

SUMMARY REPORT DIGEST

INDEPENDENT POLICE REVIEW AUTHORITY

LOG NO
1066296

TYPE
CR

DATE OF REPORT
30-APR-2016

INSTRUCTIONS: To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, NO AFFIDAVIT, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed Five (5) DAYS SUSPENSION.

TO: CHIEF ADMINISTRATOR, INDEPENDENT POLICE REVIEW AUTHORITY

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
JACKSON, ANGELA L.	9182	119	[REDACTED]	113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: [REDACTED]	DATE / TIME 25-NOV-2013 19:11	BEAT: 313
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ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT ASSIGNED	UNIT DETAILED	SEX/RACE	DOB	APPOINTED DATE	ON DUTY ?	SWORN ?
HOMER, JUSTIN M	9161	10979	[REDACTED]	011	211	M / WHI	[REDACTED]-1981	05-DEC-2005	YES	YES
BABICZ, ANTHONY M	9161	12652	[REDACTED]	011	211	M / WHI	[REDACTED]-1980	27-SEP-2004	YES	YES

REPORTING PARTY

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
[REDACTED]	[REDACTED]	[REDACTED]		M / BLK	/

VICTIMS

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
[REDACTED]	[REDACTED]	[REDACTED]		M / BLK	/

WITNESSES

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
KINNANE, BRIAN	RANK: 9171, STAR NO: 1120, EMP NO: [REDACTED]			M / WHI	[REDACTED] 1976 / 40
WRIGLEY, JOHN	RANK: 9161, STAR NO: 7179, EMP NO: [REDACTED]			M / WHI	[REDACTED] 1969 / 46
OKEEFE, JOHN	RANK: 9161, STAR NO: 18418, EMP NO: [REDACTED]			M / WHI	[REDACTED] -1976 / 40

* IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

ALLEGATIONS

(SEE PAGE 3)

SUMMARY

(SEE PAGE 3)

ATTACHMENTS

INVESTIGATIVE REPORTS - SUPPORTING ALLEGATIONS LIST ATTACHMENTS NUMBER	INVESTIGATIVE REPORTS - SUPPORTING ACCUSED MEMBERS(S) LIST ATTACHMENTS NUMBER:	PHYSICAL EVIDENCE LIST ATTACHMENTS NUMBERS:	TOTAL NUMBER OF ATTACHMENTS SUBMITTED WITH THIS FILE:
6, 14, 19, 23	4-5, 7-8, 30, 35, 37, 39, 41-46	6, 20	51

FINDINGS - RECOMMENDATIONS

ACCUSED #1: Officer Justin M. Homer #10979
ALLEGATIONS #1-6: NOT SUSTAINED

ACCUSED #2: Officer Anthony M. Babicz #12652
ALLEGATIONS #1-4: NOT SUSTAINED

[REDACTED]
IPRA Supervisor Sherry Daun
[REDACTED]

DATE INITIATED
(Date incident was received for investigation)

03-DEC-2013

DATE COMPLETED (Date of this report)

30-APR-2016

ELAPSED TIME
(Total time expressed in days)

879

Investigator will initiate the Command Channel Review form by
completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE
[REDACTED]

ALLEGATIONS:

On 26 November 2013, at approximately 0928 hours, Lt. David Blanco #794 registered this complaint on behalf of the Complainant [REDACTED] with the Independent Police Review Authority Intake Aide Lorraine Heard. [REDACTED] alleged that on 25 November 2013, at approximately 1955 hours, at [REDACTED] Avenue, **Officer Justin M. Homer #10979:**

- 1) Slammed [REDACTED] against a concrete wall;
- 2) Threw [REDACTED] to the ground for no reason;
- 3) Kicked [REDACTED] in the stomach;
- 4) Stepped on [REDACTED]
- 5) Directed profanities at [REDACTED] in which he called him a "Nigger"; and
- 6) Disrespected [REDACTED] in which he referred to him as a "Boy."

It is further alleged that during the same above incident, **Officer Anthony M. Babicz #12652:**

- 1) Kicked [REDACTED] while he was on the ground;
- 2) Stepped on [REDACTED]
- 3) Directed profanities at [REDACTED] in which he called him a "Nigger"; and
- 4) Disrespected [REDACTED] in which he referred to him as a "Boy."

APPLICABLE RULES & LAW:

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Order G02-01: Human Rights and Human Resources – prohibits department members from exhibiting any bias or prejudice against an individual or group because of race; prohibits members from exhibiting a condescending attitude; prohibits members from directing any derogatory terms toward any person in any manner.

