

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 25, 2018
Time of Incident:	9:00a.m.
Location of Incident:	XXXX S. Cottage Grove Avenue, Chicago, IL
Date of COPA Notification:	March 28, 2018
Time of COPA Notification:	1:43p.m.

On March 25, 2018, at approximately 9:00a.m., at XXXX S. Cottage Grove Avenue, Subject 1 and his girlfriend of three months, Civilian 1, got into an argument inside their apartment after Subject 1 accused Civilian 1 of cheating on him.¹ Civilian 1 called the police and requested assistance to make Subject 1 leave the premises.

Officers A and B responded and encountered Subject 1 and Civilian 1 standing at the entry to their apartment building. Civilian 1 explained the situation to the officers, stating that Subject 1 accused her of cheating on him and that she wanted Subject 1 to give her the keys to the apartment and leave. Civilian 1 also informed the officers that she and Subject 1 were being evicted, effective April 11, 2018, and that Subject 1's name was removed from the lease after he failed to appear in court. Subject 1 told officers that he had nowhere to go and that he had just as much right to be in the apartment as Civilian 1. Subject 1 further informed the officers that he and Civilian 1 agreed to a verbal lease with the landlord after Civilian 1's friends moved out of the apartment.

After hearing both sides, the officers instructed Subject 1 to retrieve his belongings from the apartment and leave. Subject 1 refused to leave and a lengthy conversation followed. Civilian 1 then accused Subject 1 of being in possession of the keys to the apartment and told the officers that she wanted them. Officer A asked Subject 1 for permission to search his person for the keys. Subject 1 agreed to the search, but subsequently revoked his consent.

After approximately one hour of talking with Subject 1, Officer A radioed for a supervisor. Sergeant A responded and was apprised of the situation. Subject 1 continued to refuse to leave, stating that he had nowhere to go. Sergeant A informed Subject 1 that he had to leave because Civilian 1 expressed to him that she feared for her safety. Despite verbal commands by the Sergeant to leave, Subject 1 refused. Sergeant A proceeded to tell Subject 1 that he would be arrested if he continued to refuse to leave. The Sergeant then exited the building, placed Subject 1's belongings against the building and instructed Subject 1 to step outside. Subject 1 refused. Sergeant A then took Subject 1 by the right arm and pulled him toward the exit as Officer A ushered Subject 1 along. Once outside the building, officers grabbed Subject 1 by the arms and placed him on the ground in a seated position. Shortly thereafter, both officers and Sergeant A left the scene without arresting Subject 1.

¹ Civilian 1 refused to provide a statement to COPA because she and Subject 1 were no longer together.

Following an investigation of this incident, The Civilian Office of Police Accountability (“COPA”) determined, by a preponderance of the evidence, that the officers had legal justification for their actions, resulting in a recommended finding of exonerated for all allegations.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXXXX, Employee #XXXXXX, DOA: XXX, 1994, Police Officer, Unit XXX, DOB: XXX, 1969, Male, Black
Involved Officer #2:	Sergeant A, Star #XXX, Employee #XXXXXX, DOA: XXX, 1997, Sergeant, Unit XXX, DOB: XXX, 1973, Male, White
Witness Officer:	Officer B, Star XXXXX, Employee #XXXX, DOA: XXX, 2002, Police Officer, DOB: XXX, 1971, Female, Black
Subject #1:	Subject 1, DOB: XXX, 1986, Male, Black

III. ALLEGATIONS²

Officer	Allegation	Finding
Officer A	<p>It is alleged by Subject 1 that on or about March 25, 2018, at approximately 9:00a.m., at or near XXXX S. Cottage Grove Avenue, Chicago, Illinois, Officer A committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Searched Subject 1 without justification. 2. Physically removed Subject 1 from a building located at XXXX S. Cottage Grove Avenue, Chicago, Illinois without justification. 	<p>Exonerated Exonerated</p>
Sergeant A	<p>It is alleged by Subject 1 that on or about March 25, 2018, at approximately 9:00a.m., at or near XXXX S. Cottage Grove Avenue, Chicago, Illinois, Sergeant A committed misconduct through the</p>	

² Formal allegations were not brought against Officers A and B, nor against Sergeant A.

the lens of Officer B's body worn camera ("BWC") and stated that Officer A was violating his constitutional rights. No keys were found on Subject 1's person.

