

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

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|----------------------------|-------------------|
| Date of Incident: | August 2, 2017 |
| Time of Incident: | 11:30 a.m. |
| Location of Incident: | XXXX S. Perry Ave |
| Date of COPA Notification: | August 2, 2017 |
| Time of COPA Notification: | 1:41 p.m. |

On August 2, 2017, at 11:30 a.m., Chicago Police Officers A and B conducted a traffic stop involving the complainant Subject 1 at XXXX S. Perry Ave. Subject 1 alleges that he was stopped and detained without justification. Additionally, Subject 1 alleges that Officer A struck him in the face with a pair of handcuffs. COPA further alleges that Officers A and B failed to issue Subject 1 an Investigatory Stop Receipt.

II. INVOLVED PARTIES

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|----------------------|---|
| Involved Officer #1: | OFFICER A, star #XXXX, employee ID #XXXXXX, Police Officer, Unit XXX, DOB: XXX-1982, DOA: XXX-2007, Male, White |
| Involved Officer #2: | OFFICER B, star #XXXXX, employee ID #XXXXXX, 11 years on force, Police Officer, Unit XXX, BOB: XXX-1980, DOA: XXX-2006, Male, White |
| Involved Officer #3: | OFFICER C, star #XXXXX, employee ID #XXXXXX, Police Officer, Unit XXX, DOB: XXX-1970, DOA: XXX-2004, Male, Black |
| Subject #1: | SUBJECT 1, DOB: XXX, 1990, Male, Black |
| Subject #2: | SUBJECT 2, DOB: XXX, 1949, Female, Black |

III. ALLEGATIONS

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.

| Officer | Allegation | Finding |
|-----------|---|---------------|
| Officer A | 1. Struck Subject 1 about the face while holding a pair of handcuffs in violation of Rules 8 and 9. | Sustained |
| | 2. Stopped and detained Subject 1 without justification in violation of Rule 2. | Unfounded |
| | 3. Failed to report Officer B’s unwarranted search of Subject 1s’s vehicle in violation of Rule 22. | Not Sustained |
| | 4. Failed to submit the proper report or reports for the investigatory stop of Subject 1 or the traffic stop of Subject 1’s vehicle in violation of Rule 2. | Unfounded |
| | 5. Failed to give a Subject 1 a completed Investigatory Stop Receipt in violation of Rule 6. | Sustained |
| Officer B | 1. Searched Subject 1’s vehicle without justification in violation of Rule 2. | Not Sustained |
| | 2. Detained Subject 1 without justification in violation of Rule 2. | Unfounded |
| | 3. Failed to report that Officer A struck Subject 1 about the face while holding a pair of handcuffs in violation of Rule 22 | Not Sustained |
| | 4. Failed to submit the proper report or reports for the investigatory stop of Subject 1 or the traffic stop of Subject 1’s vehicle in violation of Rule 2. | Unfounded |
| | 5. Failed to give Subject 1 a completed Investigatory Stop Receipt in violation of Rule 6. | 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: Prohibits disrespect to or maltreatment of any person, while on or off duty.
3. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
4. Rule 6: Disobedience of an order or directive, whether written or oral.
5. Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

Special Orders

1. S.O. S04-13-09 (VIII-A-3)
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Federal Laws

1. 4th Amendment to the United States Constitution
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V. INVESTIGATION²

a. Interviews

The statement of **Subject 1** (“Subject 1”) was taken at IPRA on August 2, 2017. Subject 1 stated that as he pulled up to his residence, an unmarked brown Ford Explorer police vehicle pulled behind him, flashed its lights, and two white male officers wearing plain clothing approached his car. Subject 1 stated that his windows were down and that he remained in the vehicle (2003 Infinity sedan). Subject 1 stated that the officer on his driver’s side asked for his driver’s license. Subject 1 stated that he asked the officer for his name. Subject 1 stated that the officer replied, “XXX” or “XXX,” or something similar (later identified as Officer A). Subject 1 described the officer as [REDACTED]

[REDACTED]. Subject 1 stated that the officer on his passenger side wore a nametag that said “Officer B”, and described him as [REDACTED]. Subject 1 stated that he asked the officers why he was stopped, and Officer A replied that Subject 1 was stopped because he did not use his turn signal and was not wearing his seat belt. Subject 1 admitted to not wearing his seat belt, but stated that he did use his turn signal, and told Officer A to issue a ticket.