INVESTIGATION:

In his **Initiation Report**, Lt. David Blanco #794 documented that during the interview for the Tactical Response Report of Subject ██████████ told him that he was standing on a neighbor's porch when officers in an unmarked vehicle and dressed in plainclothes pushed him into a wall in the hallway. He further stated that one of the officers asked him about a man who lived upstairs at the location. According to ██████████ he explained to the officer that he knew nothing about the man the officer was inquiring about and was instructed by the officer to stand by the wall in the hallway and not to talk. As ██████████ turned to ask why he was being arrested, he was pushed into the wall and sustained a cut to his forehead. ██████████ alleged that he fell to the ground and was kicked in the torso. He was taken to Mercy Hospital by his arresting officers where he refused treatment because he wanted pictures taken of his injuries. ██████████ stated that a neighbor who lives at ██████████ known only to him as "██████████" witnessed the incident. Lt. Blanco reported that ██████████ had a visible cut over his left eyebrow, dried blood on his face and a bruise / scrape to his left torso. After ██████████ was printed and photographed in lockup, he offered ██████████ medical treatment of his injuries to which he accepted. (Att. 23)

In a statement to IPRA, **Complainant / Victim**, ██████████ related the allegations as indicated in the allegation section of this report. ██████████ who related that he had no idea why he was being arrested, related that he was in his house at ██████████ when he observed his neighbor, "██████████" outside. As he walked over to the neighbor's porch at ██████████, he began talking to him about doing some welding work for him. Immediately, a car pulled up and officers came running towards them. According to ██████████ the officers pushed him to the side as they went into the building and up the stairs. ██████████ explained that the officers jimmied the door and forced him inside of the building into the hallway. The officers inquired as to where the male that ██████████ had been speaking with had gone. ██████████ further explained that he had not been speaking with this male, but his neighbor, "██████████" and the unknown male had gotten into his truck and was going down the street the wrong way. ██████████ stated that the officers then inquired as to the whereabouts of "██████████" ██████████ stated that he told the officers that "██████████" had gone upstairs. As he began to ask questions, he was told to be quiet. ██████████ was placed in handcuffs and the same officer pushed him against the wall. The officer searched him and took a flashlight and searched the area around him. He was instructed to open his mouth and the officer stated that a drug transaction had to have taken place.

██████████ recounted that the same officer slammed his head against the concrete and pulled him down to the ground. The officer then called on the radio and told other officers that ██████████ was getting aggressive with him. According to ██████████ he asked the officer why he was lying on him. Another officer came down the stairs and both officers kicked him in the stomach multiple times and stepped on him. He was then picked up from the ground and other officers came down the stairs and went outside.

¹ The officers did not inquire about "██████████" by this nickname.

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1066296

Following being picked up from the ground, ██████████ stated that the two officers directed profanities at him by calling him a “nigger” and disrespected him by calling him a “boy.”

██████████ was taken to the car and transported to Mercy Hospital and Medical Center. On the way to the hospital, ██████████ stated that he told the two officers that he wanted pictures taken of him. Once at the hospital, ██████████ stated that he was not treated for his injuries, but that he never refused treatment.

██████████ explained that he was taken to the station and a lieutenant came in to talk to him. He informed the lieutenant of what occurred during and after his arrest. Subsequently, he was processed and pictures were taken of him and he was taken back to Mercy Hospital by different officers for treatment. Once at the hospital ██████████ was taken for X-rays and the wound on his forehead was sealed. (Atts. 14, 19)

Attempts to contact ██████████ for additional information were met with negative results. (Att. 22)

The related **Department Reports** including the Original Case Incident Report # ██████████, and the arrest report of ██████████ document that ██████████ was arrested on 25 November 2013 at approximately 1955 hours for PCS – POSS AMT CON SUB EXCEPT (A) (D) and Battery to Make Physical Contact. Officers reported that they set up surveillance in the area of ██████████, in Chicago having prior knowledge of narcotics sales in the area. Officers observed Mr. ██████████ walk up to the porch located at ██████████ and tender USC to an unknown black male on the porch. The unknown black male accepted the USC and tendered a small item which officers recognized to be narcotics to ██████████. Because the officers believed that they had just witnessed a narcotics transaction, they broke surveillance, radioed enforcement officers and approached ██████████. According to the arrest report, the officers approached the man who had tendered the suspect narcotics to ██████████ this unknown man fled and escaped the police attempts to locate and arrest him.. ██████████ was detained and Officer Homer reported that he observed a zip lock bag containing suspect heroin in ██████████ left hand. ██████████ was ordered to open his hand; he refused and turned towards Officer Homer and lowered his head and shoulder and forcefully pushed / charged into Officer Homer while trying to escape.