Subject 1 told the officers that he was from the projects and that it was a known fact in the projects that girlfriends should not be looking at other men. Officer A told Subject 1 that he was from the Robert Taylor Homes and that he didn't care about Subject 1's reference. The officers continued to talk with Subject 1 in the hallway for approximately one hour. During this time, Subject 1 felt that the officers became frustrated with him and that they were siding with Civilian 1. Subject 1 then requested a supervisor. Sergeant A arrived and spoke with Civilian 1 and then spoke with Officers A and B outside. After speaking with the responding officers, Sergeant A informed Subject 1 that Civilian 1 was in fear of her safety and advised Subject 1 that he needed to leave for a while. Subject 1 refused to leave, telling the officers that they were being unprofessional because they were not considering his right to be in the apartment and his side of the story.

Sergeant A retrieved Subject 1's belongings from the apartment and set them on the sidewalk outside the building.⁴ Next, Sergeant A motioned for the officers to remove Subject 1 from the building. The Sergeant and Officer A then grabbed Subject 1 by the arms and neck and forcefully pushed him outside. On his way out the door, Subject 1 struck his head on the doorframe and was then thrown to the ground. Subject 1 asked the officers for their names and badge numbers. The officers refused and asked Subject 1 for his name. Subject 1 refused.⁵ The officers entered their respective vehicles and left the scene.⁶

b. Digital Evidence

The incident was captured by BWCs worn by Officers A and B. When Officers A and B arrive at the scene, they encounter Subject 1 and Civilian 1 standing at the doorway of their apartment building. Civilian 1 identifies Subject 1 as her ex-boyfriend, informs the officers that Subject 1 accused her of cheating on him, and that she wants Subject 1 to give her the keys to their apartment and to vacate the premises. Civilian 1 explains that Subject 1 has been living with her for three months; that she and Subject 1 are being evicted from their apartment on April 11th and that Subject 1's name was removed from the lease after he missed a court date. Officer A asks Subject 1 if there's any place that he and Officer B can take him. Subject 1 states that he has nowhere to go and that he has just as much right to be in the apartment as Civilian 1 because he and Civilian 1 entered the same verbal lease with the landlord.

Subject 1 then tells the officers that another guy was looking at Civilian 1 and touched her hand. Officer A interjects and tells Subject 1 that he cannot believe that Subject 1 was upset for that reason. As Subject 1 continues to explain his suspicions of Civilian 1 cheating on him, he and Civilian 1 begin talking over each other regarding the circumstances that led to Civilian 1 wanting Subject 1 to leave. Officer A tells Subject 1 that he did not see anything wrong with other guys

⁴ Subject 1 stated that Sergeant A set a backpack that contained his clothes and his jacket on the sidewalk, outside the building.

⁵ BWC captured the officers and sergeant verbally provide their badge numbers.

⁶ Attachment #5.

looking at Civilian 1. Subject 1 and Civilian 1 continue to over talk each other. Officer A tells Subject 1 that he should have left the relationship if he thought Civilian 1 was cheating on him.

After some further discussion regarding Subject 1 and Civilian 1's relationship, Officer A asks Civilian 1 for paperwork regarding the lease. Civilian 1 doesn't have it, so she calls her landlord and puts him on speakerphone. Officer A instructs Subject 1 to go get his belongings. Subject 1 refuses, stating that he's a legal resident of the apartment. Subject 1 tells the officers that they'd be discriminating against him if they made him leave and would be committing police brutality if they beat him up. Officer A tells Subject 1 that he and Officer B have been calm and collected. While on the speakerphone, Civilian 1 asks her landlord if he has a copy of the eviction notice. The landlord states that he did not have a copy of the eviction notice. Officer A asks the landlord if Subject 1 showed up for court. The landlord states that Subject 1 did not appear for court. Officer A instructs Subject 1 a third time to go get his belongings. Subject 1 refuses, stating that he's a legal resident of the apartment.

