

INTRODUCTION

The incident involves a teenager, Subject 1, who was detained for a street stop/investigatory stop by Officer A and Officer B. Subject 1 stated that he was eating a piece of chicken and the officers accused him of “attempting to serve.” The Officers stated that Subject 1 attempted to swallow narcotics after he observed them. A physical altercation ensued as the officers attempted to place Subject 1 into custody. Subject 1’s family approached and profanities were directed at them and Subject 1 was subsequently placed into custody.

ALLEGATIONS

On 19 June 2014, at approximately 1156 hours, the complainant, **Subject 1 telephoned IPRA and** registered this complaint. Subject 1 alleged that on 17 June 2014, at approximately 1230 hours, in the vicinity of XXXX S. Kildare, **Officer A, Unit XXX:**

- 1) Choked Subject 1 while he was handcuffed, in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty.”
- 2) Slammed Subject 1’s head onto a police vehicle, in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty.”
- 3) Threw Subject 1 to the ground; in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off.”
- 4) Directed profanities to the Subject’s family such as “Get back before I fuck you up” in violation of Rule 2: “Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- 5) Struck Subject 1 about the chest with a closed fist, in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty”; and
- 6) Unnecessarily pointed their weapon at the Subject’s family, in violation of Rule 38: “Unlawful or unnecessary use or display of a weapon.”

On 19 June 2014, at approximately 1156 hours, the complainant, **Subject 1 telephoned IPRA and** registered this complaint. Subject 1 alleged that on 17 June 2014, at approximately 1230 hours, in the vicinity of XXXX S. Kildare, **Officer B, Unit XXX:**

- 1) Choked Subject 1 while he was handcuffed, in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty.”
- 2) Slammed Subject 1’s head onto a police vehicle, in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty.”

- 3) Threw Subject 1 to the ground; in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty.”
- 4) Directed profanities to the Subject’s family such as “Get back before I fuck you up” in Violation of Rule 2: “Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- 5) Struck Subject 1 about the chest with a closed fist in violation of Rule 8: “Disrespect or maltreatment of any person, while on or off duty”; and
- 6) Unnecessarily pointed your weapon at the Subject’s family, in Violation of Rule 38: “Unlawful or unnecessary use or display of a weapon.”

APPLICABLE RULES AND LAW

Rule 2 – Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8 – Disrespect or maltreatment of any person, while on or off duty.

Rule 38 – Unlawful or unnecessary use or display of a weapon.

INVESTIGATION

In an in-person statement with IPRA on 19 June 2014, the **alleged victim, Subject 1**, stated that, on 17 June 2014, at approximately 1230 hours, he left his home located at XXXX S. Kildare and walked toward a Chicago Park District pool, which is located in Franklin Park at XXXX S. Kildare. Subject 1 walked past two plainclothes Hispanic police officers riding in a black unmarked vehicle. Subject 1 was eating chicken his mother had just prepared and he tossed the bone onto the grass. Subject 1 stated that officers followed him as he continued to walk to Franklin Park.

Subject 1 stated that the two officers exited their car and rushed him. They placed him in handcuffs. The taller of the two officers, whom Subject 1 stated was the passenger, began choking him and told him, “Spit it out.” The other officer pinched Subject 1’s nose closed. Subject 1 stated the officers told him they saw him “serving” a car that was in the park. The taller of the two officers then threw Subject 1 on the police vehicle and then onto the ground. Subject 1 observed his family approaching. The officers drew their firearms and instructed his family to get back. The officers called for assistance because a crowd had gathered. The officers held Subject 1 on the ground, in handcuffs, until additional officers arrived. He was then transported to the district station by Officer A and Officer B, the same officers who detained him on the street. At approximately 1713 hours, after Subject 1 complained of pain of unknown origin, officers took him to St. Anthony’s Hospital for treatment; Subject 1 stated that he

sustained abrasions on his face during his arrest. According to Subject 1, while en route to the district, the passenger officer, Officer A struck him on the chest with a closed fist. (Att. 26)

In an in-person statement with IPRA taken on 19 June 2014, **Witness 1** (mother of Subject 1) stated that, on 17 June 2014, she was inside her apartment when she heard two of her sons, Witness 2 and Witness 3 yelling. Witness 1 stepped out onto the porch and observed her son, Subject 1, lying on the ground in handcuffs; she did not witness any of the physical contact between Subject 1 and the officers. Witness 1 then overheard an officer tell her other son, "Get back before he shoots him." Witness 1 observed a tall white male officer in plainclothes pointing a gun at Subject 1's head. She approached the area where her two other sons were standing and watching the same officers, now known to be Officer A and Officer B. Officer B yelled "Get back before I taser you all."

