

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

**I. EXECUTIVE SUMMARY**

Date of Incident:	December 3, 2016
Time of Incident:	11:15 am
Location of Incident:	XXXX E 82 <sup>nd</sup> St, Apt. X, Chicago, IL 606XX
Date of COPA Notification:	December 9, 2016
Time of COPA Notification:	6:48 pm

On December 3, 2016, at or around 11:15 am, Chicago Police Officer A and several other officers were dispatched to XXXX E. 82<sup>nd</sup> St. Apt. X to respond to a complaint of possible criminal trespass. According to the landlord’s statements to police, Involved Individual 1 had been lawfully evicted on December 1, 2016 by the Cook County Sheriff and unlawfully re-entered the premises. Officers entered the premises and did a sweep of the apartment where they encountered Involved Individual 1 and her five-year-old son. The officers arrested Involved Individual 1 for criminal trespass to real property and criminal damage to property. Involved Individual 1 made a complaint to The Independent Police Review Authority (IPRA) alleging that one of the officers, Officer A, used a racial slur and pointed his gun at her and her child. Upon investigation, including review of Officer A’s body-worn camera footage of the incident, COPA concludes Involved Individual 1’s allegations are unfounded.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer A, Star #XXXX, Employee ID#XXXX, Date of Appointment: XXXXX XX, 1998, rank Police Officer, Unit of Assignment: XXX, DOB: XXXXXX XX, 1957, Male, Black
Involved Individual #1:	Involved Individual 1, DOB: XXXXXX XX, 1982, Female, Black

<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.

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer A	1. Used disrespectful language toward Involved Individual 1 including a racial slur, specifically, "I don't believe shit you say. There could be niggers in here or anything", in violation of Rules 8 and 9	Unfounded
	2. Unnecessarily pointed a gun at Involved Individual 1 and her son, Civilian 1, in violation of Rule 38.	Unfounded

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. Rule 8- Disrespect to or maltreatment of any person, while on or off duty.
2. Rule 9- Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
3. Rule 38- Unlawful or unnecessary use or display of a weapon.

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General Orders

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1. General Order G02-03 (eff. Date 4/18/16) Community Relations Strategy: Section II(B)(2) "The Department will approach all interactions with the public as opportunities to enhance the perceptions of law enforcement and build upon public trust."

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Special Orders

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1. Special Order S04-01-03 Landlord-Tenant (Lockouts)/Innkeeper-Guest Disputes

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

### a. Interviews

**IPRA interviewed Involved Individual 1<sup>3</sup>** on December 12, 2016. Involved Individual 1 stated that she was at her residence at XXXX E. 82<sup>nd</sup> St. Apt. X, when she heard a knock at her front door. Involved Individual 1 stated that she went to her bedroom and got dressed when she heard a loud banging at her door again. She then heard someone force the door open and she observed several uniformed police officers come through the door with their weapons drawn. She stated the first officer through the door may have been in plain clothes with a police jacket on. She believed his name was “Officer B” or something similar. She stated that “Officer B” pointed his gun at her. Further, she stated that when her five-year-old son, Civilian 1, asked why the officer was pointing a gun at his mother, the officer pointed his gun at the five-year-old. Involved Individual 1 said she told the officer that no one else was in the house and the gun was not necessary. She said that he replied, “I don’t believe shit you say. There could be niggers in here.” She saw other officers on the scene who entered after “Officer B.” The other officers informed her she was under arrest and inquired if there was anyone who could come get Civilian 1. Involved Individual 1 informed the officers she would have to call someone to come get her son. She relayed that while they were waiting for someone to come get her son, “Officer B” continued to be rude and curse at her. Later, as the officers were taking her out of the building, Involved Individual 1 asked a female officer named Officer C what she was being arrested for and was told “trespass.” Involved Individual 1 protested that she had never been to court for an eviction and so she could not be trespassing. The female officer checked with the other officers on scene and informed Involved Individual 1 that the landlord had documentation of a legal eviction. Involved Individual 1 was taken to the 6<sup>th</sup> District for processing. She did not see “Officer B” at the 6<sup>th</sup> District. Involved Individual 1 stated that she has no complaints about the other officers at the scene or at the district.