Officer A then instructs Civilian 1 to go to her apartment and she complies. After much back and forth among Subject 1 and the officers, Subject 1 tells the officers that Civilian 1 gave him a sexually transmitted disease. Officer A tells Subject 1 to just go to his grandmother's house and states, "If a bitch gave me an STD I'm not gonna [*sic*] be standing nowhere near her. . . I don't care how much I love a motherfucker, I'm not gonna [*sic*] keep going back so they can give me some shit."⁷ Officer A then suggests that under those circumstances, Subject 1's grandmother may allow Subject 1 to stay with her. Subject 1 tells Officer A that he likes the idea and informs Officer A that he's from Cabrini Green. Officer A tells Subject 1 that he's from the Robert Taylor Homes and instructs Subject 1 a fourth time to go upstairs to get his belongings. Subject 1 refuses, again stating that he has nowhere to go. After more discussion, Officer A radios for a supervisor.⁸

Civilian 1 returns to the hallway and informs the officers that she needs to go to work and wants the situation resolved.⁹ Civilian 1 accuses Subject 1 of having the keys to their apartment. Officer A asks Subject 1 if he could search his person for the keys. Subject 1 states, "Yes. Please."¹⁰ When Officer A begins to search the outer garments of Subject 1's person, Subject 1 states, "I did not give him consent to search me."¹¹ The officer then discontinued the search. Civilian 1 then ignores Subject 1 as he repeatedly asks he if he can stay at the apartment until Tuesday. Soon thereafter, Sergeant A arrives and is initially apprised of the situation by Officers Officer A and Subject 1.¹² Civilian 1 informs Sergeant A that Subject 1 has been living with her for three months and has personal property in their apartment. Sergeant A asks to speak with Civilian 1 at the top of the stairs. Subject 1 remains downstairs with Officers A and B. The Sergeant returns and asks Officers A and B to accompany him outside. He then asks the officers how they want to handle the situation. Officer B says she thinks they will be called back if they leave. The Sergeant agrees and states that he determined that Subject 1 had established residence

⁷ While viewing the footage from Officer B's BWC, Officer A makes these statements at 33:53, 34:14, 35:14 and 36:10 respectively.

⁸ While viewing the footage from Officer B's BWC, Officer A requests a supervisor at 48:00.

⁹ While viewing the footage from Officer B's BWC, Civilian 1 makes this statement at 56:00.

¹⁰ While viewing the footage from Officer B's BWC, Subject 1 makes this statement at 57:28.

¹¹ While viewing the footage from Officer B's BWC, Subject 1 makes this statement at 57:38.

¹² While viewing the footage from Officer B's BWC, Sergeant A arrives at 1:10:14.

in the apartment.¹³ He suggests that they convince Subject 1 to leave for a few hours. All three re-enter the hallway where Subject 1 tells them he heard everything they said. Sergeant A tells Subject 1 that it is in his best interest to disappear for a little while to let things calm down. Subject 1 refuses to leave, stating that he has nowhere to go. Sergeant A informs Subject 1 that Civilian 1 informed him that she was in fear of something happening if Subject 1 stays there and that the police have a responsibility for Civilian 1's safety. Subject 1 continues to refuse to leave, stating, "Do what you going to do."¹⁴ After some bickering, Subject 1 tells the Sergeant, "Do what ya'll gotta [*sic*] do man."¹⁵

Sergeant A then goes upstairs to the apartment to talk with Civilian 1 as Subject 1 remains in the hallway with Officers A and B. Subject 1 and Officer A continue to discuss Subject 1 going to his grandmother's residence to stay. The Sergeant returns to the hallway with a bag containing Subject 1's belongings.¹⁶ Sergeant A tells Subject 1 that he is giving him a lawful order to step outside. Subject 1 refuses, stating that he has a legal right to remain on the premises. Sergeant A tells Subject 1 that he will be arrested if he does not leave and instructs Subject 1 to step outside. Subject 1 again refuses. Sergeant A responds by exiting the building and places Subject 1's property against the cement wall of the building.¹⁷ He then re-enters the hallway and again instructs Subject 1 to step outside. Subject 1 again refuses. Sergeant A then takes Subject 1 by the right arm and pulls him toward the exit as Officer A also ushers Subject 1 toward the exit. At the same time, Subject 1 pushes against Sergeant A and Officer A while instructing them not to touch him. As Subject 1 is taken outside, the left side of Subject 1's head strikes the door frame of the entry/exit door.¹⁸ Once outside Subject 1 attempts to re-enter the building. Officer A pulls Subject 1 away by the left arm. The force of the pull appears to cause Subject 1 to fall to the ground in a seated position against the building.¹⁹ Subject 1 then accuses Officer A of throwing him to the ground, which Officer A denies. Subject 1 asks the Sergeant and both officers for their badge numbers and all three verbally comply. Sergeant A and Officer A ask Subject 1 for his last name. Subject 1 refuses to provide it. Officer A continues to ask Subject 1 for his last name. Subject 1 continues to refuse to provide it. Subject 1 put his coat on and walks away. The officers drive away.²⁰

