

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date/Time of Incident:	April 6, 2013, 11:11 p.m.
Location of Incident:	██████████, Chicago, Illinois
Date/Time of COPA Notification:	January 4, 2018, 12:33 p.m.

Complainant ██████████ was arrested after CPD members executed a search warrant at his grandmother’s home in which they found ammunition and illegal narcotics. After a trial, he was convicted for possession of these items and given a six-year sentence. The appellate court reversed the conviction, however, concluding that the trial court had erred in finding that ██████████ had constructive possession of the drugs and ammunition. ██████████ then filed a civil lawsuit alleging that the arresting officers attempted to improperly coerce him into giving a false confession and then fabricated evidence prior to and at trial. After COPA learned of the lawsuit, it initiated this investigation and found no factual basis for either allegation.

II. INVOLVED PARTIES

Involved Member #1:	Lionel H. Piper, Star #14650, Employee ID# ██████████; Date of Appointment: September 13, 1999; Rank: Police Officer; Unit of Assignment, 006/007; DOB: ██████████, 1969; M/B.
Involved Member #2:	Dennis L. Huberts, Jr., Star #9883, Employee ID# ██████████ Date of Appointment: May 1, 2006; Rank: Police Officer; Unit of Assignment, 022; DOB: ██████████, 1979; M/B.
Involved Member #3:	Unknown M/B CPD member, approximately 35 years of age
Involved Individual #1:	██████████ DOB: ██████████, 1980, M/B

III. ALLEGATIONS

Member	Allegation	Finding
Officer Piper	1. On and after April 6, 2013, the accused fabricated evidence in connection with the CPD’s April 6, 2013 arrest of the Complainant, in violation of Rules 1, 8, and 14 of the CPD Rules of Conduct	UNFOUNDED
Officer Huberts	1. On and after April 6, 2013, the accused fabricated evidence in connection with the CPD’s April 6, 2013 arrest of the Complainant, in violation of Rules 1, 8, and 14 of the CPD Rules of Conduct.	UNFOUNDED

Unknown M/B CPD member	1. On April 6, 2013, the accused improperly attempted to coerce an admission or confession from the Complainant, in violation of Rules 1 and 8 of the CPD Rules of Conduct.	UNFOUNDED
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1, CPD Rules of Conduct (prohibiting the violation of any law or ordinance).
3. Rule 8, CPD Rules of Conduct (prohibiting disrespect to or maltreatment of any person).
4. Rule 14, CPD Rules of Conduct (prohibiting false reports, written or oral).

Federal Laws

1. U.S. Constitution, Fifth Amendment

Municipal Ordinances

1. Municipal Code of Chicago, §2-78-100 (COPA's governing ordinance)
2. Municipal Code of Chicago, §2-78-120(b)

V. INVESTIGATION¹

A. Interviews

Complainant, ██████████ provided an interview to COPA on March 14, 2018.² In summary and in pertinent part, the Complainant (a) denied that he resided at ██████████ Chicago, Illinois at the time of his April 6, 2013 arrest, (b) denied that he was present at the residence located at ██████████ at the time, (c) denied that he had jumped out of a house window or ran from the police prior to his arrest, and (d) claimed that when CPD arrived to execute a search warrant, he was across the street from the ██████████ house in the presence of an uncle,³ and that he remained there until he was arrested by the CPD.⁴ ██████████ also stated that after his arrest he was placed handcuffed in a marked CPD vehicle that was parked in front of the residence, where he was left alone for approximately 1 -1.5hours as the CPD conducted its search.⁵

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

²Attachments # 8 and 9 are audio recordings of that interview (taken in two parts).

³COPA contacted the uncle, Mr. ██████████ by telephone on March 19, 2018. ██████████ agreed to be interviewed by COPA investigators on March 20, 2018. ██████████ did not appear as agreed. COPA then contacted ██████████ by telephone again on March 21, 2018, and he again agreed to be interviewed on March 26, 2018. ██████████ again failed to appear. COPA wrote to ██████████ by letter dated March 26, 2018, informing him that he should contact COPA if he was willing to be interviewed. See Attachment 21. To date, ██████████ has not responded, and COPA has had no further contact with ██████████

⁴Attachment #8, at 4:50 – 7:34; 13:40 – 14:35; 16:07 – 17:06.

⁵Id., at 4:50 – 7:34; 16:07 – 17:06.

According to ██████ a male Black CPD member aged approximately 35 years and dressed in plainclothes came out to the CPD vehicle during that time frame, opened the door, and spoke to ██████⁶ ██████ stated that he then asked the CPD member to tell him what he was being charged with.⁷

According to ██████ the CPD member responded by showing him ammunition and suspect narcotics, stating, essentially, that if ██████ informed him of the location of the gun that the CPD was searching for, then the CPD would not charge ██████ with illegally possessing the ammunition and suspect narcotics., but, if ██████ did not inform him of the gun's location, then the CPD would place such charges against him.⁸ ██████ then stated to the interrogating CPD member: "You can't charge me with this stuff right here because you didn't find it my possession and that's not my house. [There are] multiple people staying in that house and you didn't catch me in this house when you got this stuff out of there."⁹

B. Documentary Evidence

1. The **Original Case Incident Report**¹⁰ names ██████ as an offender in connection with an April 2, 2013 incident in which he allegedly battered a girlfriend and threatened her and her mother with a firearm on a sidewalk in front of a residence at ██████. According to the report, ██████ retrieved the firearm from the residence. The report listed ██████ as ██████ residence.

