

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 28, 2018
Time of Incident:	Approximately 12:47 p.m.
Location of Incident:	700 S. Canal St., Chicago, IL 60607
Date of COPA Notification:	January 29, 2018
Time of COPA Notification:	8:37 a.m.

Involved Individual 1 (Involved Individual 1) was involved a traffic accident with an off-duty Chicago police officer A (Officer A).¹ Following the accident, Officer A did not identify himself as a Chicago police officer, took Involved Individual 1's driver's license and was involved in an altercation with Involved Individual 1. Chicago police officers arrived on scene responding to the accident and neither driver was issued a citation. Following the incident, Sgt. A (Sgt. A) authored an initiation report alleging that Officer A failed to identify himself as a Chicago police officer, deprived Involved Individual 1 of his license and was involved in a physical altercation with Involved Individual 1. Upon concluding our investigation, COPA recommends a finding of exonerated for all allegations against Officer A.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star #XXXX, Employee ID #XXXX, Date of Appointment: XXXX, Rank: Police Officer, Unit of Assignment: 015, Unit of Detail: XXXX, DOB: XXXX, Male, Asian.
Involved Individual #1:	Involved Individual 1, DOB: XXXX, Male, Black.

III. ALLEGATIONS²

Officer	Allegation	Finding
Officer A	It is alleged by Involved Individual 1 that on or about January 28, 2018, at approximately 12:47 p.m., at or near 700 S. Canal St., Chicago, IL 60607 that Officer A #XXXX committed	

¹ The traffic accident was very minor. Neither vehicle sustained substantial damage. Subject 1 lightly rubbed bumpers with Officer A as he attempted to pass him at a stop light from a stopped position to go around him.

² Formal allegations were not served on Officer A.

	<p>misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Failing to identify himself as a police officer; 2. Depriving Involved Individual 1 of his driver’s license; and 3. Engaging in an unjustified physical altercation. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 9³
2. Rule 37⁴

V. INVESTIGATION⁵

a. Interviews⁶

Involved Individual 1 Interview⁷

COPA investigators interviewed Involved Individual 1 on January 30, 2018. Involved Individual 1 told investigators that on January 28, 2018, at approximately 12:47 p.m. at or near 700 S. Canal St., Chicago, IL 60607, he was involved in a minor traffic accident when he rear-ended a car that was stopped in front of him at a stop light. The car that Involved Individual 1 rear-ended happened to be driven by an off-duty Chicago police officer, Officer A. Involved Individual 1 explained that after Officer A showed him his driver’s license. After which, Involved Individual 1 showed Officer A his driver’s license, which is when Officer A took Involved Individual 1’s license. Officer A would not return Involved Individual 1’s driver’s license and Involved Individual 1 initiated a “tussle,” which then escalated into a “tug-of-war” for his driver’s license. At some point, Officer A released the license.

³ Aging in any unjustified verbal or physical altercation with any person, while on or off duty.

⁴ Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁶ The interview of Officer A by department personnel was captured on body worn camera (BWC). The relevant parts of Officer A’s interview are included below in the BWC summary.

⁷ Attachment 6.

Chicago police officers then arrived on the scene. These officers took statements from all parties involved and a witness who happened to be watching. Police reports were then drafted regarding the incident. No citations were issued to either drivers involved. A sergeant who arrived at the scene informed Involved Individual 1 that the individual he had the altercation with was an off-duty Chicago police officer. Officer A never identified himself as a Chicago police officer anytime during the altercation with Involved Individual 1.

