

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 10, 2014
Time of Incident:	Approximately 4:47 p.m.
Location of Incident:	7901 S. Cottage Grove Ave.
Date of COPA Notification:	November 11, 2014
Time of COPA Notification:	3:11 p.m.

On November 10, 2014, Chicago Police Department (“CPD”) Officers ██████████ (“Officer ██████████ and ██████████ (“Officer ██████████ pulled over ██████████ (██████████ after observing ██████████ not wearing a seatbelt and rolling what appeared to be a cannabis cigarette. When officers approached and asked ██████████ for his license and insurance, ██████████ rolled his window down approximately an inch. Officers smelled cannabis and asked ██████████ to exit the vehicle. In response, ██████████ drove off.

██████████ drove approximately two blocks before again pulling over at the intersection of 79th Street and S. Cottage Grove Ave. Officers ordered ██████████ from the vehicle, to which ██████████ did not comply. ██████████ was then forcefully removed from the vehicle and taken into custody.

On November 11, 2014, ██████████ sister, filed a complaint with the Independent Police Review Authority (“IPRA”). IPRA closed the complaint with findings on March 10, 2015. However, ██████████ and ██████████ mother ██████████ requested that the investigation into this matter be reopened and reviewed. During October of 2017, the Civilian Office of Police Accountability (“COPA”) re-opened the investigation for review. Upon review, we reached findings of not sustained for all allegations.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star: # ██████████ Employee ID: # ██████████ Date of Appointment: ██████████ 2012, Police Officer, assigned to the ██████████ district and detailed to unit ██████████ DOB: ██████████ 1980, Male, White
Involved Officer #2:	██████████ Star: # ██████████ Employee ID: # ██████████ Date of Appointment: ██████████ 2012, Police Officer, assigned to the ██████████ District detailed to unit ██████████ DOB: ██████████ 1986, Male, White
Involved Officer #3:	██████████ Star # ██████████ Employee ID# ██████████ Date of Appointment: ██████████ 3013, PO, ██████████ DOB: ██████████ 1984, Male, White

Involved Officer #4: [REDACTED] Star: # [REDACTED] Employee ID: # [REDACTED]
 Date of Appointment: [REDACTED] 2013, Police Officer,
 assigned to the [REDACTED] District and detailed to unit [REDACTED] DOB:
 [REDACTED] 1988, Male, Hispanic
 Involved Individual #1: [REDACTED] DOB: [REDACTED] 1983, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., in the vicinity of 7901 S. Cottage Grove Ave., Chicago, IL, PO [REDACTED] committed misconduct through the following acts or omissions: <ol style="list-style-type: none"> 1. Struck [REDACTED] and/or pulled [REDACTED] from a vehicle without justification. 2. Stated words to the effect of "Nigger." 3. Struck the window of the vehicle [REDACTED] was riding in with your firearm. 	Not Sustained Not Sustained Not Sustained
Officer [REDACTED] [REDACTED]	It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., at or near 7901 South Cottage Grove Ave., that PO [REDACTED] committed misconduct through the following acts or omissions: <ol style="list-style-type: none"> 1. Struck [REDACTED] and/or pulled [REDACTED] from a vehicle without justification. 2. Stated words to the effect of "Nigger." 3. Struck the window of the vehicle [REDACTED] was riding in with your firearm. 	Not Sustained Not Sustained Not Sustained

	4. Tased [REDACTED] without justification.	Not Sustained
Officer [REDACTED]	It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., in the vicinity of 7901 S. Cottage Grove Ave., Chicago, IL, that PO [REDACTED] committed misconduct through the following acts or omissions: 1. Struck [REDACTED] without justification.	Not Sustained
Officer [REDACTED] [REDACTED]	It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., in the vicinity of 7901 S. Cottage Grove Ave., Chicago, IL, that PO [REDACTED] committed misconduct through the following acts or omissions: 1. Struck [REDACTED] without justification.	Not Sustained