Subject 1 stated that he showed his license to Officer A, who asked if it was valid. Subject 1 stated that Officer A tried to open the door while holding his ID and a pair of handcuffs in his left hand. Subject 1 stated that he pulled the door away from Officer A. Subject 1 stated that Officer A said that they were going to search his car to see if everything was alright. Subject 1 stated that Officer A told him to stop being difficult or he would punch him in the face. Subject 1 stated that Officer B began speaking to him. As Subject 1 turned his head towards Officer B, Officer A, using his left hand, punched him in the face, causing swelling and bruising to his left eye. Subject 1 stated that both officers opened the car doors and held both of his arms. Subject 1 stated that he was handcuffed and taken from the vehicle. Subject 1 stated that Officer A patted him down and

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

placed him in the back of the police vehicle. Subject 1 stated that Officer A “ran” his license on the computer, while Officer B searched his car. Subject 1 stated that Officer B opened the doors and looked under the seats. Subject 1 stated that Officer B returned to the police vehicle and Officer A informed Officer B that Subject 1’s record was clear. Subject 1 stated that around this time his grandmother, Subject 2, came outside as the officers were letting him go.

Subject 1 stated that during the incident, a black minivan pulled up and parked on the street. Subject 1 stated that he walked up to the black van and saw a male wearing a Chicago police shirt through the window. Subject 1 stated that he asked the officer in the van why he didn’t say anything, and the officer replied that he did not have anything to do with it and drove away. Subject 1 stated that he would seek medical attention if needed³.

The statement of **Subject 2** was taken at XXXX S. Perry Avenue on August 9, 2017. Subject 2 stated that at approximately 11:10 a.m. her son, Civilian 1, called her and stated that the police stopped her grandson, Subject 1, in front of her address. Subject 2 stated that she looked from the front window of her house and saw a white male inside the driver’s side of Subject 1’s car (a blue sedan). Subject 2 stated that the officer was [REDACTED] (later identified as Officer B). Subject 2 stated that she stepped out onto the porch and saw her neighbor, Civilian 2,⁴ standing on his porch and recording the incident. Subject 2 stated that she saw a tan SUV parked in front of her house. She believed it to be a police vehicle because she had seen the SUV pulling over other cars in the area prior to this incident. Subject 2 stated that she called for Subject 1 and heard him tell her to record the officer. Subject 2 stated that she assumed the male was a police officer because she saw handcuffs on his belt. Subject 2 stated that the officer was leaning inside the driver’s side area, then entered on the passenger side. Subject 2 stated that the officer opened the driver’s side rear door, leaned in and took an unknown object from his pocket. Subject 2 stated that she saw a flash of light, and the officer placed the object back into his pocket. Subject 2 stated that the officer was in the car for approximately five minutes. Subject 2 stated that Officer B walked back to the tan SUV and the driver rolled down the window. Subject 2 stated that the driver was a male [REDACTED] (later identified as Officer A). Subject 2 stated that Officer B told her, that Subject 1 would be out in a minute. Subject 2 stated that Officer B then opened back door of the tan SUV to let Subject 1 out, and took off the handcuffs. Subject 2 stated that the tan SUV pulled away and she saw a black mini-van with tinted windows parked on the east side of the street. Subject 2 stated that Subject 1 got into his car and appeared upset because the car did not start. Subject 2 stated that she approached the street and Subject 1 rolled the window down and said, “look at my face, you see what they did to me⁵?” Subject 2 stated that Subject 1 had two cuts above and below his left eye, and his eye began to swell. Subject 2 stated that as she and Subject 1 approached the black mini-van, the driver rolled down the window about an inch. Subject 2 stated that Subject 1 accused the driver of being a police officer. Subject 2 stated that she stood in front of the van and memorized the plate (XXX). Subject 2 stated that she took three pictures of Subject 1’s eye once he was inside the house. Subject 2 stated that Subject 1 called the police to complain, and waited on the porch but the police did not respond. Subject 2 stated that the last time she saw Subject 1 before the incident was at approximately 8 a.m.⁶