*Civilian 1 Interview*⁸

COPA investigators interviewed Civilian 1 (Civilian 1)⁹ on February 1, 2018.¹⁰ Civilian 1 told investigators that he was about 25-30 feet away from the altercation between Involved Individual 1 and Officer A. He could not really hear what was being said between Involved Individual 1 and Officer A. Civilian 1 was driving southbound on Canal St. when he witnessed two men in a scuffle. One man was “Asian-looking” and one was African-American.¹¹ He initially saw both men swinging at each other as he was driving. When Civilian 1 got closer to the altercation, he saw that the “Asian-looking” man had his hands on the African-American man pushing him against a car. Civilian 1 was able to hear the African-American man state that he was a marine and was not going to hit the “Asian-looking” man. Civilian 1 called 911 to report the incident. Four or five police cars arrived on scene. Civilian 1 spoke with a few different officers, providing his eye-witness statement of the incident.

b. Digital Evidence

The body worn camera (BWC) footage of the responding officers depicts the responding officers conducting a preliminary investigation of the incident by talking with Involved Individual 1, Officer A and Civilian 1.¹² The BWC interviews of Involved Individual 1 and Civilian 1 are generally consistent with their interviews with COPA investigators. During his interview, Officer A told responding officers that there was an exchange of information with Involved Individual 1. Involved Individual 1 then wanted his license back from Officer A, but Officer A wanted to keep the license until the police arrived. Involved Individual 1 then shoved Officer A, which was when “the whole thing starts.” Officer A then “shoved” Involved Individual 1 back once Involved Individual 1 shoved/pushed Officer A.

It is during the preliminary investigation that the responding officers questioned Officer A why he did not disclose to Involved Individual 1 that he is an off-duty Chicago police officer. Finally, the responding officers conclude that Involved Individual 1 and Officer A were mutual combatants.

⁸ Attachments 4 and 5.

⁹ Civilian 1 witnessed part of the altercation between Subject 1 and Officer A as he was driving.

¹⁰ The uploaded audio interview is incomplete. The recording seems to start in the middle of the interview.

¹¹ The “Asian-looking” man has been identified as Chicago police Officer A and the African-American man has been identified as Subject 1.

¹² Attachment 25. The responding officers are Officer B and Sergeant B.

c. Documentary Evidence

The Chicago Police Department Initiation Report, authored by Sergeant A #XXXX, documents an altercation between Officer A #XXXX and Involved Individual 1 near 700 S. Canal St., on January 28, 2018, at approximately 2:35 p.m.¹³

The Chicago Police Department Original Case Incident Report (RD #: XXXX) details the incident, which includes the summary of the incident and the subsequent investigation. This report recounts substantially the same facts that Involved Individual 1 stated in his interview with COPA investigators.¹⁴

The Chicago Police Department Case Supplementary Report (RD #: #XXXX) details the follow-up investigation of the incident conducted by Detective A. Both Officer A and Involved Individual 1 told the detective that they were not injured during the incident.¹⁵

The Illinois Traffic Crash Report (#XXXX) documents the traffic crash between Involved Individual 1 and Officer A #XXXX near 800 S. Canal St. on January 28, 2018, at approximately 12:42 p.m.¹⁶

The Office of Emergency Management and Communications Chicago Police Department Event Query Report (Event Number: XXXX) documents that a call for a battery in progress near the intersection of S. Canal St. and W. Polk St. was made on January 28, 2018, at approximately 12:47 p.m.¹⁷

VI. ANALYSIS

Following our investigation, COPA recommends a finding of exonerated for all the allegations against Officer A.

Allegation 1

Allegation 1 alleges that Officer A failed to identify himself as a police officer. In this case, the relevant inquiry is: (1) whether Officer A acted under the color of law during his altercation with Involved Individual 1, and (2) if he was not acting under color whether department policy required him to announce his office. In short, COPA finds that Officer A was not acting under the color of law at any time during his encounter with Involved Individual 1, nor was he required to do so by announcing his office per department policy.

¹³ Attachment 7.

¹⁴ Attachment 8.

¹⁵ Attachment 10.

¹⁶ Attachment 11.

¹⁷ Attachment 13.

