

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date/Time of Incident:	August 31, 2018, 3:23 a.m.
Location of Incident:	XXXX N. Damen Avenue, Chicago, Illinois
Date/Time of COPA Notification:	August 31, 2018, 11:04 a.m.

An on-duty officer utilized a takedown in arresting an active resister. The arrestee apparently sustained resulting arm fractures. COPA finds that the officer’s use of force was not excessive.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer A Star #XXX, Employee ID# XXXX; Date of Appointment: XX/XX/2017 Rank: Police Officer; Unit of Assignment XXX/XXX; DOB: XX/XX/1992; Male, White
Involved Individual #1:	Involved Civilian 1, DOB: XX/XX/1962, Male, Black

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer A	1. On August 31, 2018, at approximately 3:23 a.m., at XXXX N. Damen Avenue, Chicago, Illinois, the accused used excessive force in effecting the arrest of the Complainant, in violation of Rules 1 and 8 of the CPD Rules of Conduct.	UNFOUNDED

**IV. APPLICABLE RULES AND LAWS**

Rules
1. Rule 1, CPD Rules of Conduct (prohibiting violation of any law)
2. Rule 8, CPD Rules of Conduct (prohibiting maltreatment)
General Orders
1. G03-02, Use of Force (Effective October 16, 2017)
2. G03-02-01, Force Options (Effective October 16, 2017)
Federal Laws

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1. U.S. Constitution, Fourth Amendment

State Laws

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1. 720 ILCS 5/7-5

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## V. INVESTIGATION<sup>1</sup>

### a. Digital Evidence

**Body-worn Camera [“BWC”] Video footage** taken by Officers A, his partner, Officer B, Officer C, Officer D, and Officer E,<sup>2</sup> shows that Officers A and B were assisting the other officers in connection with an event unrelated to the subject incident when Officers A and B were approached by a Involved Civilian 2. The footage shows Officers A and B walk with the attendant to a sidewalk adjacent to the CTA Blue Line Damen Avenue Station, where they briefly speak with the attendant and Involved Civilian 1. The footage then shows Officer B approach Involved Civilian 1 who is standing next to Officer A. Officer B then tells Involved Civilian 1 that he is under arrest, and she then takes hold of Involved Civilian 1’s forearms. The footage then shows Involved Civilian 1 begin to pull away from Officer B as Officer B states to Involved Civilian 1, “Sir, do not do that. We don’t want this to get violent.” Involved Civilian 1 then protests verbally as Officer A tells Involved Civilian 1 to put his hands behind his back. The footage then shows Officer A take hold of Involved Civilian 1’s left forearm and Officer B take hold of Involved Civilian 1’s right forearm. Involved Civilian 1 then pulls forcefully from Officer B, causing Officer B to lose grip of Involved Civilian 1’s forearm. The footage then shows Officer A place both of his arms around Involved Civilian 1’s midsection and then tackle Involved Civilian 1 to the sidewalk. After a brief struggle, Involved Civilian 1 then submits to handcuffing.

### b. Documentary Evidence

In the **Original Case Incident Report [“OICR”]** relating to the incident,<sup>3</sup> Officer A wrote, in summary and among other things, (1) that a Involved Civilian 2 complained that Involved Civilian 1 had threatened to kill her, (2) that Officer A and his partner, Officer B then informed Involved Civilian 1 that he was under arrest, (3) that Involved Civilian 1 tensed his arms, clenched his fists, pulled away, and refused verbal commands to place his hands behind his back, and (4) that Officer A then performed a takedown<sup>4</sup> upon Involved Civilian 1.<sup>5</sup>

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<sup>1</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>2</sup>Attachment 19 comprises that BWC footage.

<sup>3</sup>Attachment 6.

<sup>4</sup>A “takedown” is “[t]he act of directing a subject to the ground to limit physical resistance, prevent escape, or increase the potential for controlling the subject.” CPD General Order G03-02-01, Force Options (Effective October 16, 2017), Section IV.B.2(c)

<sup>5</sup>Officer A provided substantially similar accounts in the Arrest Report relating to the incident [Attachment 7] and in his Tactical Response Report relating to the incident [Attachment 8].

**Medical Records of Presence St. Mary of Nazereth Hospital**<sup>6</sup> show that Involved Civilian 1 arrived at that facility at 7:30 a.m. on August 31, 2018, after having been transported there by CPD. Triage notes contained within the records show that Involved Civilian 1 then displayed swelling to his left wrist with decreased range of motion due to pain, and that Involved Civilian 1 then complained of pain with rotational movement of his left shoulder. ED Triage notes also document that hospital staff noted no lacerations or abrasions. Imaging results were positive for arm fractures.<sup>7</sup>

## VI. ANALYSIS

COPA has determined that Officer A's use of force in effecting Involved Civilian 1's arrest was not excessive, because that use of force (1) did not violate Fourth Amendment prohibitions against unreasonable seizures, (2) was justified under state law, and (3) was permissible under CPD directives in effect.

