

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	September 2, 2014
Time of Incident:	Approximately 9:09p.m.
Location of Incident:	XXX W Fullerton Ave., Chicago, IL 60639
Date of COPA Notification:	September 3, 2014
Time of COPA Notification:	12:01a.m.

On September 2, 2014, Civilian 1 (“Civilian 1”) worked at his vender-cart in XXX Park when, at approximately 5:00p.m., Chicago Police officers drove past. As the officers drove past, one of the officers quietly said, “Fucking Mexicans.” According to Civilian 1, later that day, at around 9:00p.m., these same officers, identified by COPA as Officers A (“Officer A”) and Officer B (“Officer B”), initiated a traffic stop on Civilian 1. During the stop, Civilian 1 could not produce a valid driver’s license or proof of insurance. Civilian 1’s vehicle was moved by Officer B and legally parked. The traffic stop concluded with the release of Civilian 1 without the issuance of any citations. COPA investigated this incident. Upon conclusion of the investigation, COPA recommends findings of not sustained and exonerated.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXX, Employee ID#XXX, Date of Appointment: XXX, 2002, Police Officer, XXX District, DOB: XXX, 1979, Male, White
Involved Officer #2:	Officer B, Star XXX, Employee ID#XXX, date of Appointment: XXX, 201, Police Officer, XXX District, DOB: XXX, 1984, Male, White
Involved Individual #1:	Civilian 1, XXX, 1981, Male, Hispanic

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.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer A	It is alleged that on or about September 2, 2014, at approximately 9:00 p.m., at or near the location of XXX West Fullerton Ave., Officer A committed misconduct through the following acts or omissions;	
	1. Directed racially biased and/or derogatory language towards Civilian 1, in that he stated words to the effect of, "fucking Mexican(s)" while speaking to Civilian 1.	Not Sustained
	2. Directed racially biased and/or derogatory language towards Civilian 1, in that he stated words to the effect of, "You immigrants don't have a driver's license," while speaking to Civilian 1.	Not sustained
	3. Directed racially biased and/or derogatory language towards Civilian 1, in that he stated words to the effect of, "You Mexicans don't have a driver's licenses. None of you should be driving," while speaking to Civilian 1.	Not Sustained
	4. Handcuffed Civilian 1 without justification.	Exonerated
	5. Attempted to intimidate Civilian 1 by threatening to arrest him.	Exonerated
6. Failed to document his contact with Civilian 1.	Exonerated	

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 and brings discredit upon the Department.²
2. **Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.³
3. **Rule 6:** Disobedience of an order or directive, whether written or oral.⁴
4. **Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
5. **Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.⁵

² This Rule applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders or directives of the Department.

³ This Rule prohibits any omission or failure to act by any member of the Department, whether on or off duty, which act would be required by the stated policy, goals, rules, regulations, orders and directives of the Department. It applies to supervisory and other members who, through carelessness, inefficiency or design fail to implement all policy goals, rules, regulations, orders and directives of the Department or fail to report to the Department any and all known violations of same, or who through carelessness, inefficiency or design fail to become aware of any such violation, when their assigned duty or supervisory responsibility would require them to become so aware.

⁴ 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.

⁵ Rules 8 and 9 prohibit the use of any excessive force by any member. These rules prohibit all brutality, and physical or verbal maltreatment of any citizen while on or off duty, including any unjustified altercation of any kind.

V. INVESTIGATION⁶

a. Interviews⁷

IPRA interviewed Civilian 1 on December 4, 2014.⁸ The following is a summary of the interview. Civilian 1 stated that the incident began around 5:00p.m. on September 2, 2014, while he was at the park where he sells goods out of his vender-cart. An officer drove around the park about five or six times, and during the officer's fourth time around the officer quietly stated, "Fucking Mexicans." The officer also turned and looked at Civilian 1's mother, Civilian 3, and his wife, Civilian 2. The officer then left, only to pass by again later as Civilian 1 closed his cart.

Civilian 1 believed that the officer was going to follow him.⁹ Civilian 1 felt this way because it was the same officer that insulted him earlier in the day. The officer did follow Civilian 1 as he left the park, so Civilian 1 pulled his vehicle into a gas station because he was scared the officer was going to stop him somewhere dark. Once parked at the gas station, an officer sitting in the driver's position of the squad car, identified by COPA as Officer A, told Civilian 1, "You, come here." After some brief conversation, Officer A then said to Civilian 1, "You don't have a license. You Mexicans don't have a license. You shouldn't be driving. You're just an immigrant. You should be in prison."

After some additional argument, Officer A explained to Civilian 1 that he was going to drive Civilian 1 to the station and that he needed to give his keys to his partner, Officer B. Officer B then moved Civilian 1's vehicle as Civilian 1's daughter arrived on scene. The officers then released Civilian 1 without arrest but told him they would arrest him next time they catch him driving without a license.¹⁰

COPA interviewed **witness Officer B** on September 14, 2018. The following is a summary of his statement. Officer B remembered very little from the incident. However, the officer stated he was on patrol with Officer A who initiated a traffic stop on Civilian 1. Civilian 1 pulled into a gas station and stopped his vehicle. Officer B stood as the guard officer as Officer A spoke with Civilian 1. Shortly after the traffic stop began, some of Civilian 1's family members showed up at the gas station.