2. The **Arrest Report**¹¹ attested to by Officer Lionel Piper states that ██████ was arrested on April 6, 2013, after CPD members observed ██████ climb out of a window of the house at ██████ while they were executing a search warrant arising out of the incident described in Section V.B.1 above. CPD members recovered an unspecified quantity of suspect crack cocaine and a fifty-round box of .22 caliber ammunition from the house. ██████ was charged with aggravated assault, possession of a controlled substance, and unlawful use of a weapon.

3. A **Report of Proceedings** in the matter of *People v. ██████* Case No. 13-CR-█████ (Circuit Court of Cook County, Illinois),¹² shows that a probable cause hearing was conducted on April 24, 2013. At the hearing, Officer Piper testified on cross-examination that he observed ██████ jump out of a window of the ██████ residence as CPD members were executing a search warrant.¹³ At the conclusion of that hearing, the court found that ██████ arrest was supported by probable cause.

4. A **Report of Proceedings** in the matter of *People v. ██████*¹⁴ shows that Judge Nicholas Ford conducted a bench trial arising out of ██████ arrest on November 18, 2013. At trial, Officer

⁶*Id.*, at 17:06 – 29:12.

⁷*Id.*, at 17:26.

⁸*Id.*, at 17:26 – 18:41.

⁹*Id.*, at 18:24 – 18:35.

¹⁰Attachment #10.

¹¹Attachment #12.

¹²Attachment #16.

¹³*Id.*, p. 9:14.

¹⁴Attachment #17.

Huberts testified on direct and on cross-examination that he observed [REDACTED] jump out of a first-floor side window of the [REDACTED] Street residence as the CPD was executing a search warrant.¹⁵ The defense called three witnesses, two of whom denied that [REDACTED] was within the residence at the time that the CPD arrived to execute the search warrant.¹⁶ [REDACTED] uncle did not testify at the trial.¹⁷ At the trial's conclusion, Judge Ford found [REDACTED] guilty of unlawful possession of ammunition and possession of a controlled substance.¹⁸ As a basis for that finding, Judge Ford expressly stated, among other things, that he believed Officer Huberts' testimony: "My basis of the finding is his exit -- by the way, I believe the officer of what he said completely [sic], the defendant jumping out of the bathroom window. I believe that."¹⁹

5. In a **Complaint** filed in the Northern District of Illinois on December 6, 2017,²⁰ [REDACTED] alleges that his civil rights were violated by each of the involved CPD members. In general, [REDACTED] contends in that Complaint that CPD members²¹ arrested him without probable cause, that they attempted to coerce admissions from [REDACTED] by threatening to place false charges against him, and that they subsequently fabricated evidence when they stated in reports and in testimony that they had observed [REDACTED] climb out of a window at the time that the CPD was executing the subject search warrant.

6. In their **Answer** to [REDACTED] lawsuit,²² each of the involved CPD members denied that any of them had violated [REDACTED] civil rights. Officer Piper, Officer Huberts, and Sgt. West each admitted that at the time in question, [REDACTED] was asked questions concerning the location of a firearm, but they denied that they attempted to coerce admissions from [REDACTED] by threatening to place false charges against him, and they denied that any of them fabricated any evidence.²³

¹⁵*Id.*, p. 5, line 13, through p. 7, line 5; p. 13, line 10, through p. 14, line 7.

¹⁶*Id.*, p. 25, line 12, through p. 26, line 3 ([REDACTED] grandmother); p. 31, line 8, through p. 32, line 20.

¹⁷During [REDACTED] interview, when COPA investigators asked him why his uncle did not testify at the trial, he responded that his uncle "was not that kind of person," and, further, at that time [REDACTED] did not know that he needed [REDACTED] to testify. Attachment #8, 14:30 – 14:50.

¹⁸*Id.*, p. 39, lines 12 – 14. Subsequently, the Illinois Appellate Court reversed [REDACTED] conviction for reasons that are not germane here. Specifically, in an Opinion dated December 16, 2015 (People v. [REDACTED] 2015 IL App (1st) 140051) (Attachment #18), the Appellate Court held that the evidence at [REDACTED] trial was not sufficient to prove [REDACTED] guilty of unlawful possession as a matter of law. More specifically, the Appellate Court held that "when viewed in the light most favorable to the prosecution, the evidence presented to the trial court does not support a finding that [REDACTED] committed the essential elements of the crime beyond a reasonable doubt. Although [REDACTED] was seen fleeing from 239 West 105th Street when police arrived, the State did not prove that [REDACTED] exercised immediate control over the area where the illegal items were found." *Id.*, 2015 IL App (1st) 140051 at ¶33.