IV. APPLICABLE RULES AND LAWS

General Orders

1. G03-02-02: Force Options; Effective Date: May 16, 2012

V. INVESTIGATION¹

a. Interviews²

[REDACTED]

COPA interviewed [REDACTED] on December 20, 2017. The following is a summary of material parts of his interview. [REDACTED] stated that on November 10, 2014 he pulled out of a gas station and was heading home. A lot of police were in the area with their lights and sirens activated, so [REDACTED] pulled over to yield to the officers.³ Two men dressed in hoodies and Carharts approached

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Officer [REDACTED] was not interviewed by COPA. Officer [REDACTED] was injured on-duty in an unrelated incident and was on leave from the department for medical reasons at the time of our investigation. However, Officer [REDACTED] did testify during [REDACTED] criminal trial regarding this incident and Officer [REDACTED] testimony is summarized below.

³ He stated that he was never pulled over, and he doesn't know where the officer's in the plain clothes came from. However, later in his statement he describes how he handed over his license and insurances and the officers walked

his vehicle with guns drawn, knocked on his window, and asked for his license and insurance, which he provided. The officers then stated to [REDACTED] "I am going to need you to step out of the car Nigger." [REDACTED] replied, "I am going to need a Sergeant white boy." An officer began to bang on [REDACTED] window with his firearm. In fear for his life, [REDACTED] drove off and stopped at 79th Street and S. Cottage Grove Ave. [REDACTED] stopped at this location because he knew there was a camera there and he saw a Sergeant on the corner.

Once stopped, [REDACTED] extended his hands up through the sunroof and yelled for the Sergeant on the corner. Next, the officers pulled him from the car and began punching him.⁴ He then fell to the ground and laid there completely still as officers kicked him.⁵ [REDACTED] was tased as officers asked him to stop resisting. After being dragged to the curb officers questioned him about why he fled. [REDACTED] explained that he did not initially realize they were police officers because they were in plain clothes and wore nothing identifying them as officers.

Regarding injuries, [REDACTED] told investigators that he had big knots on his head, a swollen eye, and taser prongs lodged in his back. An ambulance transported [REDACTED] to Jackson Park Hospital for treatment. After discharge from the hospital, [REDACTED] was taken to the police station and informed of his charges, which he denied.

Officers [REDACTED] and [REDACTED] testified during [REDACTED] criminal trial. [REDACTED] told investigators that during the trial the presiding judge called Officer [REDACTED] a liar and directed him to get off the stand. After the trial concluded, the Judge found [REDACTED] guilty of 4 counts.⁶

[REDACTED]

IPRA interviewed [REDACTED] ([REDACTED]) on December 18, 2014. The following is a summary of the material parts of his statement. [REDACTED] told investigators that [REDACTED] sister and mother came to [REDACTED] place of employment and inquired if there was any video of the incident [REDACTED] had with the police. It was this interaction that lead to [REDACTED] being interviewed by IPRA.

Regarding November 10, 2014 incident, [REDACTED] said that at approximately 4:30 p.m. he was working at Image Collections, located at 7900 S. Cottage Grove Ave. [REDACTED] was seated by the door of Image Collections waiting for customers to come in when he saw [REDACTED] pull up next to Happy Liquors. Approximately 8 officers on foot and 6 police cars arrived at the location. [REDACTED] exited the store and proceeded to the corner of the street where he watched the incident from across the street. He saw two white male officers run up to [REDACTED] vehicle, pull [REDACTED] from the car, handcuffed

back to their vehicle before telling [REDACTED] to step out of his car. When [REDACTED] was asked to describe their vehicle at that point, he stated that he was not able to see their vehicle because it was dark out and it was not parked directly behind him. [REDACTED] then retracts again and stated that the officers did not walk back to their vehicle, they walked to the back of his car and then turned around to approach his window again.