c. Documentary Evidence

The **Investigatory Stop Report** documents that Officers A and B responded to a domestic disturbance at XXXX South Cottage Grove. Upon arrival, the officers encountered Civilian 1 and Subject 1. Following a lengthy conversation, a supervisor was summoned to the scene. Sergeant A arrived in an effort to resolve the situation. Sergeant A spoke first with Civilian 1 then to Subject

¹³ Sergeant A made the determination that Subject 1 had established residence inside the apartment after he observed many of Subject 1's personal effects inside the apartment.

¹⁴ While viewing the footage from Officer B's BWC footage, Subject 1 makes this statement at 1:28:54.

¹⁵ While viewing the footage from Officer B's BWC, Subject 1 makes this statement at 1:30:32.

¹⁶ While viewing the footage from Officer B's BWC footage, Sergeant A returns to the hallway at 1:33:40.

¹⁷ While viewing the footage from Officer B's BWC footage, Sergeant A places Subject 1's property against the building at 1:35:25.

¹⁸ While viewing the footage from Officer B's BWC footage. Sergeant A and Officer A have hands upon Subject 1; Subject 1 physically resists; and his head strikes that door frame at 1:35:50.

¹⁹ While viewing the footage from Officer B's BWC, Subject 1 attempts to re-enter the building and is pulled away by Officer A and makes contact with the ground at 1:36:02.

²⁰ Attachment #15, Attachment #16.

1. After listening to both parties, Sergeant A gave Subject 1 a lawful order to remove himself from the doorway. Subject 1 refused. Sergeant A ordered Officer A to remove Subject 1 from the doorway. Officer A complied, using minimal force to remove Subject 1 from the doorway.²¹

VI. ANALYSIS

Subject 1 made multiple allegations against CPD members, in that he alleged they searched his person without permission and physically removed him from the building by throwing him outside and to the ground. A review of the members' BWCs provided compelling evidence, which resulted in a finding of exonerated for all allegations.

Allegations Against Officer A

Allegation 1

The BWCs worn by Officers A and B contained audio and depicted the incident in its entirety, including those moments during the interaction when Officer A searched Subject 1. The captured video and audio shows and tells the exact moment Officer A asked for Subject 1's permission to search his person for Civilian 1's keys. Subject 1 definitively replied yes, which gave Officer A consent to search Subject 1. Next, as Officer A was conducting a pat down search of Subject 1, Subject 1 then looked towards Officer B's BWC and accused Officer A of violating his constitutional rights by searching him without his permission, clearly revoking the consent to any search. Officer A then discontinued his search of Subject 1. Because the BWCs video controverts Subject 1's claim the he was searched without permission, COPA accordingly recommends a finding of exonerated for allegation 1 against Officer A.

Allegation 2

BWCs also captured the exact moment Subject 1 was removed from the building by CPD members along with the interaction leading up to Subject 1's removal. Initially, the BWC revealed that Officers A and B were exceedingly patient with Subject 1; both officers talked with Subject 1 for approximately one hour as they attempted to persuade Subject 1 to leave the premises.²² It was throughout this hour that both officers repeatedly asked Subject 1 to retrieve his belongings and to leave, but Subject 1 steadfastly refused. Without getting physical, both officers continued their attempts to talk their way to a resolution.

²¹ Attachment #17.