³ Att. 6

⁴ COPA attempted to contact Civilian 2 to no avail, as documented in Att. 57**

⁵ 12m:56s, Att. 23

⁶ Att. 23

The statement of **Officer C** was taken at COPA on October 10, 2017. Officer C stated that he was working on August 2, 2017. Officer C stated he was in civilian dress and driving a XXX XXX XXX van which is a covert vehicle under Beat XXX. Officer C stated he was alone in the vehicle. Officer C stated that he and other narcotics officers were surveilling a suspected drug dealer named XXX (later identified as Subject 1) and saw him make several hand-to-hand transactions. Officer C stated that he was working with several narcotics enforcement teams and does not know the other officers' names. Officer C stated that Subject 1 was driving a blue or black Infinity four door. Officer C stated that he and another narcotics team were following Subject 1 and were attempting to identify him. Officer C stated that the enforcement team conducted a traffic stop on Subject 1's vehicle at XXXX S Perry Ave. Officer C stated that he had parked on XXX Street facing east bound to observe the traffic stop. Officer C stated that the officers were in an unmarked Ford Explorer and does not know these officers by name. Officer C stated he saw the two officers exit the police vehicle and stand on each side of Subject 1's vehicle near the driver's side and passenger side windows. Officer C stated that he and the other teams were communicating on a private channel and not on a CPD radio zone or city-wide frequency. Officer C stated that he did not see what prompted the officers to reach inside Subject 1's vehicle, but saw both officers abruptly place the top portion of their bodies through the front driver and passenger windows. Officer C stated that he then pulled onto Perry Ave adjacent to the officers to provide assistance if needed, and saw Subject 1 in handcuffs. Officer C stated that he was not in constant communication with the other teams. Officer C stated that the officers searched Subject 1 and his vehicle and he was released after a short investigation. Officer C stated that he did not see any officer punch Subject 1 in the face with or without handcuffs. Officer C stated that he does not know the names Officer B or Officer A. Officer C stated that he did not hear specifics of the conversation between Subject 1 and the officers and the interaction lasted about ten minutes. Officer C stated that the other officers then left the area. Officer C stated that Subject 1 had approached the covert vehicle and accused Officer C of being the police. Officer C stated that since he was in a covert vehicle and under cover, he did not identify himself as a police officer and pulled away. Officer C stated that Subject 1 did not request to make a complaint during this time⁷.

A second witness statement of **Officer C** was taken at COPA on March 8, 2018. Officer C stated that on August 1, 2017, he and his team were surveilling the area for narcotics activity, and saw a vehicle (later identified as Subject 1's Infinity) that appeared to be dropping off suspect narcotics and left the area before a stop could be made. Officer C stated that there were two suspect narcotics deliveries that day (August 1, 2017). Officer C stated that as he observed Subject 1's vehicle pulling up to the location, a subject would come out and have a conversation through the window, then reach into the car, grab an item and run into the house. Officer C stated that he observed Subject 1 doing this activity at two different locations on August 1, 2017. Officer C stated that the second location is known to him for the sale of narcotics as he had served as the affiant to a search warrant that was conducted there. Officer C stated that the purpose of the traffic stop was to make a positive identification of Subject 1 as he was suspected of driving the vehicle. Officer C stated that on August 2, 2017, he and his team again spotted the vehicle. Officer C stated that he observed Subject 1 conducting similar narcotics activity as described on the day before, and gave Subject 1's full description over push-to-talk radio to the other teams. Officer C stated that he maintained visual contact with Subject 1's vehicle, giving out the location and direction of

⁷ Att. 29

travel, until the enforcement car was able to intercept him. Officer C stated that he followed Subject 1's vehicle east bound on XXX Street and he stopped near the corner of Perry Avenue. Officer C stated that Subject 1 turned onto Perry Avenue when the enforcement vehicle arrived.

Officer C stated that this stop was associated with the operation, "XXX,"⁸ which was conducted to identify subjects and obtain information regarding a homicide. Officer C stated that similar missions are conducted in which suspects are stopped and released for information, and the stops do not always end in arrest. Officer C stated that suspects are often released without charging even though criminal activity was observed. Officer C stated that officers complete an ISR and do not issue a receipt, and that a Case Report is made if there was an undercover narcotics purchase.⁹

The statement of **Officer A** was taken at COPA on November 22, 2017. Officer A stated that he and Officer B were working with another narcotics team in the area of the incident and were briefed of numerous possible suspects and vehicles in relation to the "XXX" mission on XXX Street. Officer A stated that he and Officer B were in plain clothes and driving an unmarked police vehicle. Officer A stated that the team's Sergeant was "Sergeant A," but he did not know the other officers. Officer A stated that during the briefing, a description of a vehicle (a black Infinity) and individual (later identified as Subject 1) was provided. Officer A stated that Subject 1 was not known to him prior to this incident. Officer A stated that surveillance officers observed the vehicle dropping off suspect narcotics by in the area. Officer A stated that another team gave them the area where the vehicle was located over a radio transmission and they intended to stop the vehicle to identify the driver. Officer A stated that enough cause existed for the vehicle to be stopped from the narcotics activity, but he observed the driver and vehicle commit a traffic violation.

Officer A stated that he observed the black infinity travelling east bound on XXX Street approaching Perry Avenue and saw that the driver was not wearing a seatbelt. Officer A stated that the black infinity then turned northbound on Perry Avenue and the driver failed to use the turn signal. Officer A stated that he and Officer B stopped the vehicle on Perry Avenue at a location later determined to be Subject 1's residence. Officer A stated that as he approached the driver's side of the vehicle he saw Subject 1 reaching down. Officer A stated that he asked Subject 1 for his license and to step out of the vehicle. Officer A stated that Subject 1 produced his license, and observed that Subject 1's hands were shaking. Officer A stated that Subject 1 became irate. Officer A stated that when he opened the driver's side door, Subject 1 slammed the door and began reaching under his legs. Officer A stated that Officer B reached through the passenger window as Subject 1 began to drive forward. Officer A stated that Officer B grabbed the gear shifter and put the car in "park." Officer A stated that Subject 1 was swearing at him and Officer B and moving around. Officer A stated that he and Officer B pushed Subject 1 forward to gain control of his arms. Officer A stated that during the struggle he took out his handcuffs and handcuffed Subject 1 behind his back. Officer A stated that Subject 1's face was pushed against the steering wheel.

