## SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	October 5, 2017
Time of Incident:	Approximately 3:30 p.m.
Location of Incident:	
Date of COPA Notification:	October 5, 2017
Time of COPA Notification:	Approximately 7:45 p.m.

CPD officers were investigating allegations of fraud against the offender in a bank. The offender fled from the bank and fell to the ground, where one of the officers used four knee strikes to an offender's head to cause the offender to desist resisting arrest. The incident was captured on security camera footage.

## II. INVOLVED PARTIES

Involved Officer #1:	; Star #, Employee ID #; Date of Appointment: 2002; Officer; Unit of Assignment:; DOB:1977; Male; White
Involved Officer #2:	Star # , Employee ID # ; Date of Appointment: , 2003; Officer; Unit of Assignment: , 1974; Male; White
Involved Individual:	; DOB: , 1973; Male; White

## III. ALLEGATIONS

Member	Allegation	Finding /
		Recommendation
Officer	1. On or about October 5, 2017, at approximately 3:30	SUSTAINED /
	p.m., at or near	30 Days
	, the accused used excessive force on the	
	Complainant in that he employed knee strikes to the	
	Complainant's head, in violation of Rule 8.	

#### IV. APPLICABLE RULES AND LAWS

#### Rules

1. CPD Rules of Conduct, Rule 8 (prohibiting disrespect to or maltreatment of any person, while on or off duty).

#### General Orders

- 1. Chicago Police Department General Order G03-02 (Use of Force Guidelines) (effective date October 1, 2002, rescinded October 16, 2017).
- 2. Chicago Police Department General Order G03-02-02 (Force Options) (effective date January 1, 2016, rescinded October 16, 2017).

#### V. INVESTIGATION 1

#### a. Interviews

gave an Audio Recorded Interview to COPA on October 30, 2017.<sup>2</sup> In summary, not verbatim, and in pertinent part, denied that he had resisted arrest, except for his attempts to flee the scene. He denied that he had attempted to strike either of the arresting officers. He claimed that he had been punched in the head. COPA acknowledges that there is an inconsistency between secount and video evidence depicting the incident.<sup>3</sup> While was incorrect in the manner in which he received injuries to his head video evidence supports that he received an injury to his head. gave an Audio Recorded Statement on December 19, 2017.<sup>4</sup> Officer stated the following: On the date and at the time in question, Officer and his partner, Officer , responded to a call of a deceptive practice in progress at the Bank branch located at . Upon arriving, the officers spoke with bank employees, who informed (who was still present at the bank) had attempted to open an account with fictitious identification. The officers then spoke with and informed him that he was under arrest. If the don foot through an emergency exit, with both officers giving chase. fell as he ran, landing face down in the bank's drive through lane. The officers then stated that he placed 's left wrist in handcuffs, and that he and Officer struggled to handcuff 's right wrist; ultimately, the two officers utilized two sets of handcuffs, because the officers had difficulty in getting wrists together. Officer

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<sup>&</sup>lt;sup>1</sup>COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>&</sup>lt;sup>2</sup>Attachment 19.

<sup>&</sup>lt;sup>3</sup>That video evidence is described at Section V.b. below.

<sup>&</sup>lt;sup>4</sup>Attachment 40.

recalled observing Officer utilize an estimated two-to-three knee strikes against officer stated that he was in apprehension of receiving an imminent battery up until the point that had been completely handcuffed. After being shown video excerpts that depicted the arrest, Officer agreed that the video excerpts did not show arm flailing. <sup>5</sup>
Officer gave an Audio Recorded Statement on January 18, 2018. <sup>6</sup> Prior to the commencement of his statement, COPA gave Officer an opportunity to view two videos that Bank had provided to COPA which depict the incident. <sup>7</sup> Officer saccount of the events that immediately preceded the arrest of was substantially similar to the account given by Officer.
Concerning the arrest of stated, Officer were attempting to handcuff him, Officer used his right hand to apply downward pressure upon stated was for purposes of attempting to control stated, and that he then struck in the head with his knee. Officer stated that was then an active resister and that he was in fear of receiving a battery when he applied those knee strikes. He stated that he observed that strike strikes were of sufficient force to cause a fracture of skull.
b. Digital Evidence
Bank provided COPA with <b>Video Footage</b> taken by bank security cameras. Two of those videos depict the arrest: one of the videos taken from the interior, and one from the exterior. The interior video shows Officers and arrive and speak with bank staff and for several minutes. Neither officer searches nor pats down. then attempts to flee by running through a door and then falls in the staff and for several minutes. Neither officer searches nor pats down. The videos show the officers struggle with for approximately forty-five seconds to handcuff him after his fall. Both videos depict facedown with Officer atop him. Neither video shows is right arm flailing or moving in an aggressive or attacking manner toward either officer. Each shows Officer holding is head or neck down as Officer applies four separate knee strikes to show is head. The exterior video shows has difficulty sitting up and walking afterward.
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<sup>&</sup>lt;sup>5</sup>In an Original Case Incident Report dated October 5, 2017, Officer wrote in pertinent part that "was flailing his right arm with a clenched fist at which time Officer did several knee strikes towards offender's upper torso and upper right shoulder area." See Attachment 14.

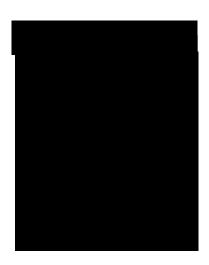
 $<sup>^6</sup>$ Officer statement is in three parts, see Attachments 41 - 43.

<sup>&</sup>lt;sup>7</sup>Those videos are described at section V(b) below.

<sup>&</sup>lt;sup>8</sup>Attachment 15.

<sup>&</sup>lt;sup>9</sup>See Attachment 25 at 15:25:33 – 15:30:28.

## Arrest Photograph<sup>10</sup>



## c. Documentary Evidence

In an **Original Case Incident Report** dated October 5, 2017, 11 Officer wrote in "was flailing his right arm with a clenched fist at which time Officer pertinent part that did several knee strikes towards offender's upper torso and upper right shoulder area. However, due to offender's continued resistance and movements combined with the struggle [offender] was struck in the face during [the] incident." In an **Arrest Report** dated October 5, 2017, 12 Officer wrote in pertinent part that Officer "attempted to gain control of subject's right arm and in fear of receiving a struck offender several times into upper torso area with his knee attempting to defeat offender's mechanical movement and struck offender in the face after he continued to resist arrest." In a **Tactical Response Report** dated October 5, 2017, <sup>13</sup> Officer as a passive resister, an active resister, and as an assailant presenting an imminent threat of battery, and he stated that his response to satisfactions included officers' presence, verbal commands, escort holds, and "knee strike." In the supervisor's comments section of the report, Lt. wrote, among other things, that he could not determine if Officer use of force was justified "due to not being able to review the bank parking lot video." submitted an **Initiation Report** dated October 5, 2017. <sup>14</sup> In it, Sgt. reported he interviewed after his arrest at the 25th District Station at approximately 7:14 p.m. on the date of the incident. According to the Initiation Report, related Officer had repeatedly punched him in the face/head while he was on the ground.

<sup>&</sup>lt;sup>10</sup>Attachment 11.

<sup>&</sup>lt;sup>11</sup>Attachment 14.

<sup>&</sup>lt;sup>12</sup>Attachment 11.

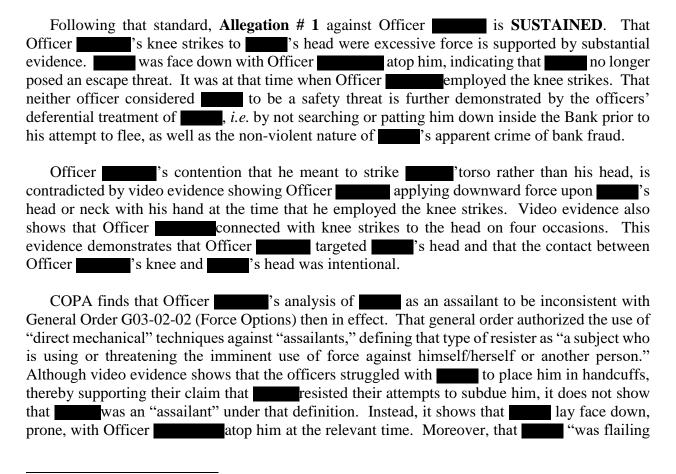
<sup>&</sup>lt;sup>13</sup>Attachment 6.

<sup>&</sup>lt;sup>14</sup>Attachment 4.

**Community First Medical Center Medical Records**<sup>15</sup> show presented there at approximately 7:55 p.m. on the date of his arrest. Imaging test results show sustained multiple facial fractures. <sup>16</sup>

#### VI. ANALYSIS

Excessive force claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard.<sup>17</sup> The proper application of this standard "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." "



<sup>&</sup>lt;sup>15</sup>Attachment 23.

<sup>&</sup>lt;sup>16</sup> Specifically, since 's medical records describe a moderately displaced comminuted fracture involving the anterior wall of his right maxillary sinus and a minimally displaced comminuted fracture involving the posterior and medial walls of his right maxillary sinus. *See*. Att. 23.

<sup>&</sup>lt;sup>17</sup> Graham v. Connor, 490 U.S. 386, 388 (1989).

<sup>&</sup>lt;sup>18</sup>490 U.S. at 396; Chicago Police Department General Order G03-02 (Use of Force Guidelines) (effective date October 1, 2002, rescinded October 16, 2017), Section III.C. <sup>19</sup>*Id*.

did not flail either of his arms.
Based upon the fact that
VII. RECOMMENDATIONS
i) Complimentary and Disciplinary History

his right arm with a clenched fist" is contradicted by video evidence which demonstrates that

received a reprimand for a court appearance violation that occurred on April 11, 2018. .

's complimentary history includes thirty-six honorable mentions Officer

ii) Recommended Penalty: Allegation No. 1 – Sustained Excessive Force-30 days

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<sup>&</sup>lt;sup>20</sup>*Graham*, *supra*, 490 U.S. at 396; Chicago Police Department General Order G03-02 (Use of Force Guidelines) (effective date October 1, 2002, rescinded October 16, 2017), Section III.C.

## VIII. CONCLUSION

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

Allegation		Finding / Recommendation
1. On or about October 5, 2017, at approximately 3, the accused us Complainant in that he employed knee strikes to the violation of Rule 8.	sed excessive force on	•
Approved:		
	Janua	ry 14, 2019
Deputy Chief Administrator – Chief Investigator	Date	
	Januar	ry 14, 2019
Chief Administrator	Date	

# Appendix A

Assigned Investigative Staff

Squad #