⁴ [REDACTED] was unsure if the officers were the same officers from his initially stop, and he was unable to describe them at all. He does state that there are two officers that pulled him out of the car and a couple more that ran over; however, he stated that the only way he knew they were the police officers was because he saw the flashing lights and marked squad cars.

⁵ [REDACTED] described later on that he doesn't know if the officers were hitting him with an opened or closed hand, but they were hitting him in the head and face. He also stated that he was kicked in the ribs, back, and legs.

⁶ Attachment 32.

█████ and then physically beat █████. Specifically, the officers stomped on █████ who was hollering, and another officer walked up and tased █████. █████ denied that █████ ever resisted, moved around, or tried to pull away. █████ told investigators that he remained outside until after the ambulance came and █████ was placed inside, during which time he could not see any injuries to █████. █████ denied personally knowing █████.

Finally, █████ told investigators of another unknown gentleman who also witnessed the incident and provided investigators with a physical description of the unknown man. █████ stated that he previously asked the gentleman about video footage he may have, and that █████'s sister took this gentleman's phone, but that the gentleman had removed and lost the SIM card. So, █████ was unaware of any actual video footage.⁷

Officer █████

COPA interviewed Officer █████ ("Officer █████" on September 5, 2018. The following is a summary of the material parts of his statement. Officer █████ stated that on November 10, 2014, he responded to assist officers. When he arrived, Officers Wager and █████ were trying to pull █████ from his vehicle. █████ was not complying, aggressive, and punched him and kicking Officer █████ in the knee. Without specifics, Officer █████ recalled Officer █████ tasing █████ after █████ kicked Officer █████.

When asked by investigators, Officer █████ reviewed his Tactical Response Report (TRR) and admitted to using open-handed and knee strikes on █████ who was actively fighting with officers and attempting to flee. During the altercation, Officer █████ was punched in the hand by █████ and sustained bruising and swelling. Finally, after █████ was tased, he was handcuffed and brought to the curb and tended to by EMS.⁸

Officer █████

COPA interviewed Officer █████ ("Officer █████" on September 5, 2018. Officer █████'s account of the incident was substantially like that of Officer █████. In his denial of the allegations against him, Officer █████ told investigators that he used open-hand strikes to gain compliance by █████ who was actively resisting arrest.⁹

Officer █████

COPA interviewed Officer █████ ("Officer █████" on September 10, 2018. The following is a summary of material parts of his statement. On November 10, 2014, Officer █████ was on routine patrol with Officer █████ when he noticed █████ driving without a seatbelt and rolling what appeared to be a blunt. The officers pulled █████ over. When Officer █████ approached the vehicle, █████ rolled his window down approximately one inch and slipped his driver's license through the crack and rolled his window back up. Officer █████ smelled the odor of burnt cannabis and asked █████ to step out of the vehicle at which point █████ fled. The officers

⁷ Attachment 21-22

⁸ Attachment 55

⁹ Attachment 59

radioed that [REDACTED] fled, and followed [REDACTED] to the intersection of 79th Street and S. Cottage Grove Ave. where [REDACTED] once again stopped.

Officers [REDACTED] and [REDACTED] again approached [REDACTED] vehicle, removed [REDACTED] from the car, and performed an emergency takedown. During the emergency takedown, [REDACTED] stiffened up and flailed his body, hitting Officers [REDACTED] and [REDACTED]. To gain control of [REDACTED] the officers tased him. Officer [REDACTED] could not recall any injuries to [REDACTED] nevertheless, [REDACTED] was tended to by EMS and transferred to a hospital.¹⁰

b. Digital Evidence¹¹

Photographs

Booking Photographs taken by CPD of [REDACTED] show no apparent injuries.¹² Photographs obtained from [REDACTED] mother, which appear to be the same photographs taken by CPD Evidence Technicians, show [REDACTED] sitting on a bench in his street clothes. There are two pictures of [REDACTED] back with two band aids on the lower portion of his back. There are also pictures of [REDACTED] right arm which show a mark (a discolored line) above his right elbow.¹³

Photos of [REDACTED]



¹⁰ Attachment 63.

