

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	December 20, 2015
Time of Incident:	10:34 a.m.
Location of Incident:	XXXX N. Octavia Ave.
Date of COPA Notification:	December 20, 2015
Time of COPA Notification:	Approximately 11:15 a.m.

On December 20, 2015, Civilian 1, and his wife, off-duty Officer A,² argued about marital problems while inside their bedroom on the first floor of XXXX N. Octavia Ave., Chicago, IL. Civilian 1 had been drinking, and during the argument, he kicked and slapped Officer A. Civilian 1 threatened to kill Officer A and her two adult sons, who lived in the house and were on the second floor. Civilian 1 went to the kitchen, obtained a butcher knife and returned to the bedroom holding the knife. When he allegedly moved toward Officer A, she fired one round from her semi-automatic pistol, the bullet striking Civilian 1 in the right shoulder. Officer A called 911, and an ambulance transported Civilian 1 to a hospital. Officer A believed that her husband had placed the knife on a table in the bedroom, although the knife was recovered in the kitchen sink. It was learned that Officer A placed her pistol in a back pack. Officers responded to the house. The investigation of the shooting was conducted under Log#1078530. This investigation related only to the handling of evidence at the scene.

II. INVOLVED PARTIES

Involved Officer #1:	Officer B, #XXXXXX, Employee #XXXXXX, DOA XXX, 1996, Police Officer, XXX District, DOB XXX, 1969, Female, Hispanic
Involved Officer #2:	Officer C, #XXXXXX, Employee #XXXXXX, DOA XXX, 1994, Police Officer, XXX District, DOB XXX, 1969, Male, White
Involved Officer #3:	Sergeant A, ³ #XXXX, Employee #XXXXXX, DOA XXX, 1985, Sergeant, XXX District, DOB XXX, 1961, Female, 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.

² Officer A has divorced Civilian 1 and now uses her maiden name of XXX, which is how she is listed in the Police Department's personnel directory. In addition, Officer A lost her star (#XXXX), which has been replaced with star #XXXXXX. Because reports regarding this incident use Officer A's former married name, she will be referenced in this report as Officer A.

³ Sergeant A retired on XXX, 2016.

Involved Officer #4: Officer A (now XXX), #XXXX (now #XXXXX), Employee #XXXXX, DOA XXX, 2001, Police Officer, XXX District, DOB: XXX, 1968, Female, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer B	1. Disturbed evidence, prior to processing, at the scene of a police-involved shooting.	Exonerated ⁴
Officer C	1. Disturbed evidence, prior to processing, at the scene of a police-involved shooting.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. **Rule 5:** Failure to perform any duty.
2. **Rule 6:** Disobedience of an order or directive, whether written or oral.⁵
3. **Rule 7:** Insubordination or disrespect toward a supervisory member on or off duty.

General Orders

1. G04-01 – Preliminary investigations
2. G04-02 – Crime scene protection and processing

Special Orders

1. S07-01-04 – Firearms taken into custody or turned in
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⁴ COPA’s Rules and Regulations define Exonerated as “when the incident occurred but the actions of the accused were lawful and proper.” Civilian Office of Police Accountability Rules and Regulations. Article IV, §4.1.1

⁵ COMMENT: This Rule prohibits “disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior.”

V. INVESTIGATION⁶

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

a. Interviews

COPA interviewed the involved Department member, Officer A, #XXXX,⁷ on January 27, 2016. Officer A said that after the shooting occurred, she placed her handgun in a book bag that was in her “office,” a room to the west of the bedroom where the shooting occurred. She added that she wanted to get the gun “out of the way.” Officer A did not know how the knife her husband brandished during the incident happened to be found in the kitchen. A female responding officer (apparently Officer B) asked Officer A where her weapon was, and Officer A retrieved the gun and gave it to the female officer. The female officer asked her where the knife was, and Officer A replied she did not know. Officer A said she did not touch the knife, did not know who retrieved it and did not see the knife being moved from the kitchen. The knife ended up on the dining room table, where Officer A also observed her pistol.

Officer A stated that she picked up the shell casing she fired inside the bedroom and gave it to the female officer.