²² At times when speaking with Subject 1, Officer A's use of language could be considered as unprofessional. Specially, the officer referred to Subject 1's girlfriend as a "bitch" and suggested that he would personally leave anyone who gave him a sexually transmitted disease. While COPA understands the need for officers to maintain a professional demeanor during interactions with civilians, COPA also recognizes that there are times when an officer's choice of language may seem unprofessional, but the context of the situation may render it appropriate. In this case, COPA finds that Officer A's choice of language reflected the officer's desire to be sincere with Subject 1, and/or an attempt to relate to Subject 1 as something other than a police officer as the officer struggled to convince Subject 1 to leave. Additionally, Subject 1 never directly complained to COPA regarding these comments by Officer A. For these reasons, COPA declined to pursue allegations against Officer A regarding his choice of language.

Additionally, when Sergeant A responded, he too was patient with Subject 1 despite his continued refusals to gather his belongings and leave the premises. Nonetheless, the situation came to a point where Sergeant A, after conferring with Officers A and B, made the decision to remove Subject 1 from the premises with physical force.

CPD's Use of Force²³ policy permits the use force by an officer when such force is objectively reasonable, necessary when considering the circumstances, and proportional. In this case, as explained above, the involved CPD members spent a considerable amount of time trying to resolve the situation before employing any application of force. This time taken by the officers provided Subject 1 with ample opportunity to work through his emotions and to comply with the officers' repeated verbal direction as well as allowing for additional personnel, Sergeant A, to arrive. Furthermore, as time passed, it became clear that Subject 1 was not going to leave as verbally directed by the officers; therefore, COPA finds that the necessity to physically remove Subject 1 from the building increased over time. Equally important was the necessity to remove Subject 1 from the building. Civilian 1 expressed a concern for her safety to the responding officers, in that the argument between her and Subject 1 could escalate if Subject 1 did not leave. When considering these circumstances, we find it logical that the officers directed Subject 1 to leave. This separation would provide time for parties' emotions to settle and therefore avoid a possible physical confrontation between Civilian 1 and Subject 1.

Secondly, we find that the level of force was in proportion to Subject 1's passive resistance.²⁴ Frim grips, grabbing, and come-along holds are all acceptable forms of force for use against a passive resister, such as Subject 1. BWC footage capturing Subject 1's removal showed the officers physically escorting him from the building.

In sum, COPA finds that a necessity to remove Subject 1 existed, and the force used by the officers to do so was appropriate. Accordingly, COPA recommends a finding of exonerated for allegation 2 against Officer A.

Allegation Against Sergeant A

Allegation 1

Regarding the allegation that Sergeant A removed Subject 1's personal belongings from the apartment without Subject 1's permission, COPA finds that this allegation is also exonerated. Once the officers and Sergeant A made the decision to physically remove Subject 1 from the building the necessity to remove some of Subject 1's personal belongings, his jacket and backpack, naturally followed. BWC footage showed Sergeant A respectfully place Subject 1's personal belongings on the sidewalk alongside the building to the right of the exit. For these reasons, COPA recommends a finding of exonerated for allegation 1 against Sergeant A.

Allegation 2

²³ General Order G03-02-01, *Use of Force*, Effective October 17, 2017.

²⁴ General Order G03-02-01 defines a "Passive Resister" as a person who fails to comply (non-movement) with verbal or other direction.

For the same reasons we found Officer A exonerated for Allegation 2 above, we now also find Sergeant A exonerated for allegation 2.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	<p>It is alleged by Subject 1 that on or about March 25, 2018, at approximately 9:00a.m., at or near XXXX S. Cottage Grove Avenue, Chicago, Illinois that Officer A committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Searched Subject 1 without justification. 2. Physically removed Subject 1 from the building located at XXXX South Cottage Grove Avenue, Chicago, Illinois without justification. 	<p>Exonerated Exonerated</p>
Sergeant A	<p>It is alleged by Subject 1 that on or about March 25, 2018, at approximately 9:00a.m., at or near XXXX S. Cottage Grove Avenue, Chicago, Illinois that Sergeant A committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Removed Subject 1’s personal property form a building located at XXXX South Cottage Grove Avenue, Chicago, Illinois without justification. 2. Physically removed Subject 1 from the building located at XXXX South Cottage Grove Avenue, Chicago, Illinois without justification. 	<p>Exonerated Exonerated</p>

Approved:

Deputy Chief Administrator A
Deputy Chief

Date

Appendix A

Assigned Investigative Staff

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