

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 6, 2017
Time of Incident:	11:05 p.m.
Location of Incident:	XXX E. 41 st St.
Date of COPA Notification:	November 7, 2017
Time of COPA Notification:	12:29 a.m.

On November 6, 2017, at approximately 11:05 p.m., Subject 1 reported his vehicle was ticketed by an officer in an unmarked CPD SUV for parking in front of a fire hydrant – despite the fact that he was seated in the car, waiting at the time. Subject 1 further alleged that after he exited the car and commented about getting a ticket, he overheard the ticketing officer in the front passenger seat call him a “XXX” through the vehicle’s open window. No injuries were reported and no arrests were made. A citation was issued for parking in front of a hydrant. The incident was not captured on in-car camera or the two responding officers’ body worn cameras.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXX, Employee ID # XXX, Date of Appointment: XXX, 2002, Police Officer, X District, DOB: XXX, 1975, Male, Black.
Involved Officer #2:	Officer B, Star # XXX, Employee ID # XXX, Date of Appointment: XXX, 2000, Police Officer, X District, DOB: XXX,1972, Male, Black.
Subject #1:	C/V Subject 1, 24, Male, Black, XXX E. 41 st St., Chicago, IL 60653.

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	<ol style="list-style-type: none"> 1. Complainant alleges accused officer called him a "XXX " or "XXX " after giving him a parking ticket, in violation of Rule 8. 2. The accused officer failed to activate his Department-issued body-worn camera 	Not Sustained

	<p>(BWC) during a law enforcement-related encounter with Complainant in violation of Rules 1, 6 and 10 and in relation to Chicago Police Department Special Order S03-14 (“Body Worn Cameras”) and 50 ILCS 706/10-1, et seq.</p>	<p>Not Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 1:** prohibits “Violation of any Law or Ordinance.”
 2. **Rule 6:** prohibits “Disobedience of an order or directive, whether written or oral.”
 3. **Rule 8:** prohibits “Disrespect to or maltreatment of any person while on or off duty.”
 4. **Rule 10:** prohibits “Inattention to Duty.”
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Special Orders

1. **Chicago Police Department Special Order S03-14 (“Body Worn Camera”)** mandates, except where indicated, CPD Officers’ activation and use of Department-issued, electronic body-worn cameras for law-enforcement-related interactions with members of the general public, including, but not limited to: traffic stops, searches of people and vehicles, requests for consent to search, and statements made by individuals in the course of an investigation.
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State Laws

1. **Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10-1, et seq.**

INVESTIGATION¹

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

a. Interviews

Interview of Complainant-Victim Subject 1²

On November 14, 2017, Subject 1 provided his sworn statement at the COPA office, and related that on November 6, 2017, he had dropped his brother off and proceeded to park his car on the street. He parked his car in front of a hydrant for a moment, in order to make a phone call from the car. He looked up and saw an unmarked vehicle pull in front of his car, then saw an officer emerge and issue a ticket. The officer then knocked on his driver's-side window and gave him the ticket. Subject 1 asked why he was being ticketed when he was sitting in the car, and the officer replied it was too late because he had already written the ticket. Subject 1 then drove his car around the front of the squad car, parked and got out of his car intending to go into his house. As he walked past the CPD vehicle, he commented that it was "pointless [for him] to get a ticket." As Subject 1 walked towards the house, he overheard the officer seated in the passenger seat say "XXX" to the officer in the driver's seat. In addition, Subject 1 related when the offending comment was uttered, he viewed the officer in the driver's seat smirking. Subject 1 decided he should keep his words short, and simply responded, "Excuse me? Have a blessed day," and continued walking away.

Subject 1 said that after the incident, he called the police and met with Sergeant A, who came to the scene and interviewed him. The original officers had driven off by the time Sergeant A arrived.