¹¹ POD video was received but it was too far away from the location of the incident to capture anything relevant.

¹² Attachment 5.

¹³ Attachments 30 and 41.

c. Physical Evidence¹⁴Medical Records

The Chicago Fire Department (CFD) non-transport report documented that they were dispatched at 4:38 p.m. and arrived on scene at 4:44 p.m. The CFD found [REDACTED] restrained and a taser victim but had no other complaints.¹⁵

The medical records from [REDACTED] visit to Jackson Park Hospital document that he received medical care in the emergency room on November 10, 2014, at 5:04 p.m., by Dr. [REDACTED] Adusumilli. [REDACTED] complained of back pain and had two taser prongs affixed to his lower back. The taser prongs were removed, an EKG was performed, which came back normal, and [REDACTED] was medically cleared and discharged.¹⁶

d. Documentary EvidenceOffice of Emergency Management and Communication (OEMC) Records

OEMC Event Query records document a street stop on November 10, 2014, at 4:33 p.m., at 8100 S. Cottage Gove Ave. At 4:34 p.m. Officers, traveling north bound on S. Cottage Gove Ave., radioed for assistance and they were northbound on Cottage Grove. At 4:35 p.m. the [REDACTED] is in custody. A taser-deployment notification was notated at 4:36 p.m.¹⁷

CPD Reports

The Original Case Incident Report, Arrest Report, and Case Supplemental Report document that on November 10, 2014, officers pulled over [REDACTED] after observing him not wearing a seatbelt and rolling what appeared to be a cannabis cigarette. Officers approached the vehicle and [REDACTED] cracked his driver side window to slip out his license. Officers asked [REDACTED] to exit the vehicle; instead, [REDACTED] drove off. Officers radioed for assistance and followed [REDACTED] until he stopped again at 7901 S. Cottage Grove Ave.

[REDACTED] was ordered from the vehicle but refused. Officers then remove [REDACTED] from the vehicle. [REDACTED] stiffened his arms, clenched his fists, attempted to pull away, and swing his arms, which resulted in Officer [REDACTED] getting struck. An emergency takedown was performed. [REDACTED] kicked Officer [REDACTED] in the knee. Officer [REDACTED] deployed his taser against [REDACTED] who was then taken into custody. Officers recovered a brown piece of cigarette paper with a green leafy substance, suspected cannabis.¹⁸

¹⁴ Attempts were made to obtain the medical records for Officer [REDACTED] but were unsuccessful. Attachments 37-39.

¹⁵ Attachment 47.

¹⁶ Attachment 45.

¹⁷ Attachment 7.

¹⁸ Attachments 4, 6, 19, and 51.

Criminal Trial Transcripts

Transcripts were obtained for case number ██████ 21707 – The People of the State of Illinois vs. ██████ Officer ██████ and Officer ██████ testified at the trial; however, ██████ declined to testify. Officer ██████ testimony was substantially the same as his statement with COPA.

In Summary, Officer ██████ testimony indicated that on November 10, 2014 he was on patrol with Officer ██████ when they pulled over ██████ for a seatbelt violation and observed ██████ roll was appeared to be a cannabis cigarette. Once ██████ was pulled over, Officer ██████ approached the driver's side of the vehicle as Officer ██████ initially approached the passenger side but eventually made his way to the driver's side to assist Officer ██████ rolled his window down approximately a half-an-inch and slipped his driver's license through the crack in the window. Officer ██████ detected the odor of cannabis and observe a hand-rolled cigar in the cup holder. ██████ was asked to step out of the vehicle by Officer ██████ instead, ██████ drove off northbound.