Officer A stated that Subject 1 was given a protective pat-down search, and was lead to the rear of the police vehicle. Officer A stated that he queried Subject 1's name, license, and plate on the computer. Officer A stated that Subject 1 was irate and yelling the entire time he was in the

⁸ XXX was the code name given to the Narcotics/Intelligence mission conducted on XXX Street in response to a narcotics related homicide.

⁹ Att. 56

police vehicle. Officer A stated that Subject 1 was released after being identified and after Officer B searched the immediate area for weapons and narcotics. Officer A stated that Subject 1 did not have an injury to his face prior to being stopped and did not sustain an injury during the interaction. Officer A stated that if an injury occurred he would have completed a TRR. Officer A stated that he did not punch Subject 1. Officer A stated that he used his discretion to not arrest or issue tickets to Subject 1 for his actions or the traffic violations. Officer A stated that it was common practice that a paper version of the ISR is completed and inventoried, and that Subject 1 was not given a receipt which could compromise an ongoing narcotics investigation. Officer A stated that other suspects were investigated and arrested during the mission¹⁰.

A second statement of **Officer A** was taken at COPA on January 30, 2018, for purposes of further questioning regarding ISR protocol. Officer A stated that per Chief A and through ISR training from the Organized Crime Division Lieutenants, that it is policy that hard copy ISR's are generated, and no receipt is given, in order to maintain the integrity of ongoing investigations¹¹.

The statement of **Officer B** was taken at COPA on November 22, 2017. Officer B stated that he and Officer A received information from surveillance officers that a tan or blue Infinity four door with a temporary plate was observed dropping off narcotics in the area, and on a prior occasion. Officer B stated that he and Officer A were part of the XXX mission on XXX Street in response to drug related shootings. Officer B stated that the surveillance officers saw the Infinity and gave him and Officer A the location over the private push-to-talk radio. Officer B stated that the teams commonly did not operate on a police frequency during covert missions. Officer B stated that he and Officer A observed the Infinity travelling east bound on XXX Street and saw that the driver (later identified as Subject 1) was not wearing a seat belt, then failed to use a turn signal when turning northbound on Perry Avenue. Officer B stated that Subject 1 was not known to him prior to this incident. Officer B stated that as he approached the passenger side of the vehicle he saw Subject 1 bend down to the floorboard. Officer B stated that Officer A asked Subject 1 for identification and Subject 1 became irate and uncooperative. Officer B stated that Officer A took Subject 1's ID, asked Subject 1 to exit the vehicle, and tried to open the driver's side door. Officer B stated that Subject 1 pulled the door and slammed it shut on Officer A, and again reached to the floorboard. Officer B stated that he continued to give verbal commands to Subject 1 and he refused to comply. Officer B stated that he reached into the vehicle from the open window and unlocked the door. Officer B stated that the vehicle started to move and he grabbed the gear shift to put the vehicle in park. Officer B stated that he and Officer A pushed Subject 1 forward against the steering wheel to get his hands behind his back and placed him in handcuffs. Officer B stated that Officer A gave Subject 1 a pat-down and led him to the police vehicle. Officer B stated that he searched the immediate driver's area of Subject 1's vehicle. Officer B stated that Subject 1's grandmother came from the house and he told her that Subject 1 would be released in a few minutes. Officer B stated that no contraband was found and Subject 1 was released. Officer B stated that he did not witness Officer A punch Subject 1 in the face. Officer B stated that if Subject 1 alleged an injury, he is required to complete a TRR and provide medical attention. Officer B stated that he chose to not issue tickets to Subject 1 to protect the investigation.¹²

¹⁰ Att. 32

¹¹ Att. 49

¹² Att. 33

A second statement of **Officer B** was taken at COPA on January 30, 2018, for purposes of further questioning regarding ISR protocol. Officer B stated that per Lieutenants of Organized Crime, and training received from Chief A, that it is the policy that only a hard copy of the ISR is generated and no hard receipt is given to maintain the integrity of ongoing investigations, and security of undercover officers and covert vehicles¹³.