**COPA interviewed Accused Officer A** on September 6, 2018. On December 3, 2016 at around 11:45 am Officer A was on duty working in the 006<sup>th</sup> District. Officer A did not have an independent recollection of why he was called to the address of XXXX E. 82<sup>nd</sup> St. He referred to the arrest report<sup>4</sup> to recall that he went to the address to back up officers at the scene. He was not sure whether he was the first officer on the scene. Officer A stated that on that day, he entered the apartment through the front door. He believed the apartment manager, or some member of the building’s staff, let him into the unit. The call received by Chicago Police Department, as stated by Officer A, said that there was believed to be a man and a woman who had broken into the unit. Officer A entered the unit with his gun drawn. Officer A stated that his gun was drawn because of the report that there was possibly a man and a woman inside who had broken in to the apartment. After Officer A entered, he announced himself and heard the voice of a woman behind a closed

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<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.

<sup>3</sup> Att. 7

<sup>4</sup> Att. 9

bedroom door. After repeated commands by Officer A to come out of the room and show him her hands, a woman, Involved Individual 1 exited the room into the hallway. When Officer A saw Involved Individual 1, he stated that he took his gun to a position pointed toward the floor with the gun against his chest, a position referred to as “high ready.” After Involved Individual 1 left the bedroom, Officer A continued to check the rest of the apartment, heading to the back of the unit toward the kitchen. No one else was in the unit. Officer A then holstered his weapon and walked back to the bedroom where Involved Individual 1 and her son were talking to other officers on the scene. Officer A stated that he never saw Involved Individual 1’s son while his gun was unholstered. The child stayed in the bedroom while Officer A searched the apartment. Officer A stated that he never pointed a gun at Involved Individual 1 or her son. Officer A further stated that he never used a racial slur at any time while he was in Involved Individual 1’s presence.

**COPA spoke with Civilian 2 on August 27, 2018 via telephone.** The conversation was not audio recorded but was summarized in a memorandum.<sup>5</sup> Civilian 2 was the former landlord of the property and the individual who called the police to the scene on the date of the incident. Civilian 2 was on scene when the police arrived. Civilian 2 remembered the incident though he did not recall Involved Individual 1’s name. He said he called the police because a former tenant whom he evicted had come back to the apartment and changed the locks so she could continue to live there. When the police arrived, Civilian 2 let them in the building and his property manager, Civilian 3<sup>6</sup>, removed the locks on the unit so police could enter. Civilian 2 did not witness what happened inside the apartment as he stayed in the hall when the police entered.

#### **b. Digital Evidence**

**Officer A Body Worn Camera Video<sup>7</sup>:** Video begins with a time stamp of 17:01:11 on December 3, 2016. Video shows Officer A in a stairwell outside an apartment unit. At 17:02:44, the officer proceeds down the stairs to the front door of the building where he meets two men: a small Hispanic man and a large black man in a grey hoodie and blue baseball cap who is carrying a large set of keys. The Hispanic man, presumably the building manager, leads the officer upstairs. At 17:04:21, Officer A then enters the apartment. Officer A calls “If you are in here, let me see your hands. Chicago Police. If you are in here, let me see your hands.” A woman’s voice can be heard over the audio. The woman informs him that her son is in the bedroom with her. She is still not visible. Officer A instructs her to step out of the room and into view. He asks out loud “Anybody else in here?” The woman responds “No one else is in here.” Officer A responds “I’m not gonna take your word for it.”<sup>8</sup> He then proceeds through the dining room into the kitchen at the back of the unit. Neither Involved Individual 1 nor her son are visible on camera. When Officer A is in the kitchen and his firearm is visible on the camera, it appears to be held close to his body with the muzzle pointed at the floor. At 17:05:06, another officer, male Hispanic with a short beard, appears in frame, weapon at high ready. At 17:05:18, both officers holster their sidearms. Officer

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<sup>5</sup> Att. 28. Given the limited information and recollection Civilian 2 had two years after the incident, it was determined that full recorded interview was not necessary.

