

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	January 10, 2016
Time of Incident:	5:01 PM
Location of Incident:	XXX S. Keeler Avenue
Date of COPA Notification:	March 1, 2016
Time of COPA Notification:	1:01 PM

On January 10, 2016, at approximately 1745 hours, Involved Individual 1 and his wife, Involved Individual 2, were involved in a domestic altercation inside their residence, at XXX S. Keeler Ave. A family member called the police and the police responded. Involved Individual 1 alleged that during his arrest, Officer A struck him behind his left ear with his hand and called him "motherfucker." Involved Individual 1 further alleged that Officer A and Officer B "tossed" him inside the squadrol. Involved Individual 1 sought medical treatment on March 1, 2016 for a head injury he alleged he sustained on January 10, 2016.

## II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XX, Employee #XX, Date of Appointment, XX XX, 2007, Rank, Police Officer, Unit of Assignment, XX <sup>th</sup> district, DOB, XX XX, 1983, Male, Hispanic.
Involved Officer #2:	Officer B, Employee #XX, Date of Appointment, XX XX, 1991, Rank, Police Officer, Unit of Assignment, XX <sup>th</sup> district, DOB, XX XX, 1961, Male, Hispanic.
Involved Individual #1:	Involved Individual 1, 38 Years of Age, Male, White Hispanic.

## III. ALLEGATIONS

<sup>1</sup>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 Involved Individual 1 behind his left ear with his hand, in violation of Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded
	2. Tossed Involved Individual 1 inside a squadrol, in violation of 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded
	3. Called Involved Individual 1 a “motherfucker,” in violation of Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded
Officer B	1. Tossed Involved Individual 1 inside a squadrol, in violation of Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded

**IV. APPLICABLE RULES AND LAWS**

Rules

**Rule 9:** “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”

**V. INVESTIGATION<sup>2</sup>**

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

**a. Interviews**

IPRA conducted **Involved Individual 1’s audio statement** (in Spanish) on March 3, 2016, at approximately 5:45pm at his home located at XXX S. Keeler Ave. Involved Individual 1 stated that on January 10, 2016, he and his wife Involved Individual 2 were involved in a domestic altercation. Involved Individual 2 called the police and Officers A and B responded. Involved Individual 1 alleged that the officers grabbed him by his arms and began to escort him down the stairs. While walking down the stairs, Officer A slipped on the stairs and when he stood up; Officer A struck Involved Individual 1 behind his left ear with his hand and called him "motherfucker." Involved Individual 1 further alleged that Officer A and Officer B picked him up and tossed him

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

inside the squadrol. Involved Individual 1 stated that when he was being tossed inside of the squadrol by the officers, his nose struck the ground and then his head struck against the divider inside the squadrol. Involved Individual 1 stated that he did not pull away from the officers or stiffen his body. Involved Individual 1 alleged he sustained bruising to the back of his head and bruising to his nose.<sup>3</sup>

**Sergeant A submitted a witness report** to IPRA and related that on January 10, 2016, he was working Beat XXX, in uniform, without a partner, and he responded to a 10-1 at XXX S. Keeler Ave. When Sergeant A arrived on the scene, he observed the officers assigned to Beat XXX outside of their vehicle. Sergeant A did not see Involved Individual 1 on the scene because Involved Individual 1 was already inside the squadrol. Sergeant A was made aware of an injury to Officer B and transported Officer B to the hospital for medical treatment. Sergeant A did not observe any interaction between Involved Individual 1 and Officers A and B.<sup>4</sup>

**Officer C submitted a witness report** to IPRA and related that on January 10, 2016, he was working Beat XXX, in uniform, with partner Officer D. Officer C responded to a call of an assist vehicle for a domestic disturbance at XXX S. Keeler Ave. Officer C related that the incident was over when he arrived on the scene of the domestic disturbance. Officer C did not witness any physical or verbal contact between the responding officers and Involved Individual 1.<sup>5</sup>

**Officer D submitted a witness report** to IPRA and related essentially a similar account of the incident as Officer C. In addition, Officer D related he did not observe Involved Individual 1 during this incident and he did not hear Involved Individual 1 complain of any injury.<sup>6</sup>