The statement of **Lieutenant A** was taken at COPA on February 9, 2018. Lieutenant A verified the statements of Officers A and B that there is a current policy within the Bureau of Organized Crime to complete a hard copy of an ISR and to not issue a receipt to the subject to maintain integrity of an ongoing investigation. Lieutenant A stated that once the investigation is concluded, and the case moves to court, the ISR is then entered into the CLEAR system once confidentiality is no longer a factor. Lieutenant A stated that there is a risk to the officers due to their names and star numbers being printed on the receipt. Lieutenant A stated that the subject could find out if the officers are assigned to a narcotics unit or Organized Crime. Lieutenant A stated that the same concerns also apply to the issuance of traffic citations, and depending on the circumstance, the officers are instructed to not issue tickets. Lieutenant A stated that this information would endanger not only the investigation, but also the safety of undercover officers and undercover informants. Lieutenant A stated that the officers were following orders and their superiors are aware of the training.

Lieutenant A stated that on June 21 and 22, 2017, Chief A and Sergeant B conducted training with the officers and the ISR unit to inform them of the Bureau's policy. Lieutenant A stated that the Crime and Control Strategies Section performed a monthly audit that reported on any deficiencies found in the ISR and what corrective steps should be taken in the future. Lieutenant A stated that the subjects of the narcotics investigations are stopped after probable cause is established through surveillance of narcotics activity. Lieutenant A stated that the type of stop depends on the subject's activity. Lieutenant A stated that subjects who operate in an open-air drug market can be approached on foot and enforcement officers stopped subjects in their vehicles who operate as a call-up service.¹⁴

b. Digital Evidence

The digital evidence includes photographs of Subject 1 taken on August 2, 2017, by Subject 2, photographs of Subject 1 taken at IPRA on August 2, 2017, and an audio recording of Subject 1's 911 call placed on August 2, 2017.¹⁵

c. Documentary Evidence

The documentary evidence includes an OEMC Event Query that documented Subject 1's request for a supervisor, a copy of the Investigatory Stop Report detailing the interaction with Subject 1, and an inventory receipt and number for the investigatory stop report completed by Officer A and B.¹⁶

¹³ Att. 50

¹⁴ Att. 52

¹⁵ Atts. 24, 28, and 34

¹⁶ Atts. 14, 37, and 38

VI. ANALYSIS

Allegations against Officer A

1. *Excessive force*

An officer may use the force necessary to effectuate a legal purpose.¹⁷ However, the amount of force must be objectively reasonable based on the totality of the circumstances confronted by the officer. *See, e.g., Graham v. O'Connor*, 490 U.S. 386, 397 (1989). In the context of a traffic stop, officers may consider an individual's refusals to comply with instructions during the stop in assessing whether physical force is needed to gain the individual's compliance. In this instance, Officer A was engaged in a lawful purpose when he initiated the traffic stop of Subject 1. There is no dispute that Officer A asked Subject 1 to step out of the vehicle and in doing so, opened the driver side door.¹⁸ Additionally, it is undisputed that Subject 1 pulled the door away from Officer A and closed it. At this point, Subject 1 refused to comply with Officer A's lawful request. Subject 1's refusal created a situation in which some force was necessary to effectuate the purpose of the stop.¹⁹

Further exacerbating the situation, Subject 1's vehicle began to move forward during the traffic stop. Based on the officers' statements, it is unclear whether Subject 1 drove forward or, if during the encounter, took his foot off the brake. As the car moved forward, Officer B reached in through the passenger side and placed the car into park. Then, both officers pushed Subject 1 forward to handcuff him. Officer C confirmed that he saw both officers abruptly place their bodies through the front and driver side passenger windows. However, it was unclear to Officer C what prompted Officers A and B to reach into the car. Officer A denied hitting or punching Subject 1 in the face. Officer A also stated there were no injuries at any point to Subject 1's face.

Subject 1 claimed that Officer A threatened to hit him if he did not cooperate with the traffic stop and then, as Subject 1 was turned and speaking with Officer B, hit him in the face with handcuffs. Subject 2 later heard Subject 1 say, "look at my face, you see what they did to me?"²⁰ and she confirmed that Subject 1 sustained two cuts above and below his eye and swelling immediately following the incident. Photos taken close in time to the incident show visible marks, bruising and swelling to Subject 1's eye.

Based on the totality of the circumstances, it is more probable than not that Subject 1 sustained his eye injury from Officer A. Some force was appropriate in this situation because Subject 1 was a passive resister as he refused to comply with the officers' requests to exit the vehicle, and his vehicle moved forward during the stop. However, Subject 1's injuries do not correspond with the officers' description of the force used to control Subject 1. The photos taken close in time to the incident show swelling and bruising that is inconsistent with Officer A's claim

¹⁷ General Order 03-02.

¹⁸ Pursuant to *Pennsylvania v. Mimms*, during a lawful vehicle stop an officer may require all occupants to exit the vehicle. 98 S.Ct. 330 (1977).

¹⁹ Under the facts presented, it is appropriate to characterize Subject 1 as a passive resister pursuant to General Order 03-02-01.