According to the arrest report, ██████████ stated, “You are going to have to shoot me and kill me.” Officer Homer used an emergency takedown to control ██████████ while using verbal commands to obtain compliance. Officer Anthony M. Babicz #12652 immediately recovered the zip lock bag containing suspect heroin from ██████████ left hand. ██████████ sustained a laceration above his left eye during the emergency takedown and was immediately transported to Mercy Hospital for medical treatment. While en route to the hospital, it is reported that officers smelled a strong odor coming from ██████████ breath. ██████████ refused medical treatment, refused to let hospital staff clean his laceration or apply a bandage, and refused to sign the medical treatment

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1066296

refusal form. [REDACTED] was then transported to Central Detention for processing. (Atts. 4, 5)

The **Tactical Response Report (TRR)** of Officer Justin M. Homer #10979 described [REDACTED] as a passive resister (did not follow verbal direction); who became an active resister (pulled away); who lastly became an assailant of an assault and battery (imminent threat of battery and pushed / charged into officer). Officer Homer utilized member presence, verbal commands, and take down/emergency handcuffing to subdue [REDACTED]². When [REDACTED] was interviewed by the Watch Commander, Lt. Blanco reported the same information as listed on his Initiation Report and found that this incident required further investigation based on the statements of Officer Homer and [REDACTED] (Att. 7)

The **Officer's Battery Report (OBR)** of Officer Justin Homer #10979 was consistent with the information he wrote in the arrest report, case report and TRR of [REDACTED] [REDACTED] except for the fact that he listed unknown when asked if the offender's activity was drug related. (Att. 8)

Mugshot Photographs taken of [REDACTED] depict injuries to his face. (Att. 6)

Medical Records revealed that [REDACTED] was treated at Mercy Hospital and Medical Center for his injuries; his address was listed as [REDACTED]. Records denoted that 55 year old [REDACTED] was brought to the emergency room in police custody the previous evening at which time he refused exams and medications. [REDACTED] [REDACTED] was discharged after refusing medical treatment and now had returned requesting medical treatment. [REDACTED] complained of a facial laceration to the left side of his face as well as pain to the left side of his rib. [REDACTED] informed hospital personnel that he was beaten by the police officers on the previous shift who had arrested him. Records indicate that [REDACTED] stated that he was kicked in the head and chest and "having his chest him down." [REDACTED] was diagnosed as having bruising and tenderness to his left lower ribs and his chest X-rays show a minimally displaced eighth rib fracture on the left. [REDACTED] pain was controlled by Norco; his Tetanus was updated; his wound was cleaned with Dermabond. (Att. 20)

A **canvass** of the area produced negative results. The address of [REDACTED] was described as a vacant, brown, brick 3-Flat. (Att. 21)

The **Court Disposition** of [REDACTED] Case # [REDACTED] documented that [REDACTED] plead guilty to Count 2 (Battery); there was a finding of guilty on 02 January 2014; [REDACTED] was sentenced to Cook County Jail for 55 days and given credit for time served. There was a finding of No Probable Cause for Count 1, Possession. (Att. 47)

² Officer Homer submitted an Officer's Battery Report. Officer Homer did not sustain any injuries. (Att. 8)

Arrest Reports for [REDACTED] dated 27 July 2012 and 02 November 2014 document his address as [REDACTED]. (Atts. 48, 49).

During an audio-recorded statement to IPRA on 09 February 2016, **Witness Sergeant Brian Kinnane # 1120**, stated that he was the supervisor for the Area Gun Team if needed; he was responsible for the violent crime within a certain area of the 003rd District; and he was the direct supervisor of Officers Babicz and Homer. Sgt. Kinnane did not recall how he received the information to come to the scene at [REDACTED], but that upon arrival he was close enough to the officers to maintain radio communication via the car to car radios. Upon arrival he spoke with Officer Wrigley; he and Officers Wrigley, Babicz and Homer were enforcement officers, who moved in once they were notified by Officer O'Keefe. During the enforcement, Sgt. Kinnane recounted that he had gone upstairs in the building of [REDACTED] and that he was in the back of the building as well. Sgt. Kinnane further explained that he did not observe [REDACTED] in custody until Officer Homer requested an assist. He believed that he had only been away from Officer Homer at the most one to three minutes before returning to the hallway. Upon questioning, Sgt. Kinnane did not remember if he looked at [REDACTED] before going up the stairs in the hallway. Upon returning to the hallway, he observed a cut above [REDACTED] left eye. He asked Officers Babicz and Homer what occurred and Officer Homer told him that [REDACTED] lunged at him and he performed an emergency takedown. Sgt. Kinnane stated that he first asked [REDACTED] if he was okay and then asked [REDACTED] how he had received his injury.