**Accused Officer A submitted a report** to IPRA and related that he and his partner, Officer B, were in uniform and working Beat XXX. The officers responded to a call of a domestic disturbance at XXX S. Keeler Ave. Upon arrival, the officers spoke with the victim, Involved Individual 2, who was crying, distraught and had a bloody hand injury. Involved Individual 2 explained she was afraid of her violent husband, Involved Individual 1, who hit her with a belt buckle causing the injury to her hand. Involved Individual 2 further expressed that she wanted Involved Individual 1 arrested. Officers A and B encountered Involved Individual 1 when they entered the residence. Officer A told Involved Individual 1 that he was under arrest. Involved Individual 1 became angry and told the officers he was not going to be arrested and told the officers not to touch him. Involved Individual 1 became enraged when the officers attempted to place him in custody. At that time, Involved Individual 1 was combative with the officers and refused to follow the officers' verbal commands to stop resisting. The officers then performed an emergency takedown and handcuffing of Involved Individual 1 to place him under arrest. Involved Individual 1 was placed inside the squadrol and transported to the XX District Station for further processing. Involved Individual 1 did not sustain any injury and he did not complaint of any injury. The officers ordered an evidence technician (ET) to photograph Involved Individual 2, Involved Individual 1 and Officer B. Officer A denied the allegations made against him.<sup>7</sup>

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<sup>3</sup> Attachment 16, 19

<sup>4</sup> Attachment 58

<sup>5</sup> Attachment 60

<sup>6</sup> Attachment 61

<sup>7</sup> Attachment 59

**Officer B did not submit a report** to IPRA regarding this incident. Officer B submitted his request for retirement on September 15, 2015 with his retirement being effective on May 16, 2016.<sup>8</sup>

**b. Digital Evidence**

The **Arrest Photographs of Involved Individual 1** show no facial injury to him.<sup>9</sup>

**ET Photographs of Involved Individual 1** taken on January 10, 2016 show no apparent injury on Involved Individual 1.<sup>10</sup>

**ET Photographs of Officer B** taken on January 10, 2016 show a small red mark on the front of his left hand and redness to the inside of his left hand. Officer B's jacket has several white marks on the left sleeve. (Att. 47)

**ET Photographs of Involved Individual 2** taken on January 10, 2016 shows her right hand bloody and swollen.<sup>11</sup>

**ET Photographs of Involved Individual 1** taken on March 1, 2016 show no apparent injury on Involved Individual 1.<sup>12</sup>

**c. Physical Evidence**

The **Medical Records of Involved Individual 1** from Rush University Medical Center indicate he was admitted to the Emergency Room on March 1, 2016, at 11:47 am. Involved Individual 1 complained to hospital personnel that on January 10, 2016 during a domestic dispute, his wife called the police. He was arrested, handcuffed with his hands behind his back and was thrown inside the back of the “paddy wagon.” Involved Individual 1’s body slid inside the paddy wagon and his head hit the partition between the front of the paddy wagon and the prisoner section. Involved Individual 1 felt dizzy right after the incident. Involved Individual 1 further told hospital personnel that he woke up in jail the next day with a bruise behind his left ear. Involved Individual 1 also told hospital personnel that since January 10, 2016, he has suffered headaches associated with flashing lights, blurred vision and photophobia. He also complained of periodic lower back pain since January 10, 2016. Involved Individual 1’s diagnosis was classified as chronic nonintractable headache, unspecified headache type, and cervical sprain.<sup>13</sup>

**d. Documentary Evidence**

Sergeant B submitted an **Initiation Report** regarding his response to Rush Hospital requesting a supervisor to interview a battery victim. Upon arrival, Sergeant B met with the battery

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<sup>8</sup> Attachment 62

<sup>9</sup> Attachment 7

<sup>10</sup> Attachment 46

<sup>11</sup> Attachment 45

<sup>12</sup> Attachment 48

<sup>13</sup> Attachment 63

victim, Involved Individual 1. Involved Individual 1 alleged that on January 10, 2016, at 5:45pm when officers responded to his residence, XXX S. Keeler Ave., the officers picked him up and pushed him inside the Department vehicle when he refused to get inside. Involved Individual 1 alleged that when he was pushed inside the Department vehicle his head hit the divider in the vehicle. Involved Individual 1 complained of pain to his head since January 10, 2016 and sought medical treatment at Rush Hospital on March 1, 2016. Sergeant B did not observe any visible injury on Involved Individual 1. An evidence technician photographed Involved Individual 1.<sup>14</sup>