Officer B stated that a contact card was completed to document the stop because no traffic citations were issued. He had no recollection as to whether Civilian 1 was handcuffed or taken out of his vehicle. The officer remembered moving Civilian 1's vehicle but could not recall why.

⁶ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁷ Civilian 2 and Civilian 3 were scheduled for interviews on August 16, 2018; however, they did not show. Certified letters were sent to both parties, and Civilian 2's was signed and returned; however, the investigator has received no calls to reschedule the interview.

⁸ The interview was conducted in Spanish and transcribed to English.

⁹ An unidentified customer of Civilian 1 was present at this time and Civilian 1 explained to him the he believed the officer was going to follow him.

¹⁰ Attachments 6 and 28.

Officer B denied hearing Officer A use any derogatory language that day. Finally, he denied seeing Civilian 1 earlier in the day.¹¹

COPA interview **accused Officer A** on September 17, 2018. The following is a summary of his statement. Officer A told investigators that he worked with Officer B on September 2, 2014. The officers conducted a traffic stop after observing Civilian 1 not wearing his seatbelt. Civilian 1 finally stopped his vehicle off street at a gas-pump stall. Officer A then approached Civilian 1's vehicle and asked Civilian 1 for his license and proof of insurance. Civilian 1 exited his vehicle and Officer A collected Civilian 1's information to "run" Civilian 1's license, which resulted in no record on file. Civilian 1's family showed up on scene at that time. After learning that Civilian 1 had a meeting scheduled to get his temporary driver's license, Officer A decided not to issue Civilian 1 citations. Finally, Officer B legally parked Civilian 1's vehicle on the curb next to the gas station.

Officer A could not remember if Civilian 1 was handcuffed. But, he agreed it was possible Civilian 1 was handcuffed for officer safety and because Civilian 1 did not have a valid license. He further indicated that it was likely he had a conversation with Civilian 1 to explained to him that he could be arrested for driving without a valid driver's license. Officer A denied using any derogatory or racially driven language towards Civilian 1. Finally, Officer A explained to investigators that he never threatened Civilian 1 with arrest. Instead, the officer maintained he could have lawfully arrested Civilian 1 for driving without a valid license but exercised his discretion in not doing so.¹²

b. Documentary Evidence

A **Contact Card** created on September 2, 2014 documented that Civilian 1 was stopped for a minor traffic violation, and after a clear name-check, Civilian 1 was released.¹³

VI. ANALYSIS

Allegations 1, 2 and 3

Allegations 1, 2 and 3 alleged derogatory and racially driven language towards Civilian 1. However, independent witnesses who could have possible corroborated these statements were unresponsive to interview attempts by COPA. Additionally, Officer A denied using derogatory or racially driven language, nor did Officer B have any recollection of any such language by Officer A. Accordingly, COPA recommends a finding of not sustained for allegations 1, 2, and 3.

Allegations 4, 5 and 6

Allegations 4, 5 and 6 concern the interaction between Officer A and Civilian 1 once the traffic stop occurred. Civilian 1 never questioned the officer's justification for the initial stop and admitted to driving without a valid license. Officer A argued during his interview with COPA he

¹¹ Attachment 32.

¹² Attachments 33-36.

¹³ Attachment 24.

had the legal justification to handcuff and arrest Civilian 1, and we agree. It is a violation of Illinois state law to operate a motor vehicle without a valid driver’s license.¹⁴ Based on the statements of Officer A and Civilian 1, we find it more likely than not that Officer A had probable cause to place Civilian 1 under arrest and handcuff him. Therefore, regardless if Officer A actually arrested or placed Civilian 1 in handcuffs, a determination can be made that a communication by Officer A to Civilian 1 that he was subject to arrest and/or handcuffing Civilian 1 was more than likely than not proper. Accordingly, COPA recommends a finding of exonerated for allegations 4 and 5.

Finally, our investigation revealed that Officer A and B did document their stop of Civilian 1 by completing a Contact Card. Therefore, COPA recommends a finding of exonerated for allegation 6.

CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer A	It is alleged that on or about September 2, 2014, at approximately 9:00 p.m., at or near the location of XXX West Fullerton Ave., Officer A committed misconduct through the following acts or omissions;	
	1. Directed racially biased and/or derogatory language towards Civilian 1, in that he stated words to the effect of, “fucking Mexican(s)” while speaking to Civilian 1.	Not Sustained
	2. Directed racially biased and/or derogatory language towards Civilian 1, in that he stated words to the effect of, “You immigrants don’t have a driver’s license,” while speaking to Civilian 1.	Not sustained
	3. Directed racially biased and/or derogatory language towards Civilian 1, in that he stated words to the effect of, “You Mexicans don’t have a driver’s licenses. None of you should be driving,” while speaking to Civilian 1.	Not Sustained
	4. Handcuffed Civilian 1 without justification.	Exonerated

¹⁴ 625 ILCS 5/6-101

5. Attempted to intimidate Civilian 1 by threatening to arrest him.	Exonerated
6. Failed to document his contact with Civilian 1 .	Exonerated

Approved:

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

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