According to Sgt. Kinnane, [REDACTED] stated that he had a cut over his eye and became somewhat belligerent, in that he was screaming and not making much sense. [REDACTED] complained about his arrest and that the officers took him to the ground Sgt. Kinnane informed [REDACTED] that he would be taken to the hospital and instructed the officers to take him directly to the hospital. Once at the hospital, Sgt. Kinnane stated that he asked [REDACTED] to let hospital personnel treat him. He then had to instruct [REDACTED] to calm down. [REDACTED] refused treatment and wanted pictures of his injuries taken before he received any hospital treatment. Sergeant Kinnane denied observing the allegations made against Officers Homer and Babicz. (Atts. 37, 44)

During an audio-recorded statement to IPRA on 05 February 2016, **Witness Officer John E. Wrigley #7179**, stated that his partner was Officer John D. O'Keefe. He further stated that his assignment on the date of the incident was narcotic surveillance for the area. Officer O'Keefe was the surveillance officer. At the time of the interview, Officer Wrigley could not recall if he was in the car or on foot awaiting notification from Officer O'Keefe. He further could not recall if he had been on the property before, but did recall that he had been in the area before. Officer Wrigley recounted that he went to the rear of the property to look for the person selling the narcotics, but did not locate the offender; he was unsure if he was alone because much of the time the situations are fluid. He further recounted that he knew nothing about [REDACTED] until later. When he observed [REDACTED] he was handcuffed and standing at the time. He admitted that he did remember seeing some type of injury on [REDACTED] Officer Wrigley denied

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1066296

observing or hearing the allegations made against Officers Babicz and Homer. (Atts. 39, 45)

During an audio-recorded statement to IPRA on 02 March 2016, **Witness Officer John D. O'Keefe 19575**, stated that he was partners with Officer John Wrigley. Officer O'Keefe explained that his assignment on the date of the incident was narcotic surveillance for the 003rd District in an area that was experiencing gang conflict, and this particular block had a flourishing illegal narcotics trade. According to Officer O'Keefe, he had prior knowledge of narcotics sales and they were at the beginning stages of developing information in the area. As the assigned surveillance officer, Officer O'Keefe recounted that he observed several hand to hand transactions before taking any actions at [REDACTED]. According to Officer O'Keefe, the main target of the investigation, now known as [REDACTED]³, fled into the building at [REDACTED] and was not apprehended that day; he was arrested a few months later. Officer O'Keefe stated that he directed the enforcement officers to check the hallway and to ascertain if [REDACTED] had run out of the rear of the building. At some point, he heard Officer Homer request an assist. Later, Officer O'Keefe stated that he was informed that there was an altercation between Officer Homer and [REDACTED]. He further stated that Officer Homer had to perform an emergency takedown on [REDACTED] in the hallway. Later on when Officer O'Keefe observed [REDACTED] up close, he noticed that he had an injury above his eye and [REDACTED] was belligerent, but was told by Sgt. Kinnane that he would be taken to the hospital. (Atts. 40, 46)

During an audio recorded statement to IPRA on 08 February 2016, **Accused Officer Anthony M. Babicz #12652**, stated that he was working with his partner Officer Justin Homer. He and Officer Homer were called by Officer O'Keefe and Officer Wrigley involving a narcotics investigation on 61st and Eberhart. Officer Babicz stated that he went in to the building and up the stairs. Upon questioning, Officer Babicz related that he walked past [REDACTED] and did not look at [REDACTED]. Once Officer Homer stated that he needed help, he was the officer that came downstairs to assist Officer Homer with [REDACTED]. Upon his approach back to the hallway on the main level, he observed [REDACTED] already in handcuffs on the ground with Officer Homer having one knee up and one knee on the ground. Officer Babicz stated that he observed his supervisor, Sgt. Kinnane after [REDACTED] was placed under arrest. Officer Babicz denied the allegations made against him and denied observing the allegations made against Officer Homer. (Atts. 35, 43)

During an audio recorded statement to IPRA on 08 February 2016, **Accused Officer Justin M. Homer #10979**, stated that he had previously been in the area but not to the specific address of incident. According to Officer Homer, he and his partner, Officer Babicz were working narcotics surveillance and were enforcement officers on the [REDACTED]. Once they were notified that there was a suspected hand to hand narcotics transaction and given a description of the suspects, he and Officer Babicz went to [REDACTED]. Officer Homer admitted that he did not observe the hand to

³ Officer O'Keefe only knew [REDACTED] by his personal description at the time, not his name.