The **Original Case Incident Report**, the **Case Supplementary Report**, the **TRRs**, and the **Arrest Report** of Involved Individual 1, indicate he was arrested on a signed complaint by Involved Individual 2, the victim of the Domestic Battery. Involved Individual 2 alleged that Involved Individual 1 struck her on the hand with a belt buckle causing cuts and swelling to her hand. When Officers A and B informed Involved Individual 1 that he was under arrest, he became hostile. Involved Individual 1 told the officers not to touch him and to get out of his house as he pushed and pulled away from the officers. Officers A and B gave Involved Individual 1 verbal commands to stop resisting and he refused to do so. Officers A and B then performed an emergency take down handcuffing of Involved Individual 1 to affect the arrest. Involved Individual 1 was transported to the XX District Station for processing. Officer B sustained an injury to his finger during the arrest of Involved Individual 1. Involved Individual 2 was transported to St. Anthony's Hospital for her injury. ET photographs were taken of the injuries sustained by Involved Individual 2 and by Officer B. Involved Individual 1 was charged with Domestic Battery and two counts of Resisting/Obstruction of a Peace Officer. According to the TRRs, Involved Individual 1 did not report misconduct or injuries to Lieutenant A.<sup>15</sup>

The **OEMC Audio Transmissions, Calls to 911 Callers and Summary of the OEMC Audio Transmissions**, indicate that a male who identified himself as the older son of Involved Individual 2 and Involved Individual 1 reported his parents were fighting. In a subsequent 911 call, the unidentified male caller reported that one of the officers on the scene at XX and Keeler needed back up. The caller continued to report that the officers were struggling and fighting with the suspect and having trouble with him. The caller stated that the paddy wagon can be seen at XX and Keeler.

**e. Additional Evidence**

A **Canvass** of the vicinity of XXX S. Keller Ave. was conducted to locate witnesses. The canvass did not produce any witnesses.<sup>16</sup> Additionally, attempts were made to identify and speak with the 911 caller but were unsuccessful.<sup>17</sup>

**Certified Letters, First Class Letters and Personal Visits** were made to Involved Individual 2 and Involved Individual 3 to obtain an interview from them. Efforts to obtain an interview from Involved Individual 2 and/or Involved Individual 3 were unsuccessful.<sup>18</sup>

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<sup>14</sup> Attachments 5, 21

<sup>15</sup> Attachments 6, 8-11, 28

<sup>16</sup> Attachment 42

<sup>17</sup> Attachments 20, 37, 64-72

<sup>18</sup> Attachments 40, 41, 44, 50

The **Computerized Court and Disposition Information** regarding Involved Individual 1 indicate an Emergency Order of Protection was issued against Involved Individual 1 on January 11, 2016. On February 19, 2016 a Plenary Protection of Order was issued against Involved Individual 1. The Order of Protection against Involved Individual 1 was dismissed on May 27, 2016. On May 27, 2016, the charge of Domestic Battery and one count of Resisting/Obstruction of a Peace Officer were also dismissed. On May 27, 2016, Involved Individual 1 pled guilty and was found guilty on one count of Resisting/Obstruction of a Peace Officer.<sup>19</sup>

## VI. ANALYSIS

Involved Individual 1's version of events is contradicted by evidence. Although Involved Individual 1 denied that he was uncooperative with officers, the final independent 911 call reported that Involved Individual 1 was fighting with the officers; the caller requested backup for the officers. The officers documented in their reports that Involved Individual 1 was combative and uncooperative. The evidence clearly refuted Involved Individual 1's description of his actions and established that he was combative with officers. Likewise, Involved Individual 1 reported that his nose was bruised during the incident, but neither his arrest photos nor ET photos taken on January 10, 2016 show any visible injury to his nose. Based on these significant deviations from the objective evidence, COPA determined that Involved Individual 1's credibility is severely diminished.

### **Accused: Officer A**

COPA recommends a finding of **Unfounded** for **Allegation #1** that on January 10, 2016 at approximately 5:45 hours at XXX S. Keeler Ave., **Officer A** struck Involved Individual 1 behind his left ear with his hand, in violation of Rule 9. Involved Individual 1 stated that when Officer A was escorting him down the stairs, Officer A slipped on the stairs and when he stood up; Officer A struck Involved Individual 1 behind his left ear with his hand. Officer A related that Involved Individual 1 became enraged when he attempted to place him in custody; he denied striking Involved Individual 1. As described above, the evidence established that Involved Individual 1 was combative, and the officers documented they executed an Emergency Takedown.

