SUMMARY REPORT OF INVESTIGATION¹

September 24, 2016

I. EXECUTIVE SUMMARY

Date of Incident:

Time of Incident:	Approximately 12:00 p.m.
Location of Incident:	2206 East 75 th Street
Date of COPA Notification:	September 24, 2016
Time of COPA Notification:	3:03 p.m.
Officer David Brown ("Officer Brown encreplaced. There, Officer Brown encreeded done. Officer Brown watch on his vehicle. As the work progre vehicle's lug nuts. Officer Brown Officer Brown threatendown. The altercation was reported the Bryant ("Officer Bryant") and Officer Bryant") responde had filed a complaint against him adays later, on the evening of Septenthe damage to his vehicle repaired.	proximately 12:00 p.m., near 2206 East 75 th Street, off-duty own") took his Mercedes Benz to "Tire Pros" to have the tirest countered some Tire Pro employees and explained the work here as the seed as the seed of the seed as the seed, Officer Brown observed the damage some of the seed to shoot him, shoot-up the tire shop, and/or burn the shop of the police. In response, 6 th District officers, Officer Shawn ficer Jaime Nunez ("Officer Nunez") and Sergeant Shenettand. Later, Sgt. Durham informed Officer Brown that the seed instructed him not to return to the tire shop that day. Two mber 26, 2016, Officer Brown returned to the tire shop to have while he was at the shop Officer Brown threatened to the police and asked to tell the police that the
2016), Officer Brown had direct	kely sometime between September 24, 2016 and November 24, contact with who was an a Officer Brown initially had with at the tire shop.
and determined there was insufficient to shoot and/or the tire sto lie about the reason he called the	ivilian Office of Police Accountability ("COPA") investigated ent evidence to prove or disprove that Officer Brown threatened shop, threatened to burn down the tire shop, or told expolice. However, COPA did find by a preponderance of the tened with arrest and directly contacted at.

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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.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer David Brown, Star #15887, Employee ID: # DOA: October 28, 2002, Unit: 003, DOB:, 1969, Male, Black	
Subject #1:	DOB: DOB: 1988, Male, Hispanic	

III. ALLEGATIONS

Officer	Allegation	Finding/Recommendation
Officer David Brown	It is alleged that on September 24, 2016, at approximately 12:00p.m., at 2206 E. 75 th Street, PO David Brown:	
	1.Threatened to shoot and/or the auto body shop.	Not Sustained
	2.Threatened to burn down the auto body shop.	Not Sustained
	It is alleged that on September 26, 2016, at approximately 5:00p.m., at 2206 E. 75 th Street, PO David Brown:	
	3.Asked to lie about the reason he called the police.	Not Sustained
	4. Threatened the complainant under log 1082375, with arrest for providing a false report to police that concerned the incident under investigation under LOG#1082375	Sustained / 20 Day Suspension

It is alleged that on an unknown date between September 24, 2016 and November 26, 2016, at an unknown time, at an unknown location, PO David Brown:

5. While not directly assigned to the investigation under LOG#1082375, contacted a witness, who witnessed the incident under investigation under LOG#1082375.

Sustained / 20 Day Suspension

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- 2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- 3. Rule 2: Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- 4. Rule 6: Disobedience of an order or directive, whether written or oral.

V. INVESTIGATION ²

a. Interviews

During an interview with the Independent Police Review Authority ("IPRA") on September 27, 2016, told investigators that on September 24, 2016, Officer Brown entered the shop and requested to have his tires replaced. As was removing and replacing the tires on Officer Brown's vehicle he accidentally damaged two of the vehicle's lug nuts.

Monday, September 26, 2016, to make the necessary repairs.³

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

stated that he was unable to make the repairs the day he accidentally damaged Officer Brown's vehicle because he did not have the proper equipment to complete the repairs.