Interviews of accused Officer A³

In his February 1, 2018 and February 7, 2018 interviews at COPA, Officer A said that he recalls details of the November 6, 2017 incident. Officer A and his partner, Officer B, were working together on the evening shift and were on routine patrol, as a tactical team. Officer A said Officer B was driving their CPD SUV and that Officer A sat in the front passenger's seat. Officer A related that when driving westbound down East 41st St., he observed a vehicle illegally parked in a no-parking zone and in front of a fire hydrant. Officer A believed the vehicle to be empty, but when he walked up to the vehicle to place a ticket on it, he saw the driver in the car, handed him the ticket and then returned to the squad car. After a few minutes, the vehicle driver got out of his car, walked over to the front passenger side of the squad car and started asking Officer A about the ticket, "He seemed a little bit agitated. But after that there was pretty much nothing more to it [...] He wanted me to explain the ticket to him." Officer A said Subject 1 then walked away, northbound. Officer A denied ever calling Subject 1 any derogatory name, or hearing Officer B do so.

Officer A confirmed that he was wearing a body camera at the time of the incident but that he did not see the need to activate the body camera to attach a parking ticket to a car. Upon inquiry, Officer A stated that he did not feel required to activate his body worn camera when Subject 1 subsequently approached their car. He explained that Subject 1 was simply asking questions about the parking ticket and Officer A did not anticipate having to take any type of police action. Officer A reported that their CPD vehicle was not equipped with in-car cameras.

² Attachment #13.

³ Attachments #18, 24.

Interview of witness Officer B⁴

In his February 7, 2018 interview at COPA, Officer B recalled the incident on November 7, 2017. He first learned of the allegations the same day when he and Officer A were called in to the station by the desk sergeant following Subject 1's phone complaint. Officer B related that the sergeant told him and Officer A that Subject 1 was upset about receiving the ticket and that a CR was being initiated. Officer B said he remembered: "I do believe [Subject 1] claimed that Officer A called him a XXX." Officer B denied that either he or Officer A called Subject 1 a XXX or anything else.

Officer B corroborated most of the underlying factual information provided by Officer A and the evidence: Officer B related that he drove the SUV that evening, and spotted a car illegally parked on a fire hydrant on East 41st St.; he stopped the SUV in front of the subject vehicle. Officer A then exited the squad car and proceeded to place the ticket on the subject vehicle. Officer A then returned to the police SUV and told Officer B that there was somebody in the car. The subject vehicle drove away, parked, and returned to approach the officers in their SUV. Officer A estimated that the driver "probably said about [...] five to six-seconds of just venting" about receiving the ticket even though he was seated in his car. The driver then wished Officer A a good night and God bless you and then walked off."

Officer B confirmed that the police SUV was not equipped with a camera, and that while both he and Officer A had functioning body-worn cameras at the time, neither of them activated the cameras during the incident. Officer B related that he did not activate his body worn camera because he thought no one was in the subject car, and that when Subject 1 later approached them, "It was all of like maybe a five- to not even a 10-second conversation."

Subject 1 appeared agitated, per Officer B. He was "venting" and upset that he got a ticket while sitting in the car. Officer B believed Subject 1 venting and expressing his opinion was not a situation that "required further police service." "You have to give people the opportunity to vent because it makes them feel better and they don't take that home."

Officer B said he has known Officer A for almost eight years. "He's never used that type of language," Officer B related. "He doesn't even curse. That's not Officer A. It's mind-blowing that someone would come at him like that."

b. Digital Evidence⁵

In-car camera and Body-worn camera video was requested but no responsive records depicting this incident were produced. The two Axon body-worn camera videos that were produced did not appear to be related to this incident.⁶

c. Documentary Evidence

⁴ Attachment #30.

⁵ Attachments #8, 9, 10

⁶ Attachment #10.