The second officer, (Officer B),¹ who was shorter than the first officer spoke with Witness 1 and told her that they had observed Subject 1 swallow what they believed to be heroin. Witness 1 told the officer her son did not have heroin, and that he was eating chicken she had just cooked. The officers placed her son in a police vehicle and told her they were taking him to Harrison and Kedzie.² Witness 1 provided a list of additional persons who witnessed the altercation to the IPRA investigator along with their contact information. That list included Witness 2, Witness 3, Witness 4 and Witness 5 all listed XXXX S. Kildare as their residential address. Witness 1 also provided the first names of two additional persons, but had no further identifiers for these individuals (Witness 6 and Witness 7). According to Witness 1, Witness 7 recorded a portion of the incident on her cell phone. (Att. 17)

Witness 4 contacted IPRA on the date of incident (17 June 2014) and reported the incident under a different log number which was closed out/duplicated into this investigation. Witness 4 also registered a complaint the day of the incident which was investigated under log number 1069888.

Efforts to obtain **witness statements** of Witness 1's sons (Witness 3, Witness 4, and Witness 2) who witnessed part of the arrest of Subject 1, via certified and regular mail as well as a personal visit were met with negative results. (Att. 29, 30, 33, 40)

The Reporting Investigator obtained the results of a Westlaw search of any persons named "Witness 8" having resided in the vicinity of XXXX S. Kildare. The reporting investigator contacted **Witness 8** who stated, she previously resided in Chicago at XXXX W. 14th Street and left Chicago in 2012. Witness 8 further stated she does not have a daughter named "**Witness 7.**" (Att. 39)

¹ According to To/From reports submitted by the officers as well as IClear, Officer B stands 5'7 and weighs approximately 160lbs.

² Subject 1 was actually transported to the 10th district station at Ogden and Christiana.

Evidence Photographs taken of Subject 1 on 19 June 2014, during his statement at IPRA depict an abrasion to the right side of the face, along the cheek; an abrasion on the right knee; and an abrasion on the right shoulder. (Att. 28)

Medical Records obtained from St. Anthony's Hospital reflect that Subject 1 told the hospital triage staff that he was "slammed . . . brought to the ground" by police. He complained of an injury to the right side of his face, pain in his right shoulder and back. Subject 1 was discharged into police custody with a diagnosis of muscle strain and a facial abrasion. Subject 1 did not complain of any trauma to his neck or throat. (Att. 27)

Officer A completed a **Tactical Response Report (TRR)** under RD # XXXXXXXX. The TRR reflects that Subject 1's actions were that of an Active Resister, in that he pulled away. Officer A indicated that he utilized member presence, verbal commands, escort holds, and an emergency takedown in response to Subject 1's resistance. (Att.9)

General Offense Case Report (XX-XXXXXX) and the **Arrest Report (CB# XXXXXXXX)** for Subject 1 reflect that he was charged with Possession of a Controlled³ substance and Resisting/Obstructing a Police Officer. The narrative details that while patrolling a high narcotics area, officers observed the offender, Subject 1, approach a parked vehicle. When Subject 1 observed the officers, he quickly walked away and crossed the street. The arresting officers approached Subject 1 for a field interview. During questioning, Officer B observed an object in Subject 1's mouth and ordered him to spit it out. Subject 1 failed to comply with the officer's verbal direction. Subject 1 began to flail his arms and pull away from the officers. Subject 1 was placed into custody as a crowd of citizens gathered around the arresting officers in an "aggressive manner." As Subject 1 continued to pull away from Officer A, he conducted an emergency takedown maneuver. Subject 1 then spit out a piece of plastic containing a white substance. During the takedown, Subject 1 sustained an abrasion to his face. At that time, Subject 1 was offered medical attention, however he refused.

The lockup-screening portion of the arrest report indicates that Subject 1 had "a bump on right side of face (refuses medical attention) at this time." On the same date, at approximately 1713 hours, a note was entered in the screening log explaining that Subject 1 was being sent to the hospital because he had complained of pain in the back or shoulder area. Subject 1 returned from the hospital at approximately 1925 hours. (Att. 5, 8)

According to Cook County Court Records, on 26 August 2014, Subject 1 pled guilty to possession of a controlled substance and was sentenced to 2 days of incarceration (time served.) (Att. 44)

In a To/From report dated 6 February 2015, **Accused Officer B**, responded to allegations made by Subject 1 in a written To/From report. Officer B related that he was working in civilian dress in an unmarked vehicle with Officer A. He further related that, during a field interview of Subject 1, he did not choke Subject 1, did not slam Subject 1

³ Subject 1 Plead Guilty on 26 August 2014 in Branch 43.

onto the police car, did not slam Subject 1 onto the ground, and did not recall directing profanities toward Subject 1 or his family members. Nor did he strike Subject 1 as he was seated in the rear of the police vehicle. According to Officer B, he stands 5'7 inches tall and weighs approximately 160 lbs. (Att. 35)

In a subsequent **in-person statement** with IPRA, on 5 August 2016, **Officer B** maintained the answers he provided in his earlier To/From report were accurate. He further stated that his definition of the crowd approaching him in an aggressive manner as stated in the GOCR was that numerous individuals were approaching him and his partner with balled up fists, directing profanities and refusing direct orders to stand back. Officer B stated that he requested assist units and upon their arrival, he and Officer A were able to transport Subject 1 from the scene. Officer B denied drawing his weapon during this incident.

Officer B stated that his only physical contact with Subject 1 occurred when he held Subject 1's right arm as Officer A applied handcuffs. (Att. 60)

In a To/From report dated 6 February 2015, **Accused Officer A**, responded to allegations made by Subject 1 in a written To/From Report. Officer A was working with Officer B when they conducted a field interview of Subject 1. Officer A did not recall choking Subject 1 or striking Subject 1 while he was in the rear seat of the police vehicle. Officer A did relate that he pinned Subject 1 against the vehicle using his body as Subject 1 flailed his arms and attempted to defeat the arrest. Officer A added that he also performed an emergency takedown. Officer A also related he used profanity as the crowd was advancing toward him and his partner and he feared for their safety. According to Officer A, he stands 6'3 inches tall and weighs approximately 185 lbs. (Att. 37)

In a subsequent **in-person statement** with IPRA, on 5 August 2016, **Officer A** maintained the answers he originally provided in his To/From report relative to allegations made by Subject 1. Officer A further stated that while attempting to arrest Subject 1, he used his body weight to hold Subject 1 against the vehicle. Subject 1 was not complying with verbal orders and continued to flail his arms in an effort to defeat his arrest and an emergency takedown was performed. Officer A acknowledged that after the takedown Subject 1 had an abrasion to the cheek area, noting that the takedown was performed on concrete. Officer A stated that people from the community began approaching him and his partner on foot, running and screaming regarding the arrest of Subject 1. Officer A shouted profanities at the crowd in an effort to keep them at bay. However, he did not recall exactly what he said. He further stated that he does not recall whether he un-holstered or pointed his weapon during the incident. (Att. 61)

CONCLUSION

The evidence related to the initiation of the contact between Subject 1 and the involved officers tends to support the officers' version of the events. Although Subject 1 claimed he was eating chicken and had tossed aside a bone, the officers allege that they believed that they saw him "serve" narcotics. The Property Inventory Report associated

with the incident documents that the officers recovered “a crumbled up piece of plastic containing a white powder substance, suspect heroin.” In addition, as outlined above, Subject 1 pled guilty to a narcotics offense following this arrest. Therefore, other than the allegations by Subject 1 and his mother, there is no evidence that is inconsistent with the officers’ accounts of the events.

Officer A: Allegation # 1

The Reporting Investigator (R/I) recommends a finding of **Not Sustained** for Allegation #1 that Officer A choked Subject 1 while he was handcuffed. Officer A had no recollection of having choked Subject 1. Because there is insufficient evidence to prove by a preponderance that Officer A committed this act, this allegation is Not Sustained.

Officer A: Allegation #2

The Reporting Investigator recommends a finding of **Not Sustained** for Allegation #2 that Officer A slammed Subject 1’s head on a vehicle. Officer A describes pinning Subject 1 against the vehicle with the use of his body weight as he flailed his arms and pulled away trying to defeat his arrest. Officer A documented his contact with Subject 1 on his TRR report.

Officer A: Allegation #3

The Reporting Investigator recommends a finding of **Exonerated** for Allegation #3 that Officer A threw Subject 1 to the ground. Officer A stated that he had to perform an emergency takedown on the concrete in order to gain custody of Subject 1. Officer A documented his contact with Subject 1 on his TRR report. At the time of the takedown, according to Officer A, Subject 1 was flailing his arms in an attempt to evade the arrest. According to General Order G03-02-02, Subject 1 would be considered an “Active Resister” – which is defined as:

a person whose actions attempt to create distance between that person and the member’s reach with the intent to avoid physical control and/or defeat arrest. This type of resistance includes gestures ranging from evasive movement of the arm, through flailing arms, to full flight by running.

An emergency take-down is a reasonable use of force to effect the arrest of an active resister.