²⁰ 12m:56s, Att. 23

that he only pushed Subject 1 forward while attempting to handcuff him. In addition, Subject 2 corroborated that she saw swelling and cuts to Subject 1's eye immediately following the incident. Based on the available photographic evidence, Officer A's statement that he did not see any injury to Subject 1's face is unconvincing. Given the nature of the stop and the fact that Subject 1 was a passive resister, any strike to the face was objectively unreasonable. Therefore, the allegation that Officer A used excessive force is **Sustained**.

2. *The stop and detention of Subject 1*

A traffic stop is more analogous to a *Terry stop* than a formal arrest and, as a result, is generally analyzed under *Terry* principles. *People v. Daniel*, 2013 Il App (1st) 111876 (2013). A *Terry* analysis involves two steps: first, whether the officer's action was justified at its inception and, second, whether it was reasonably related in scope to the circumstances that justified the interference in the first place. An officer may initiate a traffic stop based on the observation of minor traffic infractions.

In general, a stop is "reasonable" under the Fourth Amendment if there was probable cause to believe that a crime or offense was being committed. *Whren v. United States*, 517 U.S. 806, 810 (1996). Therefore, an officer's subjective motive for conducting a stop is irrelevant to the reasonableness of the stop; a stop supported by probable cause is deemed to be reasonable no matter what subjective intentions may have been in the minds of the officers. *Id.* For instance, it is permissible for an officer to stop an individual for driving without a license, even though the real motive was to further a drug investigation.

In addition, it is well established that officers may rely on the communicated knowledge of other officers when forming the requisite probable cause or reasonable suspicion needed to justify a seizure. When officers are working together, probable cause or reasonable suspicion can be established from all the information collectively received by the officers, even if that information is not specifically known to the officer who initiates the stop or arrest. *People v. Bramlett*, 341 Ill. App. 3d 638, 649 (1st Dist. 2003); *see also United States v. Nafzger*, 974 F.2d 906, 910 (7th Cir. 1992) (holding that an officer involved in a stop need not personally be aware of the specific and articulable facts justifying the intrusion; it is sufficient that a law enforcement officer who is aware of such facts relays his or her reasonable suspicion to the officer effecting the stop). Under this principle, it is necessary to examine the information known to both the officer giving the direction and the officer carrying out the *Terry* stop or arrest to determine whether, between the two, there is an adequate factual basis for the action.

In this instance, Subject 1's vehicle was observed the day prior to the incident by officers involved in the "XXX" narcotic investigation. On August 1, 2017, a team of officers were surveilling the XXX Street area for narcotics activity. A black Infinity (later identified as Subject 1's Infinity) was observed conducting two separate alleged narcotic deliveries. The vehicle was observed pulling up to a location. Then, another individual from the location came to the vehicle window and reached into the vehicle. After a conversation, the unknown individual grabbed an item from the vehicle and took the item back into the house. The second stop by Subject 1 was at a location known to sell narcotics.²¹ On August 2, 2017, officers involved with the "XXX" mission were again surveilling Subject 1. According to Officer C, Subject 1 was seen making

²¹ Officer C had previously served as an affiant to a search warrant that was executed at the residence. Att. 56

several hand-to-hand transactions. Officer C stated that Subject 1 was driving a blue or black four-door Infinity, the same vehicle from the previous day. Besides Officer C, another narcotics team was following Subject 1 to identify him. Eventually, Officer A and B received a radio transmission from the narcotics team regarding the location of the black Infinity. Officer A stated that he and his partner intended to stop the vehicle to identify the driver as part of the investigation. Officer A believed that enough cause existed for the vehicle to be stopped based on the alleged narcotics activity. In addition, Officer A observed the driver commit two traffic violations; not wearing a seat belt and failing to use a turn signal. Officer B corroborated Officer A's statement regarding the driver not using a turn signal or wearing his seatbelt. During his statement, Subject 1 admitted to not wearing his seatbelt but denied that he failed to use his turn signal.

Based on the totality of the circumstances, it was objectively reasonable for the officers to initiate the traffic stop because of 1) the observed traffic violations and 2) the communicated information regarding the alleged narcotic activity. First, Subject 1 admitted to not wearing his seatbelt. Under Municipal Code section 9-76-180 and 625 ILCS 5/12-603.1, a driver is required to wear a seatbelt. Therefore, the stop was appropriate because the officers observed Subject 1 not wearing his seatbelt.

