

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 28, 2016
Time of Incident:	Approximately 10:30 p.m.
Location of Incident:	XXXX S. Eberhart Avenue
Date of COPA Notification:	August 6, 2016
Time of COPA Notification:	4:49 p.m.

On July 28, 2016, at approximately 10:30 p.m., at XXXX S. Eberhart Avenue, Subject 1 (“Subject 1”) attempted to break up a fight in his hallway involving three women he knew. The police were called. Several officers responded and attempted to take two of the women into custody. When Subject 1 interfered with the women’s arrests, he was also taken into custody. Subject 1 resisted his arrest and was forcefully taken into custody. Without attributing the force to any specific officer, Subject 1 alleged the force used by officers during his arrest was excessive. Following an investigation, The Civilian Office of Police Accountability (“COPA”) determined, by a preponderance of the evidence, that the officers’ use of force was more likely than not within Department guidelines, resulting in a recommended finding of Exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXX, Employee #XXX, DOA: XXX, 2014, Police Officer, Unit XXX, DOB: XXX, 1989, Male, White
Involved Officer #2:	Officer B, Star #XXX, Employee #XXX, DOA: XXX, 2006, Police Officer, Unit XXX, DOB: XXX, 1980, Male, Black
Witness Officer #1:	Officer C, Star #XXX, Employee #XXX, DOA: XXX, 2003, Police Officer, Unit XXX, DOB: XXX, 1979, Male, Black
Witness Officer #2:	Officer D, Star #XXX, Employee #XXX, DOA: XXX, 2014, Police Officer, Unit XXX, DOB: XXX, 1985, Male, White

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.

Witness Officer #3:	Officer E, Star #XXX, Employee #XXX, DOA: XXX, 2012, Police Officer, Unit XXX, DOB: XXX, 1975, Male, Black
Witness Officer #4:	Officer F, Star #XXX, Employee #XXX, DOA: XXX, 2013, Police Officer, Unit XXX, DOB: XXX, 1986, Male, Black
Subject #1:	Subject 1, DOB: XX,1976, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1.Dug his nails into Subject 1’s right arm; grabbed Subject 1 by the left shoulder; pushed Subject 1 to the floor; struck Subject 1 on the neck; struck Subject 1 on the back; stepped on Subject 1’s right hand; twisted Subject 1’s left wrist toward his back and pushed Subject 1’s face against the floor, in violation of Rule 8.	Exonerated
Officer B	1 Dug his nails into Subject 1’s right arm; grabbed Subject 1 by the left shoulder; pushed Subject 1 to the floor; struck Subject 1 on the neck; struck Subject 1 on the back; stepped on Subject 1’s right hand; twisted Subject 1’s left wrist toward his back and pushed Subject 1’s face against the floor, in violation of Rule 8.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1.Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.

General Orders

1.G03-02-02, Force Options

V. INVESTIGATION²

a. Interviews³

Investigators from **The Independent Police Review Authority (“IPRA”)** interviewed **the Complainant Subject 1 on August 6, 2016**. During the interview, Subject 1 stated that he was at home drinking⁴ when attempting to break up a fight in the hallway in front of the doorway to his apartment among three women he knew. Approximately six to seven minutes into the fight several officers responded to the scene. Upon arrival, one officer asked Subject 1 to come with him back into Subject 1’s house where the officer briefly questioned Subject 1 about the fight. Shortly thereafter, the officer left Subject 1’s apartment and assisted other officers in placing two of the women in the hallway under arrest. Subject 1 left his apartment and approached the officers.

When Subject 1 was approximately two steps away from the officers he inquired as to why the officers were arresting the women, which was when an officer grabbed Subject 1’s arm. Subject 1 further explained that he approached the officers with one of his arms extended towards the officers and that he was upset and spoke loudly. He described his arm’s position as straight-out, chest level towards the officers. Once the officer grabbed his arm, Subject 1 tensed up and pulled away from the officer. Instantly, another officer grabbed Subject 1 by the left shoulder. Subject 1 directed profanity at the officers as they brought him to the floor. Subject 1 felt strikes to his neck and back as he was being brought to the floor. Once on the floor, officers knelt on Subject 1’s leg, pushed his shoulders against the floor, pushed his head/face to the floor, and an officer placed his heel on the backside of Subject 1’s right hand, holding his hand to the floor. One of the officers twisted Subject 1’s left wrist toward his back.

When asked if he resisted, Subject 1 stated, “Yeah, I was trying to get back up.”⁵ Subject 1 believed five officers were involved in taking him to the floor, but he was unsure which officer applied what specific force against him. After approximately five to seven seconds on the floor, officers handcuffed Subject 1, and then two officers lifted Subject 1 up off the floor.⁶

² COPA investigated and the following is a summary of the material evidence gathered and relied upon in our analysis.

³ COPA attempted contact with potential witnesses Civilian 1, Civilian 2, Civilian 3, Civilian 4, and Civilian 5, which were all unresponsive. See attachments 33, 34, 35, 36, and 45.

⁴ At the time of the altercation Subject 1 had consumed two 24oz cans of Bud Light Ice beer.

⁵ Attachment 9 at 51:43.