Officers ██████ and ██████ radioed for assistance, advising that a vehicle fled from a traffic stop. At the intersection of 79th Street and Cottage Grove Ave, ██████ stopped again and Officers ██████ and ██████ again approached ██████ vehicle. Multiple commands were given for ██████ to exit the vehicle, which he ignored. ██████ was then removed from the vehicle. As officers were removed ██████ from the vehicle, ██████ resisted and swung his arms and elbows from side to side. Officer ██████ came to assist, and ██████ continued to resist and stiffen his body. An emergency take-down was preformed, and ██████ was brought to the ground. As ██████ was being brought to the ground, he punched Officer ██████ hand, continued to resist, and kicked Officer ██████ in the knee. Officer ██████ deployed his taser at ██████ back, who surrendered his hands and was handcuffed.¹⁹

Following the close of evidence and closing arguments, the Judge considered the demeanor and testimony of both officers, and without any adverse finding as to the credibility of either officer, the Judge found that the state carried it burden of guilty beyond a reasonable doubt for counts 1, 2, 13, and 14 – aggravated battery to Officer ██████ and resisting arrest.²⁰

VI. ANALYSIS

There are several allegations alleged by ██████ against multiple officers; however, we were unable to substantiate by a preponderance of the evidence any of ██████ allegations for the reasons that follow.

a. Credibility Assessment of ██████

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from

¹⁹ Attachment 46.

²⁰ Attachment 41.

memory. In this case, irrespective of [REDACTED] intent to be truthful or not, we found multiple elements of [REDACTED] account to be factually untrue.

First, [REDACTED] asserted he was kicked by officers and described having knots on his head and a swollen eye. But, we found that the photographs and medical records did not corroborate these assertions.

Second, [REDACTED] denied resisting arrest and justified his reaction of flight and resistant by asserting he was scared, because he believed two approaching gentlemen did not wear any clothing identifying them as police officers. Conversely, we found that Officers [REDACTED] and [REDACTED] wore identifying CPD duty vests, Officers [REDACTED] and [REDACTED] were in full uniform, and emergency vehicle lights and sirens were active.

Third, [REDACTED] asserted the presiding judge over his criminal trial called Officer [REDACTED] a liar and told him to get off the stand. Upon review of the trial transcript, this assertion also proved false. The transcript showed that the Judge did consider the testimony and demeanor of both officers and declined to make any adverse finding as to either officers' credibility.

Consideration of these points lead us to question the veracity of [REDACTED] account, which ultimately resulted in a diminished weight attributed to [REDACTED] account. Moreover, while we are not obligated to adopt the credibility findings of the presiding Judge in [REDACTED] criminal trial, [REDACTED] criminal convictions of resisting arrest and aggravated battery to a peace officer draws an inference that the Judge found Officer [REDACTED] and [REDACTED] account (which is consistent with all the involved officers) to be credible. Our analysis of the allegations below took into consideration this assessment of credibility.

b. Allegations Against Officers [REDACTED] and [REDACTED]

In Allegation 1 against Officers [REDACTED] and [REDACTED] alleged that the officers struck him. The use of force was not disputed by the officers. In fact, collectively the officers described [REDACTED] as resisting and combative, in that, [REDACTED] initially fled, and when he stopped for a second time at 79th Street and Cottage Ave., [REDACTED] actively fought with the officers as he pulled away, swung his arms and elbows, and punch and kicked. To control [REDACTED] and effect arrest, the officers preformed an emergency take-down, open hand strikes, and deployed a taser.