Involved Individual 1 alleged he sustained bruising to the back of his head and bruising to his nose. The physical evidence fails to corroborate Involved Individual 1's account of the incident. ET photographs taken of Involved Individual 1 on January 10, 2016 and on March 1, 2016 show no signs of injury to Involved Individual 1. Involved Individual 1 sought medical treatment at Rush Hospital on March 1, 2016, nearly two months after his arrest on January 10, 2016 for the injuries he claimed he sustained during his arrest. Involved Individual 1 told hospital personnel he felt dizzy right after the incident. Involved Individual 1 further told hospital personnel that since January 10, 2016, he has suffered headaches associated with flashing lights, blurred vision and photophobia. He also complained of periodic lower back pain. Given the delay in seeking medical treatment, there is no verifiable nexus between Involved Individual 1's reported symptoms and his encounter with CPD officers. Additionally, the final 911 call clearly established that Involved Individual 1 was resisting the officers and corroborate the officers' description of the incident,

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<sup>19</sup> Attachments 23, 51

including the justified use of an Emergency Take Down. Also, Involved Individual 1 pled guilty and was found guilty of one count of Resisting/Obstruction of a Peace Officer.

There is no verifiable evidence to support Involved Individual 1's allegation that he was struck by Officer A. Considering the totality of the circumstances, including Involved Individual 1's diminished credibility, COPA determined that the incident did not occur as Involved Individual 1 alleged.

COPA recommends a finding of **Unfounded** for **Allegation #2** that on January 10, 2016 at approximately 5:45pm at XXX S. Keeler Ave., **Officer A** tossed Involved Individual 1 inside the squadrol in violation of Rule 9. Involved Individual 1 stated he was arrested, handcuffed with his hands behind his back and was tossed inside of the "paddy wagon." Involved Individual 1's body slid inside the paddy wagon and his head hit the partition between the front seats of the paddy wagon and the prisoner section. Involved Individual 1 alleged he sustained bruising to the back of his head and bruising to his nose. As described above, the injury to his nose that Involved Individual 1 alleged is not supported by photographic evidence. There is no verifiable evidence to support Involved Individual 1's allegation that he was tossed inside the squadrol. Considering the totality of the circumstances, including Involved Individual 1's diminished credibility, COPA determined that the incident did not occur as Involved Individual 1 alleged.

IPRA recommends a finding of **Unfounded** for **Allegation #3** that on January 10, 2016 at approximately 5:45pm at XXX S. Keeler Ave., **Officer A** called Involved Individual 1 "motherfucker," in violation of Rule 9. There is no verifiable evidence to support Involved Individual 1's allegation that Officer A called him a "motherfucker." Considering the totality of the circumstances, including Involved Individual 1's diminished credibility, COPA determined that the incident did not occur as Involved Individual 1 alleged.

**Accused:      Officer B**

IPRA recommends a finding of **Unfounded** for **Allegation #1** that on January 10, 2016 at approximately 5:45pm at XXX S. Keeler Ave., **Officer B** tossed him inside the squadrol in violation of Rule 9. As described above, the injury that Involved Individual 1 alleged is not supported by photographic evidence. There is no verifiable evidence to support Involved Individual 1's allegation that he was tossed inside the squadrol. Considering the totality of the circumstances, including Involved Individual 1's diminished credibility, COPA determined that the incident did not occur as Involved Individual 1 alleged.

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

Officer	Allegation	Finding
Officer A	1. Struck Involved Individual 1 behind his left ear with his hand, in violation of Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded
	2. Tossed Involved Individual 1 inside a squadrol, in violation of 1. Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded
	3. Called Involved Individual 1 a “motherfucker,” in violation of 1. Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded
Officer B	1. Tossed Involved Individual 1 inside a squadrol, in violation of 1. Rule 9: “Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”	Unfounded

Approved:

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*Deputy Chief Administrator – Chief Investigator*

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 Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	XX
<b>Investigator:</b>	Investigator
<b>Supervising Investigator:</b>	Supervising Investigator
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator