

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	September 15, 2016
Time of Incident:	1:40 AM
Location of Incident:	3420 W. 63 rd Street (008 th District Station)
Date of COPA Notification:	September 22, 2016
Time of COPA Notification:	5:40 PM

On September 15, 2016, [REDACTED] alleged that she and [REDACTED] engaged in some sort of physical altercation at Torres’ residence when picking up their children, which prompted [REDACTED] to call the police and ask for [REDACTED] to be removed. Officer Fontaine and Officer Jose Torres responded to the call.

Upon arrival, [REDACTED] told Officer Fontaine about the physical altercation from earlier and signed a complaint for [REDACTED] arrest. [REDACTED] alleged that during the arrest, and again at the police station, she suffered injuries from the handcuffs being placed on too tightly. She also alleged that she complained of the injury and officers ignored her pleas.

II. INVOLVED PARTIES

Involved Officer #1:	Torres, Jose Star No. 19898 Employee No. [REDACTED] Date of Appointment: 04 October 1999 Rank: 9161 Unit: 008 Date of Birth: [REDACTED] 1974 Gender: Male Race: Hispanic
Involved Officer #2:	Fontaine, Dora Star No. 4484 Employee No. [REDACTED] Date of Appointment: 29 October 2001 Rank: 9161 Unit: 008 Date of Birth: [REDACTED] 1967 Gender: Female Race: Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1993, Female, Hispanic

III. ALLEGATIONS

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.

Officer	Allegation	Finding / Recommendation
Officer Jose Torres	1. On 15 September 2016, at approximately 0140 hours, at 3420 W. 63 rd Street (008 th District Station), it is alleged that Officer Torres was unprofessional, in that you taunted ██████████ by sticking your tongue out at her.	Not Sustained
Officer Dora Fontaine	1. On 15 September 2016, at approximately 0140 hours, at 3420 W. 63 rd Street (008 th District Station), it is alleged that Officer Fontaine handcuffed ██████████ too tightly to a bench/wall restraint.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Prohibits an officer from engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department
2. Rule 11: Forbids an officer from being incompetent or inefficient in the performance of duty

General Orders

1. General Order G06-01-02, Restraining Arrestees (effective Jan. 2016)

V. INVESTIGATION²

a. Interviews

Interview of ██████████: ██████████ gave a statement to the Independent Police Review Authority on October 1st, 2016. In her statement, ██████████ told investigators that she was arrested while trying to pick up her kids from their father’s house after having dropped them off earlier. ██████████ arrived around midnight to pick up her children. She admitted to drinking that night but denied being intoxicated. She was dropped off by a male friend and she believed that upset the children’s father. ██████████ was not driving and intended to take the children home in an Uber. ██████████ said that ██████████ the children’s father, accused her of endangering the children.

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

³ Attachment 14

According to ██████ greeted her outside and walked her up to his apartment as she followed behind him. After they were inside, ██████ told ██████ that she was not leaving with the children. ██████ told ██████ to call the police because she would not leave without the kids. ██████ said that ██████ shoved and slapped her and tried to get her to leave. ██████ admitted to fighting with ██████ to get him off of her. After the initial altercation, ██████ sat there refusing to leave and ██████, the children's grandfather, called the police. When the police arrived, everyone went outside. The police encouraged ██████ to leave and accused her of being a bad mother for picking her children up at that time. The officers gave ██████ several options for what he would like to happen, including arresting her.

Officer Fontaine attempted to interview ██████ but ██████ acknowledged she was not responding to questions. Officer Fontaine pulled ██████ down the stairs and placed her in handcuffs. ██████ was then transported to the 8th District. At the 8th District, Officer Fontaine uncuffed ██████ and began to search her person. Officer Fontaine repeatedly lifted ██████ bra to pat her down. As a result, ██████ turned and yelled at Officer Fontaine that there was no need to keep checking her like that because she did not have anything. ██████ lifted her own bra to show that she had nothing. Officer Fontaine yelled at ██████ to turn back around. Officer Torres then came into the room.

██████ acknowledged she became more agitated by Officer Torres' presence in the room - as a male officer - and began yelling that he was not allowed to be present. ██████ was fully dressed at the time. Officer Torres then left the room again. Officer Fontaine then took ██████ to a different room and cuffed her to the wall. ██████ felt that the cuffs were too tight at every point of the night, but especially when she was cuffed to the wall. ██████ told Officer Fontaine that the cuffs were too tight and pointed out her injury. Officer Fontaine told her that she caused the injury herself and left the room. In response to her complaint, Officer Torres stuck his tongue out at her. At some point, an unknown male officer loosened the cuffs for her.

██████ did not have any bruises or broken skin when she left the department. Following the incident, ██████ went to get her wrists x-rayed.⁴

Officer José Torres⁵: Officer Torres gave a statement to the Independent Police Review Authority on January 6, 2017. Officer Torres told investigators that they responded to a call from ██████. Officer Torres said that upon arriving he was met by ██████ and his family. It was his understanding the ██████ dropped off the kids earlier that night, so she could go out and drink. She returned at approximately midnight to pick up her children. According to Officer Torres, the officers attempted to dissuade ██████ from picking up the kids at that time of night. They offered her a ride home and offered to call her parents for her instead. The children's grandfather came out and told officers that ██████ caused a commotion inside of the house and had to be forcefully removed prior to the officers' arrival.

Officer Torres told investigators that the children's father pulled Officer Fontaine aside and told her that he did not want ██████ arrested but insisted that she needed to leave. ██████ then signed a complaint for ██████ arrest. Officer Torres told investigators that Officer Fontaine

⁴ Attachment 17 – Medical records noted minimal swelling and pain and no fracture.

⁵ Attachment 15

handcuffed [REDACTED]. During the arrest, [REDACTED] repeatedly pulled away as they attempted to place her in the squad car. Officer Torres described [REDACTED] as “highly intoxicated” and belligerent. Officer Torres indicated that [REDACTED] clearly smelled of alcohol.

Officer Torres said [REDACTED] was cuffed in a side room to a wall with a single cuff. She was cuffed for approximately an hour. Officer Torres said [REDACTED] calmed down at the station. Officer Torres recalled [REDACTED] complaining about the cuffs being too tight at the beginning of the arrest. Officer Torres said that [REDACTED] was leaning back and that caused the cuffs to tighten. Officer Torres indicated that the handcuffs on [REDACTED] were not double-locked, which led to the cuffs tightening, because she kept pulling away and did not give the officers an opportunity to cuff fully. They did not address it at the time because they struggled to get her into the vehicle and did not want to risk struggling with her again once they took her out, particularly given it would be a short ride to the station. Officer Torres did not recall her complaining at the station about the cuffs.

Officer Torres denied ever mocking [REDACTED]. Officer Torres did not notice any injury to [REDACTED].

Officer Dora Fontaine⁶ gave a statement to the Independent Police Review Authority (IPRA) on January 6th, 2017. In her statement to IPRA, Officer Fontaine told investigators that she encountered [REDACTED] while responding to a domestic disturbance call. When Officer Fontaine arrived at the scene, [REDACTED] was standing outside screaming and trying to leave with her two young children over the objection of their father. Officer Fontaine felt that [REDACTED] was highly intoxicated. Officer Fontaine attempted to dissuade [REDACTED] from leaving with the children, but [REDACTED] was verbally combative with the officers. Officer Fontaine felt that all of her efforts at mediation failed with [REDACTED].

[REDACTED] the children’s father, told Officer Fontaine that [REDACTED] had scratched him and that he feared she would break their windows if she did not leave. He then signed a complaint for [REDACTED] arrest. Officer Fontaine and Officer Torres attempted to take [REDACTED] into custody. [REDACTED] was resisting, in that she was pulling away and became dead weight. Officer Fontaine recalled telling [REDACTED] “calm down or you’re going to hurt yourself with the cuffs” because of the way she was moving in the back of the car. Officer Fontaine said that they wanted to get her to the station to process her before the situation escalated further. At the station, Officer Fontaine said [REDACTED] was restrained in an interview room, where she was cuffed to a circle on the wall. Officer Fontaine said that she again warned [REDACTED] to stay still or she would hurt herself on the cuffs. Officer Fontaine said that when handcuffing her to the wall they again did not double-lock the handcuffs because [REDACTED] was again being verbally combative. After handcuffing [REDACTED] Officer Fontaine then left to complete the processing paperwork.

Officer Fontaine told investigators that [REDACTED] did complain about the cuffs being too tight at the end of the process. Officer Fontaine told [REDACTED] that she warned her to stop moving around. Officer Fontaine removed the handcuffs as she escorted [REDACTED] to processing. After processing, Officer Fontaine cuffed [REDACTED] back to the ring on the wall. [REDACTED] complained again that her wrist hurt. Officer Fontaine offered to cuff [REDACTED] on the opposite side instead. [REDACTED] was again verbally

⁶ Attachment 29

combative and refused assistance from Officer Fontaine. Another unit was called to transport ██████ to de-escalate the situation.

Digital Evidence

Photographs⁷



Contusion on the finger of ██████



Bruise to the right wrist of ██████

b. Documentary Evidence

Arrest Report⁸: The arrest report indicated that ██████ was arrested for domestic battery upon the signed complaint of ██████. The lockup keeper indicated that the arrestee entered lockup without incident.

Original Case Incident Report⁹: According to the Incident Report, ██████ tried to prevent ██████ from taking their children because she was intoxicated. As a result, ██████ began to physically attack ██████. Witnesses also spoke about ██████ being severely intoxicated.

Event Query 1625900797¹⁰: The event query recorded a call for service to ██████ to address a domestic disturbance incident, where an intoxicated person was attempting to leave with her children and had become physically violent with the children's father.

⁷ See Attachment 16

⁸ Attachment 4

⁹ Attachment 5

¹⁰ Attachment 7

Event Query 1625900832 ¹¹: The event query recorded a call for service to [REDACTED] to deal with an intoxicated woman who wanted to take her sleeping children home.

Medical Records ¹²: Based on the medical records obtained from Mercy Hospital, [REDACTED] was seen on September 16th and 17th of 2016, for right wrist pain, which she attributed to her handcuffs being too tight during her arrest the day prior. There were minimal swelling and moderate pain but no fracture.

VI. ANALYSIS

Allegation against Officer Jose Torres:

1. On 15 September 2016, at approximately 0140 hours, at 3420 W. 63rd Street (008th District Station), it is alleged that Officer Torres was unprofessional, in that you taunted [REDACTED] by sticking your tongue out at her.

This allegation is NOT SUSTAINED. Rule 2 prohibits an officer from engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department. The Chicago Police Department heavily emphasizes professionalism in its rules and regulations. There is no independent or corroborating evidence to support this allegation except the testimony of the complainant.

Officer Torres denied ever mocking [REDACTED]. Officer Fontaine stated that she was with [REDACTED] for nearly the entirety of her detention and could not recall Officer Torres having much, if any, interaction with [REDACTED] at the station. Although [REDACTED] was likely intoxicated at the time, there is insufficient evidence to sustain or refute the allegations. Therefore, this allegation is not sustained.

Allegations Against Officer Dora Fontaine:

1. On 15 September 2016, at approximately 0140 hours, at 3420 W. 63rd Street (008th District Station), it is alleged that Officer Fontaine handcuffed [REDACTED] too tightly to a bench/wall restraint.