CPD policy permits officers to use force against an active resister.²¹ An individual is considered an active resister when they take actions to create distance between that person and the arresting officers with the intent to avoid physical control and/or defeat the arrest. The involved officers individually and consistently describe [REDACTED] as actively resisting – [REDACTED] was flailing his arms, kicking, and punching. Conversely, [REDACTED] told investigators that he did not resist his arrest, nor did he fight with the officers. In fact, according to [REDACTED] he stopped his vehicle at the intersection of 79th Street and Cottage Grove Ave., unlocked his doors, and raised his hands up through his sunroof – this all describes actions akin to a surrender by [REDACTED] and not that of

²¹ Force Options, General Order G03-02-02.

resistance. Despite our finding that [redacted] account lacked credibility, [redacted] independent account did corroborate [redacted] claim of surrender. [redacted] described a cooperating [redacted] that was pulled from the vehicle and beaten by officers

When considering these conflicting accounts, we are unable to determine by a preponderance the level resistance by [redacted] at the time of arrest; therefore, we are unable to determine whether the officers’ admitted use of force was proper. Accordingly, we reached a finding of not sustained for allegation 1 against all involved officers. Additionally, for the same reasons identified above in our examination of allegation 1, we also find allegation 4 against Officer [redacted] to be not sustained.

In allegation 2 against Officers [redacted] and [redacted] alleged that officers directed a racial slur towards him. As stated previously, we found [redacted] account to of the incident to be less than creditable. In contrast, the officers’ individual accounts were consistent with each other’s, which strengthened their credibility. However, IRPA investigators failed to interview the involved officers, and it was not until years later that COPA reopened this investigation and interviewed the involved officers. Nevertheless, we believe this passage of time would affect an individual’s ability to recall specific details, i.e., the specific use of a racial slur.

When considering these credibility issues in conjunction with a lack of any additional evidence (i.e., a video and/or an additional independent witness) to prove or disprove the use of a racial slur by the officers, we reach findings of not sustained for allegation 2 against the involved officers.

Finally, for the same reasons we found allegation 2 to be not sustained we also find allegation 3 against Officers [redacted] and [redacted] that they struck the window of [redacted] vehicle with a firearm, to be not sustained.

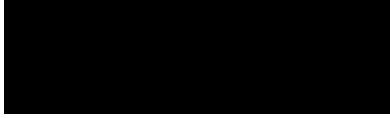
VII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer [redacted] [redacted]	It is alleged by [redacted] that on or about November 10, 2014, at approximately 4:37 p.m., in the vicinity of 7901 S. Cottage Grove Ave., Chicago, IL, PO [redacted] committed misconduct through the following acts or omissions: <ol style="list-style-type: none"> 1. Struck [redacted] and/or pulled [redacted] from a vehicle without justification. 2. Stated word to the effect of “Nigger.” 	Not Sustained Not Sustained

	<p>3. hit the window of [REDACTED] vehicle with your firearm.</p>	<p>Not Sustained</p>
<p>Officer [REDACTED] [REDACTED]</p>	<p>It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., at or near 7901 South Cottage Grove Ave., that PO [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Struck [REDACTED] and/or pulled [REDACTED] from a vehicle without justification. 2. Stated words to the effect of "Nigger." 3. Struck the window of the vehicle [REDACTED] was riding in with your firearm. 4. Tased [REDACTED] without justification. 	<p>Not Sustained Not Sustained Not Sustained Not Sustained</p>
<p>Officer [REDACTED] [REDACTED]</p>	<p>It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., in the vicinity of 7901 S. Cottage Grove Ave., Chicago, IL, that PO [REDACTED] committed misconduct through the following acts or omissions</p> <ol style="list-style-type: none"> 1. Struck [REDACTED] without justification. 	<p>Not Sustained</p>
<p>Officer [REDACTED] [REDACTED]</p>	<p>It is alleged by [REDACTED] that on or about November 10, 2014, at approximately 4:37 p.m., in the vicinity of 7901 S. Cottage Grove Ave., Chicago, IL, that PO [REDACTED] committed misconduct through the following acts or omissions:</p> <ol style="list-style-type: none"> 1. Struck [REDACTED] without justification. 	<p>Not Sustained</p>

Approved:



February 28, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	████████████████████
Supervising Investigator:	████████████████████
Deputy Chief Administrator:	Andrea Kersten