

SUPPLEMENTARY SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

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|----------------------------|--|
| Date of Incident: | August 2, 2013 |
| Time of Incident: | 5:30 pm |
| Location of Incident: | 718 W. 54 th Pl, Chicago IL 60609 |
| Date of COPA Notification: | August 2, 2013 |
| Time of COPA Notification: | 6:19 pm |

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 [REDACTED] and [REDACTED] were assisting a tow truck driver in the removal of a vehicle that had received a tow order at the location of 718 W. 54th Place. The owner of the vehicle, [REDACTED] and his girlfriend, [REDACTED] were present on scene and were upset that the vehicle was being towed. In particular, Ms. [REDACTED] wanted to remove certain items from the vehicle before it was towed. Officer [REDACTED] gave verbal commands to Ms. [REDACTED] 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 [REDACTED] deployed his Taser which struck Ms. [REDACTED] and caused her to fall to the ground. Ms. [REDACTED] 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 [REDACTED] for tasing Ms. [REDACTED] was exonerated and the allegation for verbal abuse was not sustained. The case was closed.

Subsequently, Ms. [REDACTED] filed a civil suit [REDACTED] v. *City of Chicago* [REDACTED] in the Federal District Court for the Northern District of Illinois. Through litigation, IPRA became aware of information calling into question Officer [REDACTED] 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 [REDACTED] credibility. Based on the newly discovered existence of potentially material evidence, IPRA decided to reopen the case.

¹ 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 [REDACTED] for tasing Ms. [REDACTED] is changed from exonerated to not sustained. COPA further finds that the allegation against Officer [REDACTED] for verbal abuse should remain not sustained.

II. INVOLVED PARTIES

| | |
|-------------------------|---|
| Accused Officer #1: | Officer [REDACTED] Star # [REDACTED] Employee # [REDACTED] Unit 009, [REDACTED] Male, White |
| Involved Individual #1: | [REDACTED] Female, Black |

II. ALLEGATIONS

| Officer | Allegation | Finding |
|--------------------|---|---|
| Officer [REDACTED] | <ol style="list-style-type: none"> Officer [REDACTED] tased [REDACTED] 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 Officer [REDACTED] directed words to the effect of “You done fucked up now” to [REDACTED] [REDACTED] in violation of Rule 2, Rule 6, Rule 8, and Rule 9 of the Chicago Police Department Rules | <p>Not Sustained</p> <p>Not Sustained</p> |

III. APPLICABLE RULES AND LAWS

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

IV. INVESTIGATION²

a. Interviews

COPA attempted to interview **Witness**, ██████████ directly refused to cooperate with an interview, despite several attempts. However, COPA obtained a transcript of ██████████ deposition testimony given in case ██████████. In sum, ██████████ 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. ██████████ stated that observed ██████████ ask Officers ██████████ and ██████████ if she could remove items from the vehicle. Officers ██████████ and ██████████ refused to allow ██████████ to enter the vehicle. ██████████ stated that ██████████ backed away from Officer ██████████ with her hands up in the air and Officer ██████████ tased ██████████ multiple times. ██████████ stated that he never observed ██████████ touch the vehicle. (Att. 79)

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

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

Accused, Officer ██████████ on October 9, 2015, testified at ██████████ criminal case under case number 13-█████████ Officer ██████████ 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 ██████████ testified in a deposition on January 10, 2017. In sum, Officer ██████████ deposition testimony was consistent with both the IPRA statement and his trial testimony. He stated that ██████████ approached

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

the vehicle when he ordered her to stop, he then grabbed her arm to arrest her and she pulled away. Officer ██████ admitted to tasing ██████ 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 ██████ counsel in the civil suit, the video evidence on the iPad was not salvageable. (Att. 70)

c. Additional Evidence

Officer ██████ Fitness for Duty:

Based on a review of Officer ██████ 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 ██████ was fit for duty prior to the allegations contained in this investigation. However, subsequent information related to Officer ██████ credibility were investigated by COPA. Officer ██████ credibility was called into question in an unrelated federal civil rights case against the city and Officer ██████ in case ██████. As a result of that incident and litigation, COPA has concluded that Officer ██████ 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 ██████ tased ██████ 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 ██████ related that he observed ██████ ask Officers ██████ and ██████ if she could remove items from the vehicle. Officers ██████ and ██████ refused to allow ██████ to enter the vehicle. Both ██████ and ██████ stated that ██████ approached the car with her phone out, she never touched the vehicle, then Officer ██████ tased ██████ multiple times.

Tow truck driver ██████ remembered ██████ arguing with the officers then hearing Officer ██████ direct ██████ to step back before yelling taser. As indicated in the first summary report, witness ██████ heard officers direct ██████ to back away from the vehicle. Officer

██████ and ██████ description of ██████ actions paint her as an active resister. ██████ and ██████ describe ██████ as simply approaching the vehicle with the phone in her hand before Officer ██████ knocks the phone from her hand ██████ and tased her. In contrast, as outlined in the first summary report, ██████ 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 ██████ was located after Officer ██████ impeded her approach of the driver side. She further related that Officer ██████ directed her to back away. In sum, ██████ and ██████ provide statements that contrast ██████ and Officer ██████. However, there is no new evidence to discern whether ██████ actively resisted ██████ 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 ██████.

COPA recommends the finding for **Allegation 2** that Officer ██████ directed words to the effect of “You done fucked up now” to ██████ ██████ 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 ██████ | 1. Officer ██████ tased ██████ 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 2. Officer ██████ directed words to the effect of “You done fucked up now” to ██████ ██████ in violation of Rule 2, Rule 6, Rule 8, and Rule 9 of the Chicago Police Department Rules | Not Sustained Not Sustained |

Approved:

 ██████
 Deputy Chief Administrator

Appendix A

Assigned Investigative Staff

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|------------------------------------|--|
| Squad# 4 | |
| Investigator: | |
| Supervising Investigator: | |
| Deputy Chief Administrator: | |