COPA interviewed Sergeant A, #XXXX,⁸ on January 22, 2016. Sergeant A said that when she entered the rear of Officer A’s house, Officer A was in front of her, and Officer B was behind Sergeant A. Sergeant A told Officer A that she needed the gun. Sergeant A told COPA that because of her inexperience with semi-automatic guns, she had Officer B accompany Officer A to the room west of the bedroom to get the gun. When Officer B exited that west room, she had the gun and made sure it was rendered safe. Officer B handed the gun and its “clip” (magazine) to Sergeant A. In addition, another officer, Officer C, handled the gun, putting a slip of paper inside it, further making it unable to fire. When COPA asked if she handled the gun, Sergeant A replied, “I may have held it for a second in my hand and then gave it right back. I looked at what kind it was. ... Best for me not to since I’m not really trained in it.”⁹ Sergeant A said Officer B also turned over to her a cartridge. When Sergeant A asked for the fired casing, Officer A turned it over to her, saying she found it on the floor and picked it up so as not to lose it. Officer A explained that in her assigned District XXX, there were so many shootings that officers picked up casings to avoid losing them. Sergeant A said she had worked in XXX and “didn’t question it.”¹⁰

Sergeant A said she asked Officer A for the knife. Officer A told her that she had put it back in the dish rack by the sink. Officer B entered the kitchen and picked up the knife using a paper towel around its handle. Officer B showed the knife to Sergeant A, who had her lay the knife on the dining room table next to the firearm, the cartridge and the magazine. Sergeant A said she

⁶ COPA conducted a thorough and complete investigation.

⁷ Att. 26

⁸ Att. 23

⁹ Ibid., p. 33, lines 13-15, 18, 19

¹⁰ Ibid., p. 36, lines 19-21

observed the two weapons when they were formally recovered by Police Department Forensics personnel.

COPA interviewed Officer C, #XXXXX,¹¹ on January 7, 2016. Officer C said that when he entered Officer A's house, he did not observe any weapons in the kitchen. On the dining room table, he recalled seeing a large "chef" knife, 9 to 10 inches long, and a semi-automatic weapon. Officer C was aware that other persons, including possibly Officer B, had already touched the handgun, and a cartridge might have been ejected from the chamber. He picked up the weapon, cleared it and fashioned a slide lock with some paper. He might have pulled out the magazine, but it might already have been removed from the weapon. He said he took those actions with the weapon because, "It's how we're s'posed to present uh the weapon just to make it safe."¹²

COPA interviewed Officer B, #XXXXX,¹³ on February 19, 2016. Officer B said that after she arrived on scene, she and Sergeant A followed Officer A inside the house. Officer A retrieved her weapon from a back pack in the den/office [the room to the west of the bedroom] and handed it to Officer B. Officer B continued that she made the weapon safe by extracting the magazine and the round that was chambered. Officer A gave Officer B the spent casing. Officer B gave the weapon, the magazine, the live round, and the casing to Sergeant A, and all of that evidence was placed on the dining room table. Officer B said she did not have gloves on when she cleared the weapon.

Officer B said she asked Officer A if she had the knife. Officer A replied that it was in the kitchen, and she pointed it out in the dish rack. Officer A did not say why the knife was in the kitchen or who put it there. The knife was dry and clean. Officer B picked up the knife by the handle, using a paper towel, and placed it on the dining room table, near the gun. Sergeant A was left with all of the evidence on the table while Officer B took names of everyone coming into the house. When COPA asked Officer B if any supervisor, including Sergeant A, directed her to do anything on the scene, Officer B replied, "Um, just to retrieve the weapon. And I made it clear safe and hand it to my sergeant."¹⁴ When COPA asked Officer B if Officer A's retrieving her gun was under the direction of Sergeant A, Officer B replied, "Right. My sergeant was, we were right together with, with uh Officer A. Myself, my sergeant and the Officer A."¹⁵

b. Digital Evidence

The Evidence Technician photographs¹⁶ depict the incident scene and the recovered evidence on the dining room table.

c. Physical Evidence/Documentary Evidence

The Crime Scene Processing Report¹⁷ lists the evidence recovered on the scene and

