

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

## I. EXECUTIVE SUMMARY

Date of Incident: <sup>2</sup>	November 1, 2017
Time of Incident:	11:00 A.M.
Location of Incident:	XXXX S. Cottage Grove
Date of COPA Notification <sup>3</sup> :	November 30, 2017
Time of COPA Notification:	10:59 A.M.

On November 1, 2017, Involved Civilian 1 was escorted from the rear of the XXXXXXXXX where she worked, handcuffed, placed inside the squadrol and transported to a CPD station at XXXX S. Cottage. Involved Civilian 1 was questioned by Officer A related to a burglary that her boyfriend was suspected of committing. Involved Civilian 1 alleged that Officer A never mirandized her, and that Officer A attempted to coerce her into implicating her boyfriend.

Based on its review of the evidence, COPA determined that the allegations against Officer A are Exonerated for threatening Involved Civilian 1 and Not Sustained for failing to provide Miranda Warnings.

## II. INVOLVED PARTIES

Involved Officer#1:	Officer A, XXXXXX, XXXXX, XXX XX, 1987, Det., XXX District, XX-XXX-1961, Male, African American
Involved Civilian #1:	Involved Civilian 1, XX XX, 1997, Female, African American

## III. ALLEGATIONS

Officer	Allegation	Finding
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<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, recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>2</sup> The complainant claimed the alleged incident took place on November 21, 2017. After a thorough investigation, COPA was able to determine that the alleged incident took placed on November 1, 2017.

<sup>3</sup> Email Notification

Officer: Officer A	<p>1. It is alleged, that on Nov 21, 2017 at approximately 12:26 p.m., at or about XXXX S. Cottage, Officer A threatened Involved Civilian 1 with arrest if she did not provide a name of a person in the photos showed to her.</p> <p>2. It is alleged, that on November 21, 2017 at approximately 12:26 p.m., at or about XXXX S. Cottage, Officer A failed to provide Involved Civilian 1 with her Miranda Warnings.</p>	<p>Exonerated</p> <p>Not Sustained</p>
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**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 1: Violation of any law or ordinance

General Orders

1. G-04-03 Interrogations: Field and Custodial
2. G-06-01-04 Arrestee and In- Custody Communications
3. G04-01 Preliminary Investigations

Special Orders

1. BDSO 15-10 Statements of Victims/ Witnesses and Offenders

Federal Laws

1. Miranda v. Arizona, 384 U.S. 436 (1966)
2. Berkemer v. McCarty, 468 U.S. 420 (1984)
3. Maryland v. Shatzer, 130 S. CT 1213 (2010)
4. Berghuis v. Thompkins, 560 U.S. (2010)

**INVESTIGATION<sup>4</sup>**

**a. Interviews**

<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

**In an interview with C.O.P.A, on December 5, 2017, Involved Civilian 1 stated** that on the date in question, November 21, 2017<sup>5</sup>, two tactical officers arrived at her place of employment XXXXXXXX XXXXXXXX and showed a picture of her to the manager of the store. Involved Civilian 1 was then placed in custody. Involved Civilian 1 stated that the tactical officers did not tell her why she was being arrested. Involved Civilian 1 recalled, that while she and the tactical officers were waiting, she asked them questions and the tactical officers responded by stating, “We are waiting for a pickup.”<sup>6</sup> Involved Civilian 1 stated that she had asked the officers why she was under arrest. Involved Civilian 1 stated, “the officers then read me my rights”<sup>7</sup> and explained that a detective at the station would provide her with more information.

Involved Civilian 1 stated that when additional officers arrived, she was placed into handcuffs and escorted from the rear of the restaurant into the squadrol. When Involved Civilian 1 arrived at the station she stated that Officer A came into the room to question her. Involved Civilian 1 asked Officer A why she was at the station and Involved Civilian 1 stated that Officer A explained to her that there was a home burglary and that a laptop was stolen from the house. Involved Civilian 1 stated, that Officer A mentioned that whoever stole the laptop had tried to change the profile and attempted to access an iTunes account; the victim of the burglary received an email with the address of XXXXXX.XXXXXXX@icloud, which was connected to a name of Involved Civilian 1.