<sup>6</sup> COPA attempted to contact Civilian 3 to take a statement, but Civilian 3 was not cooperative. See Attachment 23.

<sup>7</sup> Att. 24 - This attachment is not the actual video itself but a file reference in the COPA case management system. Attachment 24 includes body worn camera footage from Officer A and Officer D saved on a single disc. Time references are based on the clock shown in the body camera footage. This time stamp is not accurate as to the time of the event but is internally consistent.

<sup>8</sup> Id. At 17:04:45

A and the bearded officer both walk back through the unit toward the bedroom where Involved Individual 1 and her son are speaking with another group of police officers. Officer A informs the officers that Involved Individual 1 had been evicted by the landlord and she and her boyfriend had changed the locks and moved her back in. Officer A addresses Involved Individual 1 and informs her she was evicted. Involved Individual 1 argues with him. Officer A instructs her to put shoes on and tells her she is going to jail. This news upsets the 5-year-old who starts yelling. Involved Individual 1 and a female officer calm him down. The female officer inquires about who can come take custody of the child while Involved Individual 1 is taken for processing. Involved Individual 1 protests she never received any eviction paperwork. Officer A asks her who took the notice off the door from the eviction. She denies there ever was a notice. The officers then wait while Involved Individual 1 dresses her son and makes calls for someone to watch him. At 17:15:12, Officer A leaves the apartment unit and heads to the stairwell in the hallway where he deactivates his camera.

**Officer D Body Worn Camera Video<sup>9</sup>:** Video begins with a time stamp of 17:03:31 on December 3, 2016. Officer D is standing in an outside stairwell with his weapon un-holstered, pointed down. He appears to be watching the rear exit of the unit while other officers go in the front. At 17:05:23, he radios in to check if the unit was empty. Dispatch informed him it was not, but that officers had entered. He leaves his position at the rear stairwell and goes to the front of the building to enter the apartment unit. When he arrives, several other officers are in the hallway and inside the unit itself. At 17:07:41, Officer D is in the hallway with Officer A and a female officer, speaking with Involved Individual 1 about her eviction. All officers have their weapons holstered.

At 17:08:40, Officer D walks to the outside hallway where several officers are speaking with a young Hispanic man. Upon information and belief, this man is Civilian 2, the landlord. They speak with Civilian 2 about the eviction. He informs them that she was legally evicted and that she came back and changed the locks. He produces the relevant court documents and shows them to the officers. He states that she has engaged in criminal trespass and wants to press charges. Officer D briefly attempts to talk him out of it because she has kids. Civilian 2 insists on having her arrested. The officers ask him about arrangements for her belongings and he explains their usual procedure. Officer D then discusses arrangements for transport of Involved Individual 1 and her son with the other officers. The officers then wait and help get the child ready for transport.

At 17:15:57, Officer D speaks with Involved Individual 1. He asks her if she has been arrested before and assures her that he will try and make the process as easy as possible. At 17:38 Officer D and the female officer bring Involved Individual 1 out of the apartment to head for their vehicle. It was stated on the camera that D was conducting the arrest because A was about to go on furlough. Officer D advises Involved Individual 1 to remove anything from her person that does not belong in a police station. At 17:45:11, Officer D takes Involved Individual 1 to a marked SUV and places her in the vehicle for transport. Officer D kept his camera on while he started to fill out paper work. He spoke with Involved Individual 1's aunt, who came to pick up Civilian 1, and told her what to expect as far as Involved Individual 1's booking and processing. He then spoke with Civilian 2 in order to inform him about the court process for the case. At 17:55:15, Officer D deactivated his camera.

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<sup>9</sup> Att. 24

### c. Documentary Evidence

**Arrest Report<sup>10</sup>:** Arrestee was Involved Individual 1, a thirty-four year old, black female. The arrest took place at XXXX E. 82<sup>nd</sup> St. Apt #X. Involved Individual 1 was taken into custody on signed complaints from landlord, Civilian 2, that arrestee was legally evicted on December 1, 2016 and subsequently returned to the apartment and changed the locks to replace them with her own locks. Involved Individual 1 had no warrants or investigative alerts outstanding. Arrest was noted to be recorded by body camera.