¹⁹*Id.*, p. 39, lines 14 – 17.

²⁰Attachment #19.

²¹The Complaint named Officer Piper, Officer Huberts, CPD Sgt. Jeffrey West, CPD Lt. Gregory Sloyan, and CPD Lt. Dachae Blanton as defendants. COPA has not listed Sgt. West, Lt. Sloyan, or Lt. Blanton as an accused because our investigation has revealed that neither Sgt. West, Lt. Sloyan, nor Lt. Blanton authored a report or gave testimony in connection with [REDACTED] arrest.

²²Attachment #20.

²³*Id.* at p. 4, para. 17.

VI. ANALYSIS

A. Allegations concerning alleged improper coercion.

COPA's governing ordinance empowers the agency to conduct investigations into complaints alleging coercion by CPD members, among other things.²⁴ The ordinance defines coercion as "the use of improper or unlawful force or threats, express or implied, in order to compel a person to act against his or her will[including] compelling a person to make statements."²⁵ Factors to consider in determining whether an interrogation was improperly coercive include the age of the person interrogated, his intelligence, background, experience, mental capacity, education, and physical condition at the time of questioning; the legality and duration of the detention; the presence of *Miranda* warnings; the duration of the questioning; and any physical or mental abuse by police, including the existence of threats or promises.²⁶

Here, ██████ was thirty-three years of age at the time and in apparent good health. His COPA interview reveals that his intelligence, background and experience permitted him not only to understand the nature of the charges that he faced at the time of the interrogation, but also to argue against the validity of such potential charges. There can be no disputing that ██████ arrest was lawful, in that the arresting officers had a valid search warrant and notice that ██████ had been named as an armed, violent offender in a case report only days before. Though the interrogation as ██████ described it did not involve *Miranda* warnings, the questioning was brief, perhaps momentary, and it took place in public, in a CPD vehicle parked on a residential street in apparent view of any passersby. ██████ does not allege that the interrogation involved physical force or threats of physical force. Finally, though the interrogation involved a threat to charge the Complainant with a crime he maintains he did not commit, the interrogation was not so intimidating that it provoked an inculpatory statement. Indeed, ██████ exercised his right to remain silent. Given the above, which is derived entirely from the Complainant's description of the events, COPA finds that the subject interrogation did not involve improper coercion. Therefore, the Complainant's allegation that the interrogation involved misconduct is UNFOUNDED.

B. Allegations concerning alleged fabrication of evidence.

COPA is not required by law to defer to or to accept a trial court's credibility determinations as conclusive. However, the present circumstances counsel that we should do so in this case. ██████ allegations do not give COPA any reason to second guess the trial court's credibility determinations. Here, Judge Ford expressly credited Officer Hubert's testimony that he observed the Complainant jump out of a house window. Judge Ford did so after hearing the Complainant's criminal defense attorney challenge that testimony through cross-examination, thereby giving Judge Ford an opportunity to observe Officer Hubert's demeanor under adverse questioning. Judge Ford also heard (and impliedly rejected) testimony from two defense witnesses who testified

²⁴See Municipal Code of Chicago, §2-78-120(b).

²⁵See Municipal Code of Chicago, §2-78-100

²⁶*People v. Slater*, 228 Ill.2d 137, 160, 886 N.E.2d 986 (2008) (listing factors to consider in determining whether a defendant's statement was the product of police coercion and therefore should be excluded from evidence at the defendant's trial).

that the Complainant was not in the house at the time. Furthermore, Officer Hubert’s trial testimony that Judge Ford credited was consistent with testimony given by Officer Piper during [REDACTED] probable cause hearing, testimony that was similarly tested by cross-examination. COPA therefore finds that it can and should rely upon Judge Ford’s credibility determinations. Doing so leads COPA to the conclusion that the Complainant’s allegations of false reporting and false testimony are UNFOUNDED.

VII. CONCLUSION

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

Member	Allegation	Finding
Officer Piper	1. On and after April 6, 2013, the accused fabricated evidence in connection with the CPD’s April 6, 2013 arrest of the Complainant, in violation of Rules 1, 8, and 14 of the CPD Rules of Conduct	UNFOUNDED
Officer Huberts	1. On and after April 6, 2013, the accused fabricated evidence in connection with the CPD’s April 6, 2013 arrest of the Complainant, in violation of Rules 1, 8, and 14 of the CPD Rules of Conduct.	UNFOUNDED
Unknown M/B CPD member	1. On April 6, 2013, the accused improperly attempted to coerce an admission or confession from the Complainant, in violation of Rules 1 and 8 of the CPD Rules of Conduct.	UNFOUNDED

Approved: 



Angela Hearts- Glass
Deputy Chief Administrator – Chief Investigator

Date 9-11-18

Appendix A

Assigned Investigative Staff

Squad#:	Squad #11
Investigator:	Francis Tighe
Supervising Investigator:	Brian Dollar
Deputy Chief Administrator:	Angela Hearts- Glass