LOG#1082375

In response, Officer Brown became angry, demanded that immediately repair the vehicle, and then threatened with bodily harm – threats to shoot him, shoot-up the tire shop, and/or burn the tire shop down. recorded part of the altercation with his cell phone and telephoned his boss, of Officer Brown refused to speak with and left the shop. Called the police to report the incident. CPD Officers Bryant and Nunez and Sgt. Durham responded to the tire shop where showed the officers the recorded cell phone footage.
A couple days later, Officer Brown identified himself as a police officer when he returned to the tire shop. Officer Brown told that he didn't know why called the police, that he could be arrested for providing a false report to the police, and asked not to make a statement to the police. Finally, Officer Brown asked to tell the police that the situation between them on September 24 th was a big misunderstanding and the altercation was just over loud music inside the shop. ⁶
Interview
During an interview with COPA on March 13, 2018, told investigators that he was at the tire shop to get a tire repaired when he encountered Officer Brown who was there for similar repairs. watched Officer Brown as Officer Brown watched as he worked on Officer Brown's vehicle. During this time, overheard Officer Brown accuse of stripping a lug nut. denied Officer Brown's accusation. Officer Brown became angry and told that he was going to call his lawyer. He further asked to get his manager and identified himself as a police officer as he took photos of his vehicle. did not recall Officer Brown directing any threats towards believed he left the shop before Officer Brown and never observed any uniformed officers arrive at the tire shop prior to his departure.
a.m., on a weekday, he exited an apartment complex located at some stated the squad car and called by name. Officer Brown told that he recognized his Mercedes Benz from the tire shop that was parked on the street nearby and asked for his telephone number. Officer Brown continued to tell that someone was going to be calling him regarding the incident at the tire shop and instructed to tell the person what he knew.
next contact with Officer Brown was several months later. On March 2, 2018, at approximately 10:51 a.m., Officer Brown contacted via text. Officer Brown's text message to read, "Mr. this is Officer Brown. Can you please give Ms. a call at stated that he called Officer Brown after he received the text. During the
⁴ Attempts to contact and interview were made but met with negative results. ⁵ had no idea at the time that Officer Brown was an off-duty Chicago Police Officer. ⁶ Attachments 7 and 9. The stated that he did not know Officer Brown and had never encountered Officer Brown prior to the date and
stated that he did not know Officer Brown and had never encountered Officer Brown prior to the date and time of the alleged incident and told Officer Brown his name while they were at the tire shop. 8 stated that he was visiting a female friend named who lived in the shop. 8 the stated that he was visiting a female friend named who lived in the shop. 9 the stated that he was visiting a female friend named who lived in the shop. 10 the shop of the date and the shop of the shop o

call, Officer Brown told to tell the Ms. what he the tire shop. ⁹	knew regarding the incident at
Officer David Brown Interviews	
During two separate interviews with COPA, one on March 25, 2018, Officer Brown told investigators that he was off-duty at new tires put on his 1997 Mercedes S600 Coupe. Officer Brown to be the owner, and explained to what he needed thereafter. Officer Brown then encountered who was also serviced. As the two talked about their respective vehicles, Officer Brown's vehicle without difficulty. However, the third tire onto the rear of Officer Brown's vehicle. Seeing of damaging one of the vehicle's lug nuts and began to phone. The responded by denying that he caused any damand explained to Officer Brown that the lug nut was previously darpart of the altercation as well.	and went to the tire shop to have encountered a male he believed done. Left the tire shop to at the shop having his vehicle installed the front tires on had trouble when he installed this, Officer Brown accused to record with his cell tage to Officer Brown's vehicle
Officer Brown told investigators that he became angry with that he would call his lawyer and that he was going to own the show vehicle. It telephoned and Officer Brown sposituation. Instructed Officer Brown to return to the tire shout replaced. Thereafter, Officer Brown calmed down and resume respective vehicles. Officer Brown stated that the situation ended of the new tires on his vehicle and with Officer Brown leaving to the fourth new tire installed. Officer Brown stated that he never officer because he didn't want any special treatment or discounts.	op if didn't repair his oke with regarding the op in a few days to have the lug od talking to about their with installing three go to another tire shop to have
Later that day, Sgt. Durham contacted Officer Brown of Officer Brown that she was at the tire shop and was shown a vid there at the tire shop. Sgt. Durham continued to explain to Officer tire shop made allegations against him. Two days later, on Septer returned to the tire shop to get his vehicle repaired. Officer Brown officer and accused of lying to the police by reporting to not say. Officer Brown told that he could be arrest called the police and no that he should not lie and left the shop after his vehicle	eo that depicted Officer Brown Brown that an employee at the ember 26, 2016, Officer Brown on identified himself as a police o Sgt. Durham things that he did ted for making a false report. It him. Officer Brown again told
When asked by COPA investigator, Officer Brown conficenduct any investigation surrounding the incident inside the knowledge from Sgt. Durham that made allegations again he would run into so that could be a witness for	tire shop. However, with the ainst him, Officer Brown hoped

⁹ Attachment 32.
¹⁰ Officer Brown stated the tire shop was located within five blocks of his residence and that he went there to patronize a local business.

11 Officer Brown stated that he had never encountered prior to the date and time of the alleged incident.

approximately three to four days following the incident, as he patrolled an area near tire shop, he coincidentally observed exit an apartment building. Officer Brown also recognized Mercedes parked nearby on the street. Officer Brown approached and informed that lied on him surrounding the incident inside the tire shop. Officer Brown stated that acknowledged that he remembered Officer Brown from the shop and told Officer Brown that he recalled Officer Brown telling that he was going to call his attorney and that did not know who he was messing with. Officer Brown asked for his name and telephone number and informed that someone may be calling him regarding the incident. Officer Brown instructed to tell the truth. gave Officer Brown left.
Officer Brown stated that approximately one month following their street encounter, he attempted to contact via phone to make sure that telephone number was still in service. Officer Brown stated that no one answered the phone. Then on March 2, 2018, Officer Brown attempted to contact again via phone. This time answered and confirmed that Officer Brown had the correct number. Officer Brown told that COPA had been attempting to contact him and would try to contact him again in the future. Officer Brown stated that he contacted again later the same day to confirm whether had been contacted by COPA. Tesponded by confirming that he had spoken with COPA and was scheduled to give a statement.
b. Digital Evidence
Cell Phone
Video footage fromcell phone consisted of two video clips (one in English and the other in Spanish). ¹⁶ In the first clip, Officer Brown is heard telling someone who is out of view, presumablyto put his vehicle back together so that he could leave. responded by telling Officer Brown that he thought Officer Brown said he was going to contact an attorney. The verbal exchange continued withasking Officer Brown to describe how Officer Brown was going to cause physical harm to himalso told Officer Brown that he never said that he didn't want to repair Officer Brown's vehicle.
In the second clip, a male voice is heard stating that he put the lug nuts back on the rim; that he wanted Officer Brown to leave the tire shop; and that he asked Officer Brown to return to the tire shop on Monday. The same male voice was heard referring to Officer Brown as an "asshole." ¹⁷
12 Officer Brown stated that the tire shop is located on his Beat. At the time, Officer Brown was working Beat 334 alone, in uniform, on the second watch, in a marked Department vehicle. 13 Officer Brown stated that at no time prior to the encounter with on the street did know that he was a police officer. 14 Officer Brown stated that he never saw again. 15 Attachment 20 and 38
 Attachment 29 and 38. COPA Inv. Nufio translated the Spanish clip. The first clip consists of a verbal exchange between Officer Brown and presumably The second clip consists of a verbal exchange between two men in Spanish, presumably

and 17 Attachment 17, 18, 19, and 20.

Officer Brown's Cell Phone

Video footage from Officer Brown's cell phone depicted working on the rear tire of Officer Brown's vehicle. 18

c. Documentary Evidence

Chicago Police Reports

CPD's Initiation Report, Original Incident Case Report, and the related Supplementary Report for RD#HZ447759 document that Sgt. Durham responded to the tire shop and met with Officers Nunez and Bryant. Sgt. Durham learned that an unknown male/black, subsequently identified as Officer Brown from a video taken with cell phone, threatened to shoot and burn the tire shop down.¹⁹