**General Offense Case Report<sup>11</sup>:** Beats XXX, XXX, XXX and XXX responded to location of XXXX E. 82<sup>nd</sup> St. Apt #X on a call from the landlord. The landlord was notified by other tenants that they heard what sounded like locks being broken from the unit in the middle of the previous night. The building manager, Civilian 3, was on site and let police into the building. Inside the apartment, police found Involved Individual 1 and her five-year old son, Civilian 1, who was released to Involved Individual 1's cousin. Involved Individual 1 was transported to 006 District by Beat XXX for processing.

**OEMC Event Query<sup>12</sup>:** OEMC events for Event #XXXXXXXXXX show units XXX and XXX dispatched to XXXX E. 82<sup>nd</sup> St. At 10:57:59, Unit XXX requested an additional car on the scene. XXX and XXX were dispatched to assist. At 11:34, XXX, XXX and XXX returned to the 6<sup>th</sup> district with an arrest. It was reported that the original call to the scene came from a tenant who said the locks were changed and they could hear someone in the apartment. At 15:27:55, event was closed.

**Cook County Circuit Court Docket<sup>13</sup>:** Court docket shows that case # XXXXXXXXXXXX was filed on July 21, 2016. After numerous attempts to serve the summons failed on September 1, 2016, a notice by posting affidavit was filed. The court granted an order of possession on September 15, 2016. Eviction was filed with the Cook County Sheriff's Office on October 27, 2016.

## VI. ANALYSIS

In Involved Individual 1's interview with IPRA, she made two distinct allegations: (a) that an officer cursed at her and used rude racially inappropriate language; and (b) that the same officer pointed a gun, without cause or need, at her and her five-year-old son.<sup>14</sup> Involved Individual 1 did not have the officer's star number and thought the officer was named "B", or something similar<sup>15</sup>. The attendance and assignment record for that watch in the 6<sup>th</sup> District show an Officer A, star

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<sup>10</sup> Att. 9

<sup>11</sup> Att. 10

<sup>12</sup> Att. 11

<sup>13</sup> Att. 17

<sup>14</sup> Att. 7.

<sup>15</sup> Id at 03:48

#XXXXX<sup>16</sup> as on duty and working during that shift. Further the OEMC dispatch records show his beat was one of the beats dispatched to XXXX E. 82<sup>nd</sup> St. that day.<sup>17</sup> COPA also obtained Body Worn Camera for Officer A that would support the conclusion that he was the officer in question. This report therefore concludes the officer in question was Officer A.

**a. Allegation 1: Disrespectful use of language including a racial slur in violation of Rules 8 and 9**

The first allegation falls under Rule 8 and Rule 9 of the Chicago Police Department directives. Rule 8 states that it is forbidden for a Chicago Police officer to act with “(d)isrespect to or maltreatment of any person, while on or off duty.” Rule 9 forbids a Chicago Police officer from “engaging in any unjustified verbal or physical altercation with any person, while on or off duty.” The question is then, whether Officer A’s conduct constituted disrespect, maltreatment or an unjustified verbal altercation.

Fortunately, the incident was captured on body worn camera, both from the camera worn by Officer A and the camera worn by Officer D. The body worn camera footage shows Officer A entering the apartment and doing a sweep for individuals inside. Officer A announces himself, instructs anyone in the area to show him their hands, and asks if anyone else is in the unit.<sup>18</sup> Involved Individual 1 responds that no one else is there. Officer A responds, “I’m not going to take your word for it” and proceeds to finish his sweep of the unit. At no time in that interaction did Officer A use a racial slur or foul language of any kind. Later, when the officers on scene are questioning Involved Individual 1 about the circumstances of her eviction, Officer A asks her if she took the notice sign off the door. His tone was somewhat confrontational toward Involved Individual 1<sup>19</sup>, but he was in the process of conducting an arrest and he kept his tone and language reasonable and professional. Some of the other officers on the scene, particularly Officer D, made a considerable effort to reassure Involved Individual 1 and keep her child calm. Compared to them, Officer A’s manner was brusque, but it did not constitute disrespect, maltreatment or an unnecessary verbal altercation. Therefore, this allegation is **unfounded**.