Acts under “color of law” include acts not only done on-duty by an Chicago police officer within their lawful authority, but also acts done beyond the bounds of the officer’s lawful authority, if the acts are done while the officer is purporting to act in performance of their official capacity as a police officer. Here, Officer A was off-duty, not in uniform and driving his personal vehicle. At no point in time did Officer A purport to act under “color of law” and use his police powers. He did not identify himself as a police officer to Involved Individual 1. In fact, Involved Individual 1 only learned of Officer A’s status as a Chicago police officer following the altercation when Sgt. A informed him of such.

Equally important, we are unaware of any department policy requiring off-duty Officer A to affirmatively identify as an officer to Involved Individual 1. The only arguable applicable department rule is 37. However, rule 37 only requires an officer to identify themselves when asked, which did not occur during Officer A’s altercation with Involved Individual 1. Additionally, Officer A does not need to disclose his status as an officer unless he exerts his police power, thus acting under “color of law.” The instant case was that of a very Involved Individual 1 traffic accident, and although Officer A is employed as police officer, he at certain times is a civilian as well. Here, he was a civilian and never crossed the line of acting as a police officer by taking a police action, i.e., arresting Involved Individual 1.

Consequently, we find that Officer A acted as a civilian during his encounter with Involved Individual 1 and elected not to identify as a police officer. Officer A’s decision to not identify as an officer was not a violation of department rules.

Allegation 2

Secondly, COPA recommends a finding of exonerated for the second allegation. Not only is it typical for individuals involved in traffic accidents to exchange information, Illinois state law mandates such an exchange.¹⁸ In this case, the exchange of information included a physical exchange of Involved Individual 1’s license. Involved Individual 1 displayed his license to Officer A and Officer A took the license from Involved Individual 1’s hand. After which, Officer A was reluctant to return the license to Involved Individual 1. Instead, Officer A wanted to wait until officers arrived before returning the license. While Officer A’s decision to keep Involved Individual 1’s license until the arrival of officers may have not been the most prudent, we do not fine the decision completely unreasonable either — it is logical that Officer A would want to induce Involved Individual 1 to stay until responding officers arrived. Furthermore, Officer A’s objective was to hold onto Involved Individual 1’s license until officers arrived and not permanently deprive Involved Individual 1 of his license. Therefore, for these reasons we recommend a finding of exonerated for allegation 2 against Officer A.

¹⁸ 625 ILCS 5/11-403 The driver of any vehicle involved in a motor vehicle accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give the driver's name, address, registration number and owner of the vehicle the driver is operating and shall upon request and if available exhibit such driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

Allegation 3

Lastly, COPA recommends a finding of exonerated for the third allegation. Officer A and Involved Individual 1 should have exchanged their information in a calm manner before parting ways. However, and by his own admission, Involved Individual 1 initiated a physical “tussle” with Officer A. When Involved Individual 1 went to grab his driver’s license back from Officer A, COPA finds it reasonable that Officer A acted in a defensive manner. Additionally, neither party was injured during the altercation. In conclusion, when considering the injury-free nature of the encounter and the fact that Involved Individual 1 initiated the physical altercation, we recommend a finding of exonerated for allegation 3 against Officer A.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer A	<p>It is alleged by Involved Individual 1 that on or about January 28, 2018, at approximately 12:47 p.m., at or near 700 S. Canal St., Chicago, IL 60607 that Officer A #XXXX committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> <li data-bbox="581 1100 1143 1171">1. Failing to identify himself as a police officer; <li data-bbox="581 1209 1143 1281">2. Depriving Involved Individual 1 of his driver’s license; and <li data-bbox="581 1318 1143 1390">3. Engaging in an unjustified physical altercation. 	<p>Exonerated</p> <p>Exonerated</p> <p>Exonerated</p>

Approved:

 COPA Deputy Chief Administrator A
Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	3
Investigator:	COPA Investigator A
Supervising Investigator:	COPA Investigator B
Deputy Chief Administrator:	COPA Deputy Chief Administrator A