Involved Civilian 1 explained that Officer A presented her with pictures of her boyfriend, Involved Civilian 2, which were taken by the victim of the burglary during the incident. Involved Civilian 1 stated that she had no information about where this incident occurred and that the detective wanted her to identify Involved Civilian 2. Officer A explained to Involved Civilian 1 that the victim did not want her but wanted the man in the picture who committed the burglary. Involved Civilian 1 stated that she was inside the interview room for “three hours.”<sup>8</sup>

Involved Civilian 1 stated that when she had finished crying hysterically she gave the name of the man in the picture to Officer A. Involved Civilian 1 recalled that the detective said, “we can do it the easy way or the hard way,”<sup>9</sup>and that she could be charged with a felony or misdemeanor, when questioning her. Involved Civilian 1 stated that Officer A was the only person who questioned her. Involved Civilian 1 stated that she never asked for an attorney during the questioning, and never requested to make a phone call. Finally, Involved Civilian 1 stated that Officer A never mirandized her.

**In an interview with COPA, on May 30, 2018, Officer A, stated** that the case supplemental report did not assist with his recollection about the date of the incident. Officer A explained that he was made aware of the burglary case, from an officer from the 3<sup>rd</sup> district. Facial recognition of the pictures taken by the victim of the burglary were completed by the 3<sup>rd</sup> district

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<sup>5</sup> Allegations were served with the incident date November 21, 2017 however later investigation revealed the actual date of the arrest was November 1, 2017.

<sup>6</sup> See Audio Recorded Statement of Involved Civilian 1 (Att.4) at 2:27

<sup>7</sup> See Audio Recorded Statement of Involved Civilian 1 (Att.4) at 2:35

<sup>8</sup> See Audio Recorded Statement of Involved Civilian 1 (Att.4) at 6:41

<sup>9</sup> See Audio Recorded Statement of Involved Civilian 1 (Att.4) at 7:15

officer but results were inconclusive. Officer A stated that the victim said she was inside the house when the incident happened and was able to get the attention of the offender to take a photo of him before he left with the items he stole from her, which included a laptop. Officer A stated that the victim contacted him about an email she received from Apple informing her that an attempt had been made to change the iTunes account on the stolen laptop. The email informed the victim that if this was not her she needed to change her password. The email address of XXXXXX.XXXXXXX@icloud did not belong to the victim or any member of the household.

Officer A explained that the victim and her son investigated this matter further, on their own, and discovered this email was attached to a Facebook account under the name of Involved Civilian 1. Officer A stated that the victim reviewed Involved Civilian 1's friends and photos on Facebook and located a photo of the offender who was inside the home and was also able to find Involved Civilian 1's place of employment.

Officer A stated that the States Attorney advised him to bring this person into the police station since there is probable cause to ascertain if she had additional information. Officer A contacted the tactical officers and provided them with the information about Involved Civilian 1.

Officer A said that the day Involved Civilian 1 was arrested, the tactical officers had informed him that she was in the holding cell in the tactical office. Officer A said he went into the office and provided her with the Miranda Warnings and explained the incident to Involved Civilian 1. Officer A stated that he asked Involved Civilian 1 if she wanted to talk about the incident and she waived her rights. Officer A stated that when he showed Involved Civilian 1 pictures of the offender and she began crying. Officer A stated that Involved Civilian 1 explained to him that the offender used her car and credit card to commit a crime and that the police confiscated her car

Officer A stated that he left the room for a few minutes so that Involved Civilian 1 could gather herself and when he returned Involved Civilian 1 identified the person in the picture as her boyfriend Involved Civilian 2. Officer A said he never told Involved Civilian 1 she was under arrest but did provide her with the Miranda Warnings. Officer A believes there was probable cause because she attempted to change the profile of the iTunes account that was located on the stolen laptop. Officer A recalled that Involved Civilian 1 never requested an attorney and never invoked her rights to remain silent. Officer A stated that Involved Civilian 1 was never threatened with an arrest and was alone when he mirandized her.

#### **b. Documentary Evidence**

**A copy of the Office of Emergency Management and Communications Event Query Report was obtained**<sup>10</sup>According to the event query the incident occurred November 1, 2017.

**A copy of the Daily A&A sheet**<sup>11</sup> for November 1, 2017 was obtained from the Chicago Police Department to verify that Officer A was on duty.