**b. Allegation 2: Unnecessary display of weapon in violation of Rule 38.**

The second allegation is for a violation of Rule 38, which prohibits an officer from the “unlawful or unnecessary use or display of a weapon.” Therefore, the questions are in what way did Officer A use his weapon and whether it was necessary and lawful.

According to Officer A’s testimony, he entered to the apartment with his gun drawn due to the complaint from the landlord that there was possibly a man in the apartment who had broken in. Officer A stated that he pointed the gun down when Involved Individual 1 came into view. While Officer A’s gun is not always visible in the body worn camera footage, what footage we have is consistent with his statement. The videos show that Officer A had his weapon out when he entered

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<sup>16</sup> Att. 12.

<sup>17</sup> Att. 11.

<sup>18</sup> Att. 24 (A) at 17:04:26

<sup>19</sup> Id at 17:06:13

the apartment<sup>20</sup>. Neither Involved Individual 1 nor her child are visible on the camera while Officer A's gun is unholstered. The video also shows that once the officers have gone through the unit and determined the only individuals present were Involved Individual 1 and her child, they all holstered their weapons<sup>21</sup>. Although Involved Individual 1 only made an allegation against Officer A, at no time caught by the camera did any officer point a gun at Involved Individual 1 or her child. Additionally, the audio from the body worn cameras does not reveal any complaints from Involved Individual 1 about foul language or pointed guns, or any comments indicating that either allegation occurred.

When police officers are entering an unknown situation, they cannot assume they know what they are walking into. They could have encountered armed and hostile people inside the apartment. The officers had no way of knowing otherwise until they searched the unit. Therefore, having their weapons in "high ready," or even in the forward position, was appropriate. According to Officer A's statement, when he entered the apartment, he had his gun out. When he encountered Involved Individual 1 in the hall he shifted the gun to "high ready." Once he had checked the house for suspects, he holstered his weapon.<sup>22</sup> He had no contact with Involved Individual 1's son until after he holstered the gun. This use and display of his weapon was not unnecessary or unlawful. The body worn camera footage does not capture the position of Officer A's gun for the entire incident, but what footage is available is consistent with his statement. As he did not point his weapon at Involved Individual 1 or her child, this allegation is **unfounded**.

While Involved Individual 1's allegations were determined to be unfounded, that is not the same as a determination that she lied. It is worth pointing out that this was understandably an intense experience for Involved Individual 1. The presence of armed law enforcement officers in a person's home, near children, would make most people scared and uncomfortable. While Officer A's conduct was within the policy of the Chicago Police Department, it does contrast with the exemplary way Officer D handled the situation. As can be seen numerous times in the video<sup>23</sup> Officer D took extra measures to ensure Involved Individual 1 and her child remained calm and had as much information as possible about what to expect from the arrest. His patience and consideration represent the very best of what we ask from our police officers.

## VII. CONCLUSION

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<sup>20</sup> Id. (A) at 17:04:23 & (A) at 17:04:57

<sup>21</sup> Att. 24 (A) at 17:05:20

<sup>22</sup> Id.

<sup>23</sup> For example, Att. 24 (D) at 17:15:07



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

<b>Officer</b>	<b>Allegation</b>	<b>Finding</b>
Officer A	1. Used disrespectful language toward Involved Individual 1 including a racial slur, specifically, “I don’t believe shit you say. There could be niggers in here or anything”, in violation of Rules 8 and 9	Unfounded
	2. Unnecessarily pointed a gun at Involved Individual 1 and her son, Civilian 1 in violation of Rule 38.	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>	X
<b>Investigator:</b>	Investigator 1
<b>Supervising Investigator:</b>	Supervising Investigator 1
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator 1