¹¹ Att. 22

¹² Ibid., p. 30, lines 6, 7

¹³ Att. 24

¹⁴ Ibid., p. 21, lines 4, 5

¹⁵ Ibid., p. 21, lines 12-14

¹⁶ Att. 27

¹⁷ Att. 12

indicates that the Evidence Technician “learned that weapon used was recovered from blue and grey back pack located in den by Officer B, #XXXXX, BT XXXX. Weapon was rendered safe and placed on dining room table as well as discharged cartridge case by Officer B. The kitchen knife in question also was relocated from dish rack on kitchen counter to dining room table by Officer B. ... It was later learned that Sergeant A #XXXX and Officer C #XXXXX also had handled the recovered weapon. ... Due to Officer B #XXXXX relocating all items of evidentiary value at crime scene no plat was prepared.”

A detective’s General Progress Report¹⁸ was entitled, “How victim’s gun + knife used by offender ended up on dining room table.” The GPR continued that Sergeant A told the victim (Officer A) to give the gun to her. Officer A recovered her pistol from a backpack in the den next to her bedroom and tendered the gun to Officer B. Officer A also tendered her fired cartridge case to Officer B after recovering it off the rug in her bedroom. Officer C made the pistol safe and unloaded. A round was in the chamber and four others were in the magazine. Officer A directed Officer B to the knife that was in the drying dish rack on the counter next to the sink. Officer B recovered the knife from the dish rack with a paper towel.

The detectives’ Case Supplementary Report,¹⁹ reiterated the GPR regarding the physical evidence already discussed. In addition, the Supplementary Report indicated that Officer B related that she removed the magazine (from the gun), which contained four live cartridges, and a live cartridge was in the chamber. Officer C related that he made the weapon visually secure by placing a folded piece of paper through the ejection port of the handgun.

Officer A told the detectives that “the sergeant” was asking where her weapon was. Officer A tendered her handgun and a fired casing to the officer. Regarding the knife, Officer A directed the officer (Officer B) to the butcher knife in the drying rack next to the sink in the kitchen. When asked, Officer A related that she did not see how the knife got moved back to the kitchen, but related that Civilian 1 (her husband) must have put it back.

VI. ANALYSIS

COPA recommends a finding of Exonerated for both officers. The following General and Special Orders outline requirements of field supervisors and officers when responding to crime scenes: G04-01; G04-02; and S07-01-04. In essence, these Orders require officers not to tamper with or handle evidence, including weapons, at crime scenes. The relevant portion of G.O. 04-01 states:

“Upon arrival, preliminary investigators will ... protect and preserve the crime scene for the collection and processing of evidence as outlined in the Department directive entitled ‘Crime Scene Protection and Processing.’”²⁰

Relevant portions of G.O. 04-02 state:

“In the absence of exigent circumstances, a crime scene will be protected until it is completely processed for physical evidence. Evidence will NOT be disturbed prior

¹⁸ Att. 11

¹⁹ Att. 10

²⁰ General Order 04-01, Preliminary Investigations, Section IV(A)(5)

to processing, unless it is absolutely necessary to preserve life or to protect the evidence from loss or damage ... When a Department member determines there is a compelling reason to handle evidence before the crime scene has been evaluated by Forensic Services Division personnel or a detective, he or she will wear fresh rubber gloves for each item of evidence touched, or firearm.”²¹

Relevant portions of S.O. 07-01-04 state:

“Firearms and/or property directly related to a firearm (including but not limited to ammunition, expended shell casings, magazines, and holsters) that require fingerprint or DNA processing will not be touched, handled, or removed by any members other than Forensic Services Division personnel unless exigent circumstances requiring immediate removal exists ... Any department member who recovers or takes into custody a firearm and/or property directly related to a firearm will:

1. ensure that the firearm is unloaded while wearing fresh rubber gloves, unless exigent circumstances exist ...
2. wear fresh rubber gloves for each firearm, live ammunition, and expended shell casings, as well as magazines, clips, and holsters associated with the firearm and place in a Firearm Evidence Envelope ...”²²

“Firearms Inventoried as Evidence

1. Recovered Firearms that require fingerprint or DNA processing will not be touched, handled, or removed by any members on the scene other than Forensic Services Division personnel. If exigent circumstances requiring immediate removal of the firearm exist, the recovering officer will handle and secure the firearm in a manner that minimizes the risk of spoiling or degrading the evidence, then give the firearm to Forensic Services Division personnel. The exigent circumstance requiring immediate removal will be documented in the appropriate case report.

