

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

### I. EXECUTIVE SUMMARY

Date of Incident:	August 2, 2013
Time of Incident:	5:30 pm
Location of Incident:	XXX W. 54 <sup>th</sup> Pl, Chicago IL 60609
Date of COPA Notification:	August 2, 2013
Time of COPA Notification:	6:19 pm
Off	

This is a Supplemental Summary Report of Investigation relative to an excessive force and verbal abuse allegation which was previously investigated by the Independent Police Review Authority (IPRA). On August 2, 2013, Chicago Police Officers A and B were assisting a tow truck driver in the removal of a vehicle that had received a tow order at the location of XXX W. 54<sup>th</sup> Place. The owner of the vehicle, Civilian 1, and his girlfriend, Involved Individual 1, were present on scene and were upset that the vehicle was being towed. In particular, Involved Individual 1 wanted to remove certain items from the vehicle before it was towed. Officer A gave verbal commands to Involved Individual 1 to step away from the vehicle and when she failed to comply, he attempted to place her under arrest at which point she attempted to evade arrest. In order to effectuate the arrest, Officer A deployed his Taser which struck Involved Individual 1 and caused her to fall to the ground. Involved Individual 1 was transported via ambulance to the hospital and was subsequently charged with resisting arrest. On June 29, 2016, IPRA concluded that the allegation against Officer A for tasing Involved Individual 1 was exonerated and the allegation for verbal abuse was not sustained. The case was closed.

Subsequently, Involved Individual 1 filed a civil suit [*Involved Individual 1*] v. *City of Chicago*, XXXXXXXXXX in the Federal District Court for the Northern District of Illinois. Through litigation, IPRA became aware of information calling into question Officer A's fitness for duty history with the Chicago Police Department. IPRA reopened the case on July 1, 2016 to fully investigate the fitness issue. Additionally, on August 2, 2016, IPRA learned that the Plaintiff had a locked iPad that had video allegedly relating to the incident. The material supposedly directly contradicted Officer A's credibility. Based on the newly discovered existence of potentially material evidence, IPRA decided to reopen the case.

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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, 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.

COPA conducted an audit of the original investigation including reviewing the facts and basis for the original conclusion. Additionally, COPA obtained and analyzed new testimony and additional information from the civil law suit as well as additional investigatory steps. The following Supplemental Summary Report of Investigation should be read in conjunction with the Summary Report of Investigation issued by IPRA. Upon review of the original investigation and additional evidence, COPA finds that the allegation against Officer A for tasing Involved Individual 1 is changed from exonerated to not sustained. COPA further finds that the allegation against Officer A for verbal abuse should remain not sustained.

**II. INVOLVED PARTIES**

Accused Officer #1:	Officer A, Star #XXXXXX, Employee #XXXXX, Unit XXX, XXXXXXXXXXXX, 1980, Male, White
Involved Individual #1:	Involved Individual 1, Female, Black

**II. ALLEGATIONS**

Officer	Allegation	Finding
Officer A	<ol style="list-style-type: none"> <li>1. Officer A tased Involved Individual 1 without justification, in violation of Rule 6, General Order 03-02-02, Special Order 03-02-02 and Uniform and Property 04-02-04, of the Chicago Police Department Rules</li> <li>2. Officer A directed words to the effect of “You done fucked up now” to Involved Individual 1, in violation of Rule 2, Rule 6, Rule 8, and Rule 9 of the Chicago Police Department Rules</li> </ol>	<p>Not Sustained</p> <p>Not Sustained</p>

**III. APPLICABLE RULES AND LAWS**

Remain unchanged from the original report dated June 29, 2016.

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

##### a. Interviews

COPA attempted to interview **Witness, Civilian 2**. Civilian 2 directly refused to cooperate with an interview, despite several attempts. However, COPA obtained a transcript of Civilian 2's deposition testimony given in case 15CVXXXX. In sum, Civilian 2 related that on the relevant date and time he was on the side walk and could see both the driver's side and passengers side of vehicle. Civilian 2 stated that observed Involved Individual 1 ask Officers A and B if she could remove items from the vehicle. Officers A and B refused to allow Involved Individual 1 to enter the vehicle. Civilian 2 stated that Involved Individual 1 backed away from Officer A with her hands up in the air and Officer A tased Involved Individual 1 multiple times. Civilian 2 stated that he never observed Involved Individual 1 touch the vehicle. (Att. 79)

COPA attempted to interview **Witness, Civilian 3**, by contacting several last known telephone numbers, however were met with unsuccessful results. However, COPA obtained a transcript of Civilian 3's deposition testimony given related to XXXXXXXX. Civilian 3 related that Involved Individual 1 approached the vehicle with her phone out as though she was filming. Civilian 3 never observed Involved Individual 1 attempt to open the door of the vehicle. Civilian 3 heard Involved Individual 1 state words to the effect of, "Don't touch me." Civilian 3 observed Involved Individual 1 back away from Officer A. Civilian 3 related that Officer A tased Involved Individual 1 as she was walking away from him. Civilian 3 stated that Officer A tased Involved Individual 1 multiple times while she was laying on the ground. (Att. 80)

On October 9, 2015 **Witness, Civilian 4** testified in Involved Individual 1's criminal case. A summary of his statements was provided in the original summary report. Additionally, on June 22, 2016, Civilian 4 sat for a deposition in the civil case, a copy of the transcript was obtained. Civilian 4, the tow truck driver who was present for the tow of Involved Individual 1's vehicle was not originally interviewed by IPRA. COPA interviewed Civilian 4 on January 11, 2017. Civilian 4 related essentially the same information as he provided during his court testimony. In sum, Civilian 4 stated that he observed Involved Individual 1 approach the vehicle and argue with the officers and eventually heard Officer A order Involved Individual 1 to step back before yelling taser three times and deploying the taser. (Att. 72, 75, 78)

**Accused, Officer A** on October 9, 2015, testified at Involved Individual 1's criminal case under case number XXXXXXXX. Officer A also provided a statement to IPRA related to the above captioned log number on August 17, 2015. The transcript of his trial testimony as well as his statement to IPRA was summarized as part of the original case file. In addition, Officer A testified in a deposition on January 10, 2017. In sum, Officer A's deposition testimony was

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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.

consistent with both the IPRA statement and his trial testimony. He stated that Involved Individual 1 approached the vehicle when he ordered her to stop, he then grabbed her arm to arrest her and she pulled away. Officer A admitted to tasing Involved Individual 1 because she actively resisted his arrest. (Att. 81)

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

##### **Incident Video:**

Plaintiff and defense counsel in the civil case were to agree on a third party to retrieve the video. According to Attorney A, counsel in the civil suit, the video evidence on the iPad was not salvageable. (Att. 70)

#### **c. Additional Evidence**

##### **Officer A's Fitness for Duty:**

Based on a review of Officer A's fitness for duty history from the Department of Law, IPRA found, the information obtained was not material to the evidence in this case. In 2013, the Department determined that Officer A was fit for duty prior to the allegations contained in this investigation. However, subsequent information related to Officer A's credibility were investigated by COPA. Officer A's credibility was called into question in an unrelated federal civil rights case against the city and Officer A in case XXXXXXXX v. *City of Chicago*, XXXXXXXX. As a result of that incident and litigation, COPA has concluded that Officer A made intentional false statements under oath. That investigation is further detailed under Log number 1087256.

## **V. ANALYSIS**

After obtaining additional information, COPA recommends a finding of **Not Sustained** for **Allegation 1** that Officer A tased Involved Individual 1 without justification, in violation of Rule 6, General Order 03-02-02, Special Order 03-02-02 and Uniform and Property 04-02-04, of the Chicago Police Department Rules. In his deposition in the civil case, witness Civilian 2 related that he observed Involved Individual 1 ask Officers A and B if she could remove items from the vehicle. Officers A and B refused to allow Involved Individual 1 to enter the vehicle. Both Civilian 3 and Civilian 2 stated that Involved Individual 1 approached the car with her phone out, she never touched the vehicle, then Officer A tased Involved Individual 1 multiple times.

Tow truck driver Civilian 4 remembered Involved Individual 1 arguing with the officers then hearing Officer A direct Involved Individual 1 to step back before yelling taser. As indicated in the first summary report, witness Civilian 1 heard officers direct Involved Individual 1 to back away from the vehicle. Officer A and Civilian 4's description of Involved Individual 1's actions paint her as an active resister. Civilian 2 and Civilian 3 describe Involved Individual 1 as simply approaching the vehicle with the phone in her hand before Officer A knocks the phone from her hand and tased her. In contrast, as outlined in the first summary report, Involved Individual 1 stated

that she approached the vehicle with the keys and the intention of entering the vehicle. She approached the passenger side of the vehicle where Officer A was located after Officer B impeded her approach of the driver side. She further related that Officer A directed her to back away. In sum, Civilian 2 and Civilian 3 provide statements that contrast Involved Individual 1, Civilian 1, Civilian 4 and Officer A. However, there is no new evidence to discern whether Involved Individual 1 actively resisted Officer A’s orders by attempting to enter the vehicle or complied and simply backed away. Based on the available evidence, and without the benefit of video of the incident, we find there is insufficient evidence to prove or disprove the allegation against Officer A.

COPA recommends the finding for **Allegation 2** that Officer A directed words to the effect of “You done fucked up now” to Involved Individual 1, in violation of Rule 2, Rule 6, Rule 8, and Rule 9 of the Chicago Police Department Rules, detailed fully in the 29 June 2016 summary report, remain unchanged. The new evidence examined sheds no new light on this allegation. Additionally, after reviewing the previous findings we do not find sufficient evidence to support either version of the events. Therefore, COPA recommends the finding of Not Sustained stand.

**VI. CONCLUSION**

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

Officer	Allegation	Finding
Officer A	1. Officer A tased Involved Individual 1 without justification, in violation of Rule 6, General Order 03-02-02, Special Order 03-02-02 and Uniform and Property 04-02-04, of the Chicago Police Department Rules	Not Sustained
	2. Officer A directed words to the effect of “You done fucked up now” to Involved Individual 1, in violation of Rule 2, Rule 6, Rule 8, and Rule 9 of the Chicago Police Department Rules	Not Sustained

Approved:

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Deputy Chief Administrator

Appendix A

Assigned Investigative Staff

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<b>Squad# 4</b>	
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	