⁶ Attachments 9 and 10.

b. Digital Evidence

Evidence Technician photographs taken on July 28, 2016, depicted a front profile of Officer A and close-up views of his face. None of these photos showed any apparent injury to Officer A's face.⁷

Evidence Technician photographs taken on August 7, 2016, depicted a front profile of Subject 1, Subject 1's left elbow, his upper right arm, and the top of his right hand. Apparent minor discoloration to the skin (reddish/purple hues) can be seen on the top of Subject 1's right hand, as well as, scratch marks/abrasions to his left elbow, bicep area.⁸

c. Physical Evidence

The **medical records from XXX Hospital** document that on July 28, 2016, at approximately 8:33am, Subject 1 complained to Emergency Room staff of arm and back pain. Subject 1 stated that he was pushed to the ground and held down, struck on his back, was experiencing pain in both arms, sustained a laceration to his left elbow, and had scratches to his right arm. Subject 1 was diagnosed with bilateral arm abrasions; bilateral arm contusions; and back pain.⁹

d. Documentary Evidence

The **Office of Emergency Management and Communications Event Query Report** documented that individuals were causing a disturbance on the second-floor hallway at XXXX S. Eberhart Avenue and that officers were dispatched.¹⁰

The **Original Incident Case Report and Arrest Report for RD#XXXXXXXXXX** documented that officers responded to a domestic disturbance at XXXX S. Eberhart Avenue. While placing two female offenders under arrest, Subject 1 became enraged, directed profanity at Officer B, and threatened Officer B with bodily harm if he did not get out of his way. Subject 1 grabbed Officer B around the waist and attempted to tackle him. Officer B performed an emergency take down on Subject 1 to gain control of him. Subject 1 flailed his arms and struck Officer A on the right eye with his elbow. Officers gained control of Subject 1, placed him into custody, and transported him to the 006th District Station. Subject 1 was charged with two counts of Resisting/Obstructing Arrest, one count of Simple Assault, and two counts of Battery.¹¹

The **Tactical Response Reports** documented that Subject 1 did not follow verbal direction, stiffened, pulled away, threatened Officer B with bodily harm, attempted to tackle Officer B, pulled away from Officer A, flailed his arms in Officer A's direction, and elbowed Officer A on the right

⁷ Attachment 23.

⁸ Attachment 24 and 25.

⁹ Attachment 11, and 29.

¹⁰ Attachment 26.

¹¹ Attachment 12, 13, 14, 15, and 16.

eye. Officer B responded with his presence, verbal commands, and an emergency takedown. Officer A responded with his presence, verbal commands, and an emergency takedown.¹²

Court documents indicate that the charges of Resisting/Obstructing, Simple Assault and one of the charges of Battery were dismissed. Subject 1 pled guilty to a single charge of Battery.¹³

VI. ANALYSIS

Subject 1 alleged a wide-ranging use of force against him by the CPD officers (identified as Officer A and Officer B in the course of COPA's investigation). Subject 1 described this force, from his perspective, as the officers digging their nails into his right arm, grabbing his left shoulder, pushing him to the floor, striking him on the neck and back, stepping on his right hand, twisting his left wrist toward his back, and pushing his face against the floor. Upon concluding the investigation, COPA determined that the use of force alleged by Subject 1, or some similar use of force, more likely than not occurred, and that such use of force was more likely than not in accordance with CPD directives.

The CPD's definition of an assailant is inclusive of someone whose actions are aggressively offensive without weapons.¹⁴ Furthermore, per the CPD's directives, an assailant is someone who places an officer in fear of a battery, which includes someone advancing on an officer in a threatening manner, or closing the distance between himself (the assailant) and the officer, thereby reducing the officer's reaction time.

Subject 1 told COPA investigators during his interview that he walked towards the officers as he raised his arms straight out in their direction. Furthermore, he described himself as upset, yelling, and outwardly questioning why the officers were placing the two women under arrest. Subject 1 admitted he advanced on officers and closed the distance between himself and the officers when much of their attention was focused on the matter before them – taking the two women into custody. COPA finds that Subject 1's conduct, as described by Subject 1, to be that of an assailant. When faced with an assailant the use of force by an officer is permitted. This permitted use of force includes holding techniques, pain compliance techniques, verbal control, control instruments, oleoresin capsicum spray (a.k.a. pepper spray), stunning (diffused-pressure striking or slapping as an attempt to increase control by disorienting an individual and interfering with the individual's ability to resist), direct mechanical force (striking movements such as punching and kicking, possibly combined with take-downs or pins against the ground), impact weapons, and so on. When considering Subject 1's status as an assailant, the various uses of force alleged by Subject 1 all fell within the parameters of permitted force by an officer. Moreover, Subject 1 also described the officers' use of force as short in duration – he was taken to the floor and then after five to seven seconds, he was handcuffed and brought to his feet.

Assuming, arguendo, that during the five to seven seconds that Subject 1 spent on the ground his status as an assailant changed to that of an active resister, the force used by the officer

¹² Attachment 17, and 19.

¹³ Attachment 30.

¹⁴ See CPD General Order G03-02-02, *Use of Force Options*.

would still be proper. Subject 1, himself, indicated during his interview with COPA investigators that he resisted the officers. Officers are permitted to use holding and stunning techniques against those who actively resist, such as Subject 1.

For these reasons, COPA has determined it is more likely than not that the actions of the officers were in accordance with the CPD’s policy regarding the use of force. Accordingly, COPA recommends a finding of **Exonerated** for all the allegations.

VII. CONCLUSION

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

Allegation	Finding
Officer A	
1. Dug his nails into Subject 1’s right arm; grabbed Subject 1 by the left shoulder; pushed Subject 1 to the floor; struck Subject 1 on the neck; struck Subject 1 on the back; stepped on Subject 1’s right hand; twisted Subject 1’s left wrist toward his back and pushed Subject 1’s face against the floor.	Exonerated
Officer B	
1. Dug his nails into Subject 1’s right arm; grabbed Subject 1 by the left shoulder; pushed Subject 1 to the floor; struck Subject 1 on the neck; struck Subject 1 on the back; stepped on Subject 1’s right hand; twisted Subject 1’s left wrist toward his back and pushed Subject 1’s face against the floor	Exonerated

Approved:

 Deputy Chief Administrator A
Deputy Chief Administrator

 Date

Appendix A

Assigned Investigative Staff

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