

## INTRODUCTION

On 19 March 2015, at approximately 0500 hours, officers assigned to the XX<sup>th</sup> District Tactical Team executed a search warrant at XXXX West Monroe. Officers searched the residence, recovered suspect narcotics and placed Subject 1 into custody. Subject 1 alleged the involved officers verbally threatened him, punched on the face, and planted drugs on him.

## APPLICABLE RULES AND LAW

**Rule 2:** Any action or conduct, which impedes the Department's efforts to achieve its policy and goals or bring discredit upon the department.

**Rule 9:** Prohibits the use of excessive force by any member. These rules