This allegation is SUSTAINED. General Order G06-01-02 states, "When feasible, an arrestee will be handcuffed with both hands behind the back and palms positioned outward. Handcuffs will be double-locked." Here, Officers Fontaine and Officer Torres both admitted that they failed to double-lock [REDACTED] handcuffs because [REDACTED] was struggling at the time of the arrest, though they gave different accounts of how [REDACTED] was resisting. While it is likely that [REDACTED] was struggling at the time of her arrest, neither officer provided evidence that it was not feasible to double lock the handcuffs. Moreover, [REDACTED] was successfully taken into custody without any significant use of force such as a taser, OC spray, or an emergency takedown.

¹¹ Attachment 28

¹² Attachment 17

Similarly, Officers Fontaine and Torres did not consider the resistance significant enough to warrant charging ██████ with resisting arrest.

Rather, both Officer Fontaine and Officer Torres seemed preoccupied with processing ██████ as quickly as possible and getting her out of their hands. Instead of addressing the problem that the handcuffs were not properly secured, to which both officers admitted - they warned ██████ not to move around in certain ways because the handcuffs could tighten, and she could hurt herself. Officer Fontaine, in particular, acknowledges that instead of double locking the handcuffs she continuously warned ██████ to, “calm down or you’re going to hurt yourself with the cuffs.”

Again, at the station, while ██████ was cuffed to a ring on the wall, Officer Fontaine provided a similar account of events. Specifically, Officer Fontaine told investigators that although she initially attempted to adjust ██████ cuffs prior to her being transferred to a precinct with a female lockup facility she decided against doing so because ██████ was being verbally combative again and she feared escalating the situation.

While Officer Fontaine maintained that ██████ did not tell her that the cuffs were too tight until the very end of her time at the 8th District, Officer Fontaine acknowledges that the handcuffs were not double locked. She knew that persons refusing to sit still could injure themselves when handcuffs were not double locked. She observed ██████ not sitting still and acting in ways in which she could injure herself because she did not double lock them. She also acknowledged that she told ██████ she would injure herself if she didn’t stop moving. She also acknowledged she knowingly dismissed and/or ignored ██████ complaints on multiple occasions. Officer Fontaine had notice and opportunity to prevent harm to ██████ by complying with General Order G06-01-02 and double-locking the handcuffs and did not. For the aforementioned reasons, this allegation is SUSTAINED.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Dora Fontaine

i. Complimentary, Training and Disciplinary History

Officer Fontaine’s training, complimentary and disciplinary history were considered in deciding discipline. Officer Fontaine does not have a history of discipline.

ii. Recommended Penalty, by Allegation

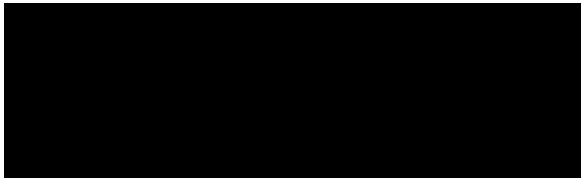
Officer Fontaine knowingly violated General Order G06-01-02 with full knowledge that ██████ behavior put her at risk of injury and she knowingly failed to prevent harm. Based upon the foregoing COPA recommends a 5-day suspension.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Jose Torres	On 15 September 2016, at approximately 0140 hours, at 3420 W. 63 rd Street (008 th District Station), it is alleged that Officer Torres was unprofessional, in that you taunted [REDACTED] by sticking your tongue out at her.	Not Sustained
Officer Dora Fontaine	On 15 September 2016, at approximately 0140 hours, at 3420 W. 63 rd Street (008 th District Station), it is alleged that Officer Fontaine handcuffed [REDACTED] too tightly to a bench/wall restraint.	Sustained/5-day Suspension

Approved:



Sydney R. Roberts
Chief Administrator

March 25, 2019

Date

Appendix A

Assigned Investigative Staff

Squad#:	6
Investigator:	Burns, Adam
Supervising Investigator:	Tarver, Elaine
Deputy Chief Administrator:	Kersten, Andrea