VI. ANALYSIS

Allegations 1 and 2

alleged that Officer Brown threatened to shoot him, the tire shop, and
threatened to burn down the tire shop. These allegations stemmed from a verbal exchange
between Officer Brown and where Officer Brown accused of damaging
his vehicle. While COPA finds that Officer Brown's vehicle sustained damage, and that an
altercation between Officer Brown and did occur, we are less certain as to what
threats Officer Brown may have made during the altercation.
CPD rules do prohibit an officer from engaging in an unjustified verbal exchange,
regardless if the officer is on or off duty. ²⁰ However, with damage occurring to his vehicle
while in the care of we do find that Officer Brown had a justifiable right to confront
regarding the damage. However, there is a clear difference between Officer Brown
demanding that mend any damage to his vehicle, and Officer Brown escalating the
confrontation with verbal threats to shoot and/or burn down the shop where
worked, with the latter not being justified.
First, video evidence from Officer Brown's and respective phones did
depict parts of the verbal exchange between them. But, these videos did not capture the entire
exchange, nor any of Brown's alleged threats. Second, could not recall hearing Officer
Brown threatening However, meeting never confirmed that the threats did not
occur. Additionally, most likely did not witness the entire encounter between Officer
Brown and as he believed he left the shop before Officer Brown. Finally,

¹⁸ COPA investigators telephoned Officer Brown in the days following his statement to follow up on obtaining a copy of the video. Officer Brown informed the investigators that he was having trouble downloading the video and would inform the investigators when he was successful. Officer Brown never followed-up with the R/I regarding the video. Attachment 30.

¹⁹ Attachments 3, 10, and 11.

²⁰ Rule and Regulations of the Chicago Police Department, Rule 9, Engaging in an unjustified verbal or physical altercation with any person, while on or off duty.

and Officer Brown's account of what happened are substantially different with regarded to what threats of violence, if any, were made by Officer Brown, and we have insufficient evidence to determine one account more credible than the other. Therefore, when considering these factors collectively, COPA recommends a finding of not sustained for allegations 1 and 2 against Officer Brown.

Allegation 3

alleged that Officer Brown asked him to lie about the reasons why the police were initially contacted. Officer Brown denied the allegation. There are no known witnesses to this encounter. No video evidence of this encounter. And, like with allegations 1 and 2, we find there to be insufficient evidence to determine one account more credible than the other. Accordingly, COPA recommends that this allegation be Not Sustained.

Allegation 4

alleged that Officer Brown threatened him with arrest for providing a false report to the police. COPA finds by a preponderance of the evidence that this perceived threated did occur. First, indicated in his interview that he knew that Officer Brown was a police officer when Officer Brown returned to the tire shop a couple days later. Officer Brown also admitted to this fact in his interview. Second, Officer Brown further admitted in his interview that he told that he could be arrested for making a false police report. While Officer Brown denied that these actions constituted a threat of arrest, we disagree for the following reasons.

While Officer Brown had a subjective belief that he didn't threaten with arrest, we believe the sequence of events could reasonably lead an individual in position to perceive Officer Brown's actions as a direct, real verbal-threat of arrest.

- 1.) Just days before, had made a complaint of misconduct against Officer Brown.
- 2.) Officer Brown's position of authority as a police officer became known between both.
- 3.) Officer Brown then directly told that he could be arrested for the complaint of misconduct he made just days before.

Regardless of Officer Brown's lack of intent to actually arrest when considering these factors, we find that perception that Officer Brown just threatened to arrest him was within the parameters of a reasonable reaction to Brown's words. Therefore, COPA finds that Brown's reference of arrest towards was a threat.

With respect to investigations conducted by COPA, the Municipal Code of Chicago provides that no individual should retaliate against, punish, intimidate, discourage, *threaten* or penalize any person for reporting misconduct, making a misconduct complaint, investigating,