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<sup>10</sup> See Att. 15

<sup>11</sup> See Att. 26

**A copy of the Chicago Police Department Arrest Report was obtained.**<sup>12</sup> The arrest report shows the arrest of the complainant for theft/unauthorized con/\$500. It further states that the Arresting Officer received information per Officer A that the offender (Involved Civilian 1,) was in possession of an Apple Mac Book Air that was taken in a Burglary documented under RD# XXXXXXXX. The victim was notified by Apple Care that an Involved Civilian 3 attempted to make changes to the iTunes Account which was on the Mac Book Air Computer which was taken in the Burglary. Charges: Theft. The offender was placed into custody and transported to the 003<sup>rd</sup> District for further processing.

**A copy of the Chicago Police Department Inventory Property Form**<sup>13</sup>. The property inventory form shows the following:

- (1) one brown and beige purse.

**A copy of the complaint submitted from XXXXXX.XXXXXXX@icloud .com was obtained.**<sup>14</sup> The email said that the incident took place on November 21, 2017 at 11:00 p.m. The email provides a description of the detective involved and the nature of the incident.

**A copy of the Chicago Police Department Supplementary Report completed by Officer A**<sup>15</sup>. The report provides details of the interview conducted at the 003<sup>rd</sup> District Police Station. Officer A documented that Involved Civilian 1 was given her Miranda Warnings and she declined to invoke them. Furthermore, the report provides the nature of the investigation.

**A copy of the Original Case Incident Report was obtained**<sup>16</sup>. The report provides details of the incident being investigated. It also provides information about the victim and how she obtained photos of the offender. Additionally, the report provides a description of the items removed from the home.

## V. ANALYSIS

Allegation 1 that Officer A threatened Involved Civilian 1 with arrest if she did not provide the name of the person in the photo is **Exonerated**. Based on the investigation conducted by Officer A he had probable cause to believe that Involved Civilian 1 was involved with the theft of the apple laptop. The email address linked to her Facebook profile was used to attempt to change the iTunes account on the stolen laptop. Knowing the photo of the offender was male and did not fit Involved Civilian 1s description does not exonerate her from all culpability. Probable cause existed to charge Involved Civilian 1 with several crimes including as an accessory to the theft, possession of a stolen item and even fraud. Whether the Detective threatened these charges is irrelevant as it would be within his discretion to explain she could be charged. The Officer Admitted to informing Involved Civilian 1 of his options for charging, though the accounts differ

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<sup>12</sup> See Att. 13

<sup>13</sup> See Att. 12

<sup>14</sup> See Complaint

<sup>15</sup> See Att. 24

<sup>16</sup> See Att. 25

slightly how that was done, the detective did not violate any constitutional rights or department rules or directives. As such the allegation is Exonerated.

COPA finds Allegation #2 that Officer A did not provide Involved Civilian 1 her Miranda Warnings is **Not Sustained**. According to G04-03 warning of the individual’s rights must be given before the commencement of any in-custody interrogation about a specific crime or offense for which the individual is in custody.”<sup>17</sup> Officer A documented in the case supplementary report and later stated to COPA that Involved Civilian 1 was given her rights and declined to invoke her right to remain silent. We find Officer A credible. Involved Civilian 1 admitted that it was possible the tactical officers may have read her the Miranda rights but Officer A had not.<sup>18</sup> No independent evidence exists to confirm or deny whether the rights were given. Nothing in Involved Civilian 1s version is impeached by the evidence. Officer A noted that the rights were given and Involved Civilian 1 says they were not. As such the evidence is not sufficient to sustain or unfound this allegation, therefore the allegation is Not Sustained.

**CONCLUSION**

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

Officer	Allegation	Finding
Officer: Officer A	1. It is alleged, that on Nov 21, 2017 at approximately 12:26 p.m., at or about XXXX S. Cottage, Officer A threatened Involved Civilian 1 with arrest if she did not provide a name of a person in the photos showed to her.	Exonerated
	2. It is alleged, that on November 21, 2017 at approximately 12:26 p.m., at or about XXXX S. Cottage, Officer A failed to provide Involved Civilian 1 with her Miranda Warnings.	Not Sustained

Approved:

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 Deputy Chief Administrator – Chief Investigator A

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 Date

<sup>17</sup> G04-03 Interrogations: Field and Custodial

<sup>18</sup> Att 5 at 13:00

Appendix A

Assigned Investigative Staff

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**Squad: X**

**Investigator: A**

**Supervising Investigator: A**

**Deputy Chief Administrator: Deputy Chief  
Administrator – A**