EXCEPTION: If a member of the Forensic Services Division is not available, the recovering member, with approval of the appropriate supervisor, will process and inventory the firearm as outlined in III-A of this directive.”²³

Finally, officers are also bound by the Chicago Police Department Rules and Regulations, which require officers to obey lawful orders. Specifically, “Sworn members ... will ... Obey all laws and promptly execute all lawful orders.”²⁴ Additionally, there are three Rules that would be relevant to this incident. “...the following rules of conduct set forth expressly prohibited acts. Prohibited acts include:

²¹ General Order 04-02, Crime Scene Protection and Processing, Section III(D) and (E)

²² Special Order S.O. 07-01-04, Firearms Taken Into Custody or Turned In, Sections II(B) and III(A)(1) and (2)

²³ Id. at B(1)

²⁴ Rules and Regulations of the Chicago Police Department, Section IV, Regulations Establishing the Duties of Members, Section (C)(2)

Rule 5: Failure to perform any duty.

Rule 6: Disobedience of an order or directive, whether written or oral.²⁵

Rule 7: Insubordination or disrespect toward a supervisory member on or off duty.”²⁶

Nothing in this investigation showed that, in this case, there were any exigencies present that would justify the disregarding of the Orders, such compelling circumstances that would make it “absolutely necessary to preserve life or to protect the evidence from loss or damage.”²⁷ There is also nothing to indicate that an exception applied to the requirement that a Forensic Services evidence technician process the scene.²⁸ Given this, it would seem to be a violation of Department policy to handle the evidence in the ways that Officers B and C did in this case.

However, in this case, Officers B and C were given the choice of breaking Rules or disobeying Orders. Although the officers did not follow the mandates regarding evidence handling that were contained in the General and Special Orders, they acted under the authority of, and at the direction of, Sergeant A, who was initially in charge of the scene. In her statement to COPA, Sergeant A acknowledged that she was not “really trained” in handling weapons, which apparently included the protection and processing of evidence associated with weapons. Officers B and C did not willfully disobey the General and Special Orders as they followed explicit and implicit directions from Sergeant A, who is no longer with the Department. The two officers explained their actions in the statements they provided as witnesses in the investigation of Log#1078530. Because COPA’s Rules and Regulations define “Exonerated” as “when the incident occurred but the actions of the accused were lawful and proper,”²⁹ COPA finds that Exonerated best fits this case. The incident as alleged did occur, but the officers’ actions were lawful and proper. The officers in this case were facing a proverbial catch-22: if they obeyed the sergeant’s direct order, they would be disobeying Orders; if they disobeyed the sergeant’s direct order, they would be disobeying Rules. Given this choice, the officers opted to obey the on-scene supervisor, and for that reason, COPA recommends a finding of Exonerated for the officers.

However, pursuant to COPA’s ordinance,³⁰ COPA also recommends that Officers B and C undergo a refresher of training in the handling of evidence at crime scenes.

VII. CONCLUSION

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

Officer	Allegation	Finding
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²⁵ COMMENT: This Rule prohibits “disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior.”

²⁶ Rules & Regulations of the Chicago Police Department. Section V, Rules of Conduct

²⁷ General Order 04-02, Crime Scene Protection and Processing, Section III(D) and (E); see also Special Order S.O. 07-01-04, Firearms Taken Into Custody or Turned In, Sections II(B)

²⁸ Special Order S.O. 07-01.04, Firearms Taken Into Custody or Turned In, Section III(A)(2)

²⁹ Civilian Office of Police Accountability Rules and Regulations, Article IV, §4.1.1

³⁰ Chicago Municipal Code 2-78-130(a)(i)

Officer B	1. Disturbed evidence, prior to processing, at the scene of a police-involved shooting.	Exonerated
Officer C	1. Disturbed evidence, prior to processing, at the scene of a police-involved shooting.	Exonerated

Approved:

Acting Deputy Chief Administrator-Chief
Investigator A
*Acting Deputy Chief Administrator-Chief
Investigator*

Date

Appendix A

Assigned Investigative Staff

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