Officer A: Allegation # 4

The Reporting Investigator recommends a finding of **Sustained** for Allegation # 4 that Officer A directed profanities such as “Get back before I fuck you up,” to the Subject family. Officer A specifically states that in his report that he used profanities toward an advancing crowd because he was afraid for his safety and that of his partner. In his in-person statement, Officer A recalled using profanities toward the citizens but did not

recall exactly what he stated. He stated that he used the profanities to “scare them a lil bit” until assist units arrived. However, the presence of an unruly crowd does not justify the use of profanity.

Officer A: Allegation # 5

The Reporting Investigator recommends a finding of **Not Sustained** for Allegation #5. It is alleged that Officer A struck Subject 1 about the chest with a closed fist. There is insufficient evidence to prove by a preponderance that Officer A committed this act.

Officer A: Allegation # 6

The Reporting Investigator recommends a finding of **Not Sustained** for Allegation #6 that Officer A unlawfully and unnecessarily drew or displayed his weapon. There is insufficient evidence to prove by a preponderance that Officer A unnecessarily displayed his weapon. Subject 1’s mother claims that one of the officers, which appears to be Officer A from her description, pointed his firearm at Subject 1’s head while he was on the ground. Subject 1 made no such allegation. Subject 1’s relatives who had witnessed the event did not cooperate with this investigation. According to Officer A, an aggressive crowd started to gather after the officers took Subject 1 to the ground. It is possible that Officer A unholstered his weapon as a show of force to control the crowd. However, Officer A does not recall doing so. Therefore, there is insufficient evidence in support of this allegation.

Officer B: Allegation # 1

The Reporting Investigator recommends a finding of **Not Sustained** for Allegation #1 against Officer B, it is alleged that Officer B choked Subject 1 while he was handcuffed. The evidence does not support that Officer B had physical control of Subject 1 while he was being placed into custody. Officer B’s partner, Officer A documented himself as having physical contact during the arrest. Officer B denied choking Subject 1. Therefore, there is insufficient evidence to prove by a preponderance that Officer B committed this act.

Officer B: Allegation #2

The Reporting Investigator recommends a finding of **Unfounded** for Allegation #2 against Officer B, it is alleged that Officer B slammed Subject 1’s head on the vehicle. Officer B denied slamming Subject 1’s head on the vehicle. Officer B’s partner Officer A documented having physical contact with Subject 1.

Officer B: Allegation #3

The Reporting Investigator recommends a finding of **Unfounded** for Allegation #3 against Officer B, it is alleged that Officer B threw Subject 1 to the ground. Officer

B's partner, Officer A prepared a Tactical Response Report documenting that he performed an emergency takedown on Subject 1.

Officer B: Allegation # 4

The Reporting Investigator recommends a finding of **Unfounded** for Allegation #4 that Officer B directed profanities such as "Get back before I fuck you up," to the Subject family. Officer A the partner of Officer B acknowledged that he is the officer who directed profanities at Witness 1 and her son.

Officer B: Allegation # 5

The Reporting Investigator recommends a finding of **Not Sustained** for Allegation #5. It is alleged that Officer B struck Subject 1 about the chest with a closed fist. Officer B denied striking Subject 1 on the chest with a closed fist. There is insufficient evidence to prove by a preponderance that Officer B committed this act.

Officer B: Allegation # 6

The Reporting Investigator recommends a finding of **Not Sustained** for Allegation #6 that Officer B unlawfully and unnecessarily drew or displayed his weapon. There is insufficient evidence to prove by a preponderance that Officer B unnecessarily displayed his weapon. Subject 1 claims that both officers displayed their weapons at the emerging crowd. According to Officer B there were numerous people yelling profanities and ordering he and his partner to let Subject 1 go. Officer B stated that the citizens quickly approached and displayed aggressive body language such as closed fist while refusing to stand back. It is possible that Officer B unholstered his weapon as a show of force to control the crowd. However, Officer B, like his partner, does not recall doing so. Therefore, there is insufficient evidence in support of this allegation.

FINDINGS:

ACCUSED: **Officer A**

ALLEGATION#1-2: Not Sustained

ALLEGATION # 3: Exonerated

ALLEGATION# 4: **Sustained** - Violation of Rule 2 "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the department." in that on 19 June 2014, at approximately 1230 hours, in the vicinity of XXXX S. Kildare, Officer A stated "Get back before I fuck you up, " bringing discredit upon the department.

ALLEGATION #5-6: Not Sustained

ACCUSED: **Officer B**

ALLEGATION # 1: Not Sustained

ALLEGATION #2-4: Unfounded

ALLEGATION # 5-6: Not Sustained