Second, even if the officers lacked probable cause to initiate the stop based on the traffic violations, the officers had a sufficient basis to initiate the traffic stop based on the communications from Officer C as well as their own knowledge from the on-going narcotic investigation. Here, there was enough information gathered through surveillance for the officers to reasonably suspect that Subject 1 may be engaged in criminal activity. The purpose of the stop was to identify the driver of the vehicle in furtherance of the narcotic investigation. Further supporting the traffic stop, Officer C communicated to Officer A and B the observed conduct and instructed them to make a traffic stop. The information provided by Officer C was, at minimum, sufficient to form the specific and articulable facts justifying the intrusion.²² Therefore, the allegation that Officers A stopped and detained Subject 1 without justification is **Unfounded**.

3. Failure to report Officer B's search of Subject 1's vehicle

For the reasons outlined below, the allegation that Officer A failed to report Officer B's search of the vehicle is **Not Sustained**.

4. Failure to submit the investigatory stop report

It was alleged that Officer A failed to submit proper paperwork regarding the investigatory stop of Subject 1. After conducting accused and witness officer statements, COPA determined that all appropriate paper work was submitted as required. Officer B confirmed that a hard copy of the investigatory stop report was completed and maintained in inventory. Additionally, Officer

²² See, e.g., *United States v. Rodriguez*, 831 F.3d 162 (7th Cir. 1987) (holding that the communicating agency had reasonable and articulable suspicion to believe that the defendant was engaged in criminal activity and the detaining officer knew the requesting officer was coordinating a large investigation); *United States v. Williams*, 627 F.3d 247 (7th Cir. 2010) (holding that the DEA's collective knowledge could be imputed to the arresting officer where the communicating DEA agent specifically identified a car to the arresting officer, who knew of the larger investigation and that the car was leaving a suspected drug transaction).

B provided the hard copy investigatory stop report to the investigator.²³ Finally, Lieutenant A confirmed that the current policy of the Bureau of Organized Crime is to complete a hard copy of an ISR report and once the investigation is concluded, the ISR is entered into the CLEAR system. Lieutenant A cited confidentiality and integrity of the narcotics investigation as the reasons for not completing the ISR electronically. Therefore, the allegation that Officer A failed to appropriately complete all required paperwork is **Unfounded**.

5. *Failure to issue the investigatory stop receipt*

Through the course of this investigation it was determined that the Bureau of Organized Crime routinely instructs officers not to issue an investigatory stop receipt in order to maintain the integrity of the Bureau's investigations. Per 725 ILCS 5/107-14, it is required that upon the completion of any investigatory stop or frisk that does not lead to an arrest, an "officer shall provide the person with a stop receipt which provides the reason for the stop and contains the officer's name and badge." The statute makes an exception for issuing a stop receipt where it would be "impractical, impossible, or under exigent circumstances." Further, under SO 04-13-09 officers are required to issue an investigatory stop receipt.

According to Lieutenant A, there is a risk to the officers because their name and star number appear on the receipt; the risk is that the subject could determine, based on name and star number, whether the officers were detailed to Organized Crime or a narcotics unit. Lieutenant A maintained that the information available on the receipt would endanger the continued investigation, undercover officers, and confidential informants. Lieutenant A stated that officers are following direct orders and that training occurs with officers and the ISR unit to inform them of the Bureau's policies. As recently as two months before this incident, Chief A and Sergeant B conducted training with the officers regarding the investigatory stop receipt policy.²⁴

While COPA understands the need to maintain the integrity of an on-going narcotic investigation, the Department's unilateral determination not to issue investigatory stop receipts for investigations conducted under the Bureau of Organized Crime cuts against the very purpose of the investigatory stop system as enacted. COPA also recognizes that Officer A was following direct orders not to issue the investigatory stop receipt. However, COPA finds no exception in either the statute or the special order allowing the Department to choose when an investigatory stop receipt is proper. Therefore, the allegations that Officer A failed to issue an investigatory stop receipt is **Sustained**.

Allegations against Officer B

1. *The search of Subject 1's vehicle*

As a preliminary matter, warrantless searches are "per se unreasonable under the Fourth Amendment absent only a few specifically established and well- delineated exceptions." *United States v. Paige*, 870 F.3d 696, 701-702 (7th Cir. 2017) (quoting *Arizona v. Gant*, 556 U.S. 332, 338 (2009)). One of the few well- delineated exceptions to the warrant requirement must apply

²³ Att. 37.

²⁴ Att. 52

before a warrantless search can be conducted. One such exception to the warrant requirement is the automobile exception, which allow an officer to conduct a warrantless search of a vehicle if there is probable cause to believe that the vehicle contains contraband or evidence of a crime. When probable cause exists to search a vehicle, officers are permitted to search all parts of the vehicle where contraband or evidence could be concealed. In these circumstances, a reasonably prudent person would believe that evidence of a crime will be found in the place to be searched. In determining the reasonableness of an officer's conduct, the facts are not considered from the perspective of analytical hindsight but instead as they would have been viewed by a reasonable officer confronted by the exact same situation. *People v. Day*, 202 Ill.App.3d 536, 541 (4th Dist. 1990).