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1066296

hand transaction and that he came into contact with [REDACTED] after coming to the building and detained [REDACTED] while Officer Babicz and other officers went up the stairs after an unknown suspect. Upon coming into contact with [REDACTED] Officer Homer recounted that he asked [REDACTED] to drop the bag of heroin that was in his hand, while he was facing the wall. Once [REDACTED] refused, Officer Homer explained that [REDACTED] told Officer Homer that he was going to have to shoot and kill him. Officer Homer further explained that [REDACTED] lowered his head and shoulder and with all of his force pushed into him.

Officer Homer responded by grabbing a hold of [REDACTED] and took him to the ground in performing an emergency takedown, in which they both landed on the ground.

According to Officer Homer, he believed that [REDACTED] landed on his side, but that his entire body hit the ground. Officer Homer recalled that he landed partially on top of [REDACTED] and half to the side of him. Officer Homer could not recall if he was still on the ground when Officer Babicz descended the stairs to assist him. Officer Homer also could not recall if [REDACTED] was already in handcuffs when he performed an emergency takedown on [REDACTED]. As a result of the emergency takedown, [REDACTED] suffered a cut above his eyebrow area. [REDACTED] was transported to Mercy Hospital for medical treatment. Officer Homer explained that the physical contact that he was engaged in with [REDACTED] was documented in his TRR. Officer Homer denied the allegations made against him and denied observing the allegations made against Officer Babicz. (Atts. 30, 42)

CONCLUSION:

As documented by Lt. Blanco, ██████████ alleged that he was pushed against the wall, fell to the ground and was then kicked in his torso. The medical records described ██████████ reporting that he was beaten by police, including being kicked in his head. In his statement to IPRA, ██████████ did not allege that he was kicked in the head and reported that he was thrown to the ground. Although ██████████ consistently reported that he was beaten by police, his description of the specific actions by the officers lacked consistency.

██████████ reported to IPRA that he lived at ██████████ and was visiting his neighbor when the incident with the police began; ██████████ denied there had been any drug activity. This narrative is significantly different than documented in the Department reports, which reported that ██████████ was observed engaging in a hand to hand narcotics transaction. Medical records from the day after the incident identified ██████████ address as ██████████. When ██████████ was arrested preceding and following this incident his address was documented as ██████████. During the canvass, the address of ██████████ was described as a vacant building. The evidence established that ██████████ was untruthful when he reported to IPRA that he resided at ██████████

Based on the discrepancies and contradictions explained above, ██████████ credibility is diminished. ██████████ reduced credibility is considered in the analysis of each allegation of misconduct he made against the accused officers.

Accused: OFFICER JUSTIN M. HOMER #10979

Allegations #1-6: The R/I recommends a finding of **Not Sustained**. There is no doubt that ██████████ was injured by police during this incident, as documented in photographs, Department Reports and medical records. ██████████ provided basically consistent descriptions of how he obtained his injuries to Lt. Blanco, medical personnel and IPRA. However, the injuries to his face and ribs that ██████████ sustained are also consistent with the Emergency Takedown that Officer Homer documented in Department Reports and his statement to IPRA. Both ██████████ and Officer Homer agreed that they were alone when Officer Homer took ██████████ to the ground. Officer Homer denied that he slammed ██████████ against a wall and maintained that ██████████ obtained the injury to his face during the Emergency Takedown. Officer Homer denied that he kicked or stepped on ██████████ and Officer Babicz denied that he observed this misconduct. Similarly Officer Homer denied that he directed profanities and disrespect at ██████████ by calling him a “nigger,” or “boy.” Officer Babicz denied that Officer Homer used this language. As described above, ██████████ credibility is diminished; beyond his somewhat inconsistent allegations, there is no evidence which refutes Officers Babicz and Homer’s description of the incident. Therefore the appropriate finding for these allegations are Not Sustained.

Accused: OFFICER ANTHONY M. BABICZ #12652

Allegations #1-4: The R/I recommends a finding of **Not Sustained**. Officer Babicz denied kicking or stepping on [REDACTED] and Officer Homer denied that he observed Officer Babicz commit this misconduct. As described above, the injuries to [REDACTED] ribs are also consistent with the Emergency Takedown that Officer Homer documented in Department Reports and his statement to IPRA. Officer Babicz denied that he directed profanities and disrespect at [REDACTED] by calling him a “nigger,” or “boy.” Officer Homer also denied that Officer Babicz used this language. As previously described, [REDACTED] credibility is diminished; beyond his somewhat inconsistent allegations, there is no evidence to refute Officers Homer and Babicz’ description of the incident. Therefore the appropriate finding for these allegations is Not Sustained.