The Fourth Amendment guarantees the right "to be secure. . . against unreasonable seizures," including the use of excessive force by police officers in making arrests.<sup>8</sup> Whether a given use of force by a police officer was an "unreasonable seizure" for Fourth Amendment purposes depends upon whether that force was "objectively reasonable."<sup>9</sup> The proper application of that "objectively reasonable" standard "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."<sup>10</sup> "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight."<sup>11</sup>

COPA find that Officer A's use of force in effecting Involved Civilian 1's arrest was objectively reasonable. Though Involved Civilian 1's crime was not severe, video evidence shows that he actively resisted the efforts of Officers A and B by pulling his arms from them as they attempted to place him in handcuffs. Video evidence also shows that Involved Civilian 1 successfully pulled one of his arms from Officer B's grasp, thereby leaving Involved Civilian 1 as the lone officer having physical custody of him. COPA finds that a reasonable officer on the scene, faced with the circumstances then presented to Officer A as demonstrated by video evidence, would have likely concluded that using a takedown to gain control over Involved Civilian 1 to reduce the chance for Involved Civilian 1 to become a threat to officer safety and to reduce the chance that Involved Civilian 1 might evade arrest by flight was commonsensical. COPA therefore finds that Officer A's use of force in effecting Involved Civilian 1's arrest did not violate the Fourth Amendment's prohibition against unreasonable seizures.

For the same reasons, COPA finds that Officer A's use of force in effecting Involved Civilian 1's arrest was justified under the applicable state statute, which provides, in part, that a police

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<sup>6</sup>Attachment 14.

<sup>7</sup>Specifically, imaging showed, among other things an "acute comminuted fracture of the distal left radius epiphysis" and an "[a]ssociated fracture of the base of the left ulnar styloid. . . ."

<sup>8</sup>*Graham v. Connor*, 490 U.S. 386 (1989).

<sup>9</sup>*Id.*, 490 U.S. at 397.

<sup>10</sup>*Id.*, 490 U.S. at 396.

<sup>11</sup>*Id.*, 490 U.S. at 396.

officer is “justified in the use of any force which he reasonably believes to be necessary to effect [an] arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest.”<sup>12</sup>

Finally, COPA finds that that Officer A’s use of force in effecting Involved Civilian 1’s arrest was permissible under CPD directives in effect. Video evidence shows that Involved Civilian 1 was an “active resister”<sup>13</sup> at the time, in that Involved Civilian 1 was then attempting to create distance between himself and the officers’ reach with the intent to avoid physical control by the officers or to defeat his arrest. CPD directives in effect expressly authorized CPD members to use a takedown when dealing with such an active resister,<sup>14</sup> provided that such a use of force was “objectively reasonable, necessary, and proportional,”<sup>15</sup> and provided further that members first use de-escalation techniques “when it is safe and feasible to do so based on the totality of the circumstances.”<sup>16</sup> For the reasons set forth above, COPA has determined that Officer A’s use of force was objectively reasonable. COPA further determines that Officer A’s use of force was necessary and proportional given the level of resistance offered by Involved Civilian 1, as there is nothing in the video evidence, which well depicts the incident, suggesting that Officer A used more force than necessary to bring Involved Civilian 1 under control. COPA further determines that Officer A used and exhausted de-escalation techniques prior to Officer A’s use of force, as video evidence shows that Officer A and his partner first attempted to exercise persuasion prior to Involved Civilian 1’s active resistance, and as that video evidence also shows that further attempts at persuasion would not have been feasible after Involved Civilian 1 had pulled his arm from Officer B’s grasp.

For all of the above reasons, COPA has determined that the subject allegation of misconduct against Officer A is **UNFOUNDED**.

**VII. CONCLUSION**

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

Officer	Allegation	Finding
Officer A	1. On August 31, 2018, at approximately 3:23 a.m., at XXXX N. Damen Avenue, Chicago, Illinois, the accused used excessive force in effecting the arrest of the Complainant, in violation of Rules 1 and 8 of the CPD Rules of Conduct.	UNFOUNDED

Approved:

<sup>12</sup>720 ILCS 5/7-5.

<sup>13</sup>CPD General Order G03-02-01, Force Options (Effective October 16, 2017), defines an “active resister” in part as a person who attempts to create distance between himself or herself and the member’s reach with the intent to avoid physical control and/or defeat the arrest. *Id.*, at Section IV.B.2. That directive also provides that “active resistance” includes but is not limited to evasive movement of the arm. *Id.*, at Section IV.B.2.a.

<sup>14</sup>*Id.*, at Section IV.B.2.c(3).

<sup>15</sup>CPD General Order G03-02, Use of Force (Effective October 16, 2017), at Section III.B.

<sup>16</sup>*Id.*, at Section II.B.

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Deputy Chief Administrator – Chief Investigator A      Date  
*Deputy Chief Administrator – Chief Investigator*

Appendix A

Assigned Investigative Staff

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