Department Reports and Records⁷

The Initiation Report drafted in this case was written by Sergeant A, # XXX, contemporaneous to the incident on November 6, 2017. Sergeant A identified Officer A as the accused officer based on the physical description provided by Subject 1. The information recorded in Sergeant A's report generally comports with that later provided by Subject 1 during his recorded statement to COPA, except that the report related Subject 1 told Sergeant A he walked up to the squad car and spoke to the officers before the offensive comment was heard.⁸

V. ANALYSIS

Accused Officer A

COPA recommends that **Allegation #1** that Accused Officer A, while on duty, used biased and derogatory language against Subject 1, be **Not Sustained**.

In the instant case, there is no dispute that Subject 1 was ticketed after his automobile was observed parked in front of a fire hydrant, and/or a no-parking zone. In dispute is whether Officer A called Subject 1 "XXX," "XXX" or "XXX".

The totality of evidence in this case, however, is inconclusive as to whether the alleged statement was uttered by Officer A or any other individual present. Unfortunately, there is not sufficient objective evidence in this case, including any audio, video, or third-party witnesses to corroborate the involved individuals' claims.

While Subject 1 took the affirmative step of immediately contacting the local police station after the incident, seeking the assistance of a supervisor and relating his allegations contemporaneously to the occurrence, his doing so is, alone, insufficient to prove or disprove this allegation.

There is, thus, insufficient evidence, beyond a preponderance, to sustain or unfound Subject 1's allegations.

COPA recommends that **Allegation #2** that Officer A failed to activate his body-worn camera during his interaction with Subject 1 be **Not Sustained**.

Accused Officer A admitted he did not activate his department-issued body-worn camera during the incident. The parties' descriptions of the incident are basically consistent. Officer A explained that he was not initially aware that Subject 1 was inside the vehicle, and therefore did not need to activate his body worn camera to ticket the vehicle. There is no evidence to dispute this explanation. Similarly, the description of the latter interaction, initiated by Subject 1, uniformly describe the interaction as brief.

⁷ No relevant PCAD or OEMC reports were obtained. An OEMC dispatch audio CD was recovered and audio was located of Dispatch requesting a supervisor or sergeant go to the scene, after Subject 1 called CPD requesting assistance after police service. There was no OEMC audio found relating to the original ticketing of Subject 1 or the alleged derogatory statements made.

⁸ Attachment #3.

Special Order S03-14 mandates CPD members' activation and use of Department-issued, electronic body-worn cameras for all law-enforcement-related activities, except within limited exceptions.⁹ Per the rule, "Law-enforcement-related activities include [...] any encounter with the public that becomes adversarial after the initial contact."

It can be argued that Subject 1's agitated behavior was adversarial and therefore necessitated the activation of body worn cameras. However, the incident as described by all parties indicates that this latter interaction was very brief, and ended almost as soon as it began. Per Officer A, Subject 1 appeared "agitated" and Officer B said he was "venting" about being ticketed. By his own description in his statement to COPA, Subject 1 did not approach the officers' vehicle and engage with them, but instead made a single comment as he walked towards his house. Whether Subject 1's agitation and venting was sufficiently adversarial to require the activation of body worn cameras, remains in dispute. Therefore, this allegation should be Not Sustained.

⁹ Per the Act, BWCs "may be turned off when the officer is inside of a patrol car which is equipped with a functioning in-car camera; however, the officer must turn on the camera upon exiting the patrol vehicle for law enforcement-related encounters."

VI. CONCLUSION

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

Officer	Allegation	Finding
Officer A	1. Complainant alleges accused officer called him a "XXX" or "XXX" after giving him a parking ticket, in violation of Rule 8. 2. The accused officer failed to activate his Department-issued body-worn camera (BWC) during a law enforcement-related encounter with Complainant in violation of Rules 1, 6 and 10 and in relation to Chicago Police Department Special Order S03-14 ("Body Worn Cameras") and 50 ILCS 706/10-1, et seq.	Not Sustained. Not Sustained.

Approved:

 Deputy Chief Administrator – Chief Investigator A
Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

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