complaining to officials, providing information, testimony or documents in an investigation.²¹ Not only do we find Officer Brown's threat of arrest at odds with this ordinance, we also find his actions were arguably intimidating and discouraging to Additionally, CPD General Orders provide that officers who are not directly assigned to an investigation will not contact reporting parties or witnesses for the purpose of reinvestigating, obtaining additional information, or clarifying information regarding the case. 22 Officer Brown was not assigned to investigate his altercation with contrary, Officer Brown was the subject of the investigation. Officer Brown's subsequent where Officer Brown questioned as to why he lied about the altercation and reported false information to the police was a direct conversation with where Officer Brown solicited clarifying information from regarding the altercation. In other words, Officer Brown probed the veracity of account. When considering our factual determination that Officer Brown threatened and the Municipal Code of Chicago's and CPD's prohibition against contacting and interfering with witnesses, we recommend a finding of sustained for allegation 4 against Officer Brown. Allegation 5 Officer Brown also had direct contact with In addition to this interaction, Officer Brown told that lied on him regarding what occurred inside the tire shop. Continued the conversation and acknowledged that he remembered Officer Brown telling that he was going to call his attorney and that did not know who he was messing with. Officer Brown asked for and obtained telephone number. Officer Brown told that someone may be calling him regarding the incident and instructed **to tell the truth.** As explained above, CPD directives prohibited Officer Brown from having contact with a witness for the purpose of reinvestigating, obtaining additional information, or clarifying information regarding the case. Here, Officer Brown obtains information from – he solicited contact information from and also obtained details of account of the altercation. Finally, Officer Brown urged to cooperate with the investigation and informed him that an investigator will be contacting him.

When considering CPD's direct prohibition against contacting and interfering with witnesses, we accordingly recommend a finding of sustained for allegation 5 against Officer Brown.

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²¹ MCC 2-78-160

²² General Order G08-01-02, Specific Responsibilities Regarding Allegations of Misconduct.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Brown

i. Complimentary and Disciplinary History

Complimentary: Problem Solving Award, 1; Deployment Operations Center Award, 1; Emblem of Recognition – Physical Fitness, 9; Attendance Recognition Award, 4; Military Service Award, 1; Presidential Election Deployment Award 2008, 1; Other Awards, 3; 2004 Crime Reduction Ribbon, 1; Department Commendation, 12; Honorable Mention, 243; Police Officer Of The Month Award, 1; Complimentary Letter, 5; NATO Summit Service Award, 1; Honorable Mention Ribbon Award, 1; Life Saving Award, 1; 2009 Crime Reduction Award, 1; Unit Meritorious Performance Award, 1

Disciplinary History: Officer Brown has no prior history of sustained findings within the last 7 years.

ii. Recommended Penalty, by Allegation

Allegation 4, recommended penalty, 20-day suspension

Allegation 5, recommended penalty, 20-day suspension

We do find that Officer Brown's contact with and during this investigation, which occurred prior to any formal interview by COPA investigators, was not carried out with ill intent. However, Brown's intent does not negate the fact the seriousness of Brown's actions, nor does it mean that Brown's actions had no effect whatsoever on this investigation or what either individual told COPA investigators. Instead, Brown's lack of ill intent was a factor in mitigation, which we considered in our recommended penalty of a 20-day suspension.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer David Brown	It is alleged that on September 24, 2016, at approximately 12:00p.m., at 2206 E. 75 th Street, PO David Brown:	
	1.Threatened to shoot and/or the auto body shop.	Not Sustained
	2. Threatened to burn down the auto body shop.	Not Sustained

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

LOG#1082375

It is alleged that on September 26, 2016, at approximately 5:00p.m., at 2206 E. 75th Street, PO David Brown: Not 3.Asked to lie about the reason he called the police. Sustained 4. Threatened Sustained / the complainant under log 1082375, with arrest for 20-Day providing a false report to police that concerned the Suspension incident under investigation under LOG#1082375. It is alleged that on an unknown date between September 24, 2016 and November 26, 2016, at an unknown time, at an unknown location, PO David Brown: 5. While not directly assigned to the investigation Sustained / under LOG#1082375, contacted a witness, 20-Day who witnessed the incident Suspension under investigation under LOG#1082375.

Approved:

Tr · · · · ·	
	January 23, 2019
Andrea Kersten	Date
Deputy Chief Investigator	

Appendix A

Assigned Investigative Staff

Squad#:3Investigator:Erica D. SandersSupervising Investigator:Matthew HaynamDeputy Chief Administrator:Andrea Kersten