-01 (“Field Arrest Procedures”) established the responsibilities of officers who are placing a member of the public under arrest. Under Section IX of that order, officers are required to transport arrestees to an approved emergency room if “the arrestee requires *immediate* medical care.”²⁰

In the video, Subject 1 does not complain of pain or seem to be in any injury-related distress. Subject 1 only brings up the cyst on his arm in the context of threatening the officers with a lawsuit and an IPRA complaint. Even then, he does not say that he is in pain, but only that the officers should have asked him about it before handcuffing him.

Presuming—as COPA finds likely—Subject 1 requested medical attention, the officers reasonably denied that request based on the totality of the circumstances. First, Subject 1 did not require *immediate* medical attention. Second, he only brought up his cyst after he threatened a lawsuit or an IPRA complaint, which can lead the officers to reasonably conclude that the complaint was a ruse.

Based on the evidence, it is more likely than not that Officer B and Officer A acted lawfully and properly in denying Subject 1’s request for medical attention, and they are therefore EXONERATED as it relates to these allegations.

c. Sergeant A – Allegation 1: Refusal to provide medical attention

The final allegation in this case stems from the refusal of the station supervisor, Sergeant A, to provide medical attention to Subject 1 upon request. COPA finds that it is more likely than not that Sergeant A’s refusal was reasonable; therefore, Sergeant A is EXONERATED as it relates to this allegation.

CPD Directives make clear that station supervisors are responsible for arrestees and detainees in their stations. General Order G06-01-01 states in part that the station supervisor is “responsible for the safety and security of arrestees brought to their facility” and that they must

²⁰ G-06-01-01, Sec. IX.A (emphasis added).

“verify the arrestee’s well-being by independently conducting thorough inspections to visually observe arrestees”²¹ Similarly, Special Order S06-01 (“Processing Persons Under Department Control”) states that station supervisors are “held accountable for ensuring the safety and care of all arrestees within police facilities and lockups.”²²

As stated in the Arrest Report, Sergeant A carried out his duty of visually observing Subject 1. Sergeant A responded to Subject 1’s request, inspected his injury, and evaluated whether Subject 1 was in distress and whether medical attention was warranted. Based on his inspection, and based on the history of the injury, Sergeant A decided that medical attention was not necessary at that time and that he would monitor it. Whether every supervisor would arrive at the same conclusion is irrelevant; reasonable supervisors may disagree. But COPA finds that Sergeant A’s actions were reasonable given the circumstances: the injury was a pre-existing one; the injury was not serious; and the time Subject 1 spent in custody was short (the entire incident from traffic stop to release from lockup took less than five hours).

Based on the evidence, it is more likely than not that Sergeant A’s refusal to procure medical attention for Subject 1 was reasonable, and he is therefore EXONERATED as it relates to this allegation.

²¹ G06-01-01, II.F.2.a.

²² S06-01, II.B.1.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer B	<p>It is alleged that on January 13, 2016, at approximately 11 pm and thereafter, while in the vicinity of XXXX S. Cottage Grove Avenue and the District XXX Lockup, Officer B:</p> <ol style="list-style-type: none"> 1. Handcuffed Complainant too tightly and refused to loosen the handcuffs upon request; and 2. Refused to provide Complainant medical attention upon request 	<p>UNFOUNDED</p> <p>EXONERATED</p>
Officer A	<p>It is alleged that on January 13, 2016, at approximately 11 pm and thereafter, while in the vicinity of XXXX S. Cottage Grove Avenue and the District XXX Lockup, Officer A:</p> <ol style="list-style-type: none"> 1. Refused to provide Complainant medical attention upon request. 	<p>EXONERATED</p>
Sergeant A	<p>It is alleged that, in the early morning hours of January 14, at the District XXX Lockup, Sergeant A:</p> <ol style="list-style-type: none"> 1. Refused to provide Complainant medical attention upon request. 	<p>EXONERATED</p>

Approved:

 Acting Deputy Chief Administrator – Chief Date
 Investigator

Appendix A

Assigned Investigative Staff

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