In this instance, Officer B admitted to searching the immediate driver's area of Subject 1's vehicle. In addition, Subject 2 stated she saw an officer (who was later identified as Officer B) in both the driver side and passenger side of the vehicle. While Officer B does not articulate the reasons for the search in his statement, review of all the objective factors known to the officers at the time of the stop is appropriate. When reviewing the totality of the circumstances, the question becomes what a reasonable officer would have done in the same situation. When considering all the facts known to the officers because of the surveillance of Subject 1, the sweep of the driver and passenger area may have been acceptable under the automobile exception. A reasonable officer could have concluded that there was contraband in the vehicle based on the observed conduct of Subject 1 coupled with the long-term narcotic investigation. The facts in the record, which were also known to Officer B at the time of the incident, support the propriety of a searching the driver's side area. However, Officer B did not appropriately or adequately document any of these facts. Without Officer B's articulation, COPA cannot determine why Officer B searched the vehicle. Therefore, the allegation that Officer B searched the vehicle without justification is **Not Sustained**.²⁵

2. The stop and detention of Subject 1

For the reasons set forth above, the allegation that Officer B stopped and detained Subject 1 without justification is **Unfounded**.

3. Failure to report Officer A's use of excessive force

Officer B stated that he did not observe Officer A hit Subject 1. This investigation did not uncover any evidence that would call into question Officer B's statement that he did not observe Officer A hit Subject 1. However, if Officer B observed Officer A engage in excessive force, he is required to report the conduct. There is no evidence to confirm or deny that Officer B witnessed Officer A's use of excessive and thus failed to report. Therefore, the allegation is **Not Sustained**.

4. Failure to submit the investigatory stop report

²⁵ Officer B's search of the driver side area would not have been appropriate under a vehicle "frisk" pursuant to *Michigan v. Long* as there were not facts in the record to support that the driver of the vehicle potentially was armed and dangerous. 103 S.Ct. 3469 (1983). The facts in the record, which were also known to Office B at the time of the incident, support a search of the driver side area under the automobile exception.

It was alleged that Officer B failed to submit proper paperwork regarding the investigatory stop of Subject 1. After conducting accused and witness officer statements, it was determined that all appropriate paper work was submitted as required. Officer B confirmed that a hard copy of the investigatory stop report was completed and maintained in inventory. Additionally, Officer B provided the hard copy investigatory stop report to the investigator.²⁶ Finally, Lieutenant A confirmed that it is the current policy of the Bureau of Organized Crime to complete a hard copy of an ISR report and once the investigation is concluded, the ISR is then entered into the CLEAR system. Lieutenant A cited confidentiality and integrity of the narcotics investigation as the reasons for not completing the ISR electronically. Therefore, the allegation that Officer B failed to appropriately complete all required paperwork is **Unfounded**.

5. *Failure to issue an investigatory stop receipt*

For the reasons set forth above, the allegation that Officer B failed to issue an investigatory stop receipt is **Sustained**.

VII. CONCLUSION

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

| Allegation | Finding |
|---|----------------|
| Officer A | |
| 1. Struck Subject 1 about the face while holding a pair of handcuffs in violation of Rules 8 and 9. | Sustained |
| 2. Stopped and detained Subject 1 without justification in violation of Rule 2. | Unfounded |
| 3. Failed to report Officer B’s unwarranted search of Subject 1s’s vehicle in violation of Rule 22. | Not Sustained |
| 4. Failed to submit the proper report or reports for the investigatory stop of Subject 1 or the traffic stop of Subject 1’s vehicle in violation of Rule 2. | Unfounded |
| 5. Failed to give a Subject 1 a completed Investigatory Stop Receipt in violation of Rule 6. | Sustained |
| Officer B | |
| 1. Searched Subject 1’s vehicle without justification in violation of Rule 2. | Not Sustained |

²⁶ Att. 37.

| | |
|---|---------------|
| 2. Detained Subject 1 without justification in violation of Rule 2. | Unfounded |
| 3. Failed to report that Officer A struck Subject 1 about the face while holding a pair of handcuffs in violation of Rule 22. | Not Sustained |
| 4. Failed to submit the proper report or reports for the investigatory stop of Subject 1 or the traffic stop of Subject 1's vehicle in violation of Rule 2. | Unfounded |
| 5. Failed to give Subject 1 a completed Investigatory Stop Receipt in violation of Rule 6. | Sustained |

Approved:

Acting Deputy Chief Administrator A
Acting Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

| | |
|---|-------------------------------------|
| Squad#: | XX |
| Investigator: | Investigator A |
| Supervising Investigator: | Supervising Investigator A |
| Acting Deputy Chief Administrator: | Acting Deputy Chief Administrator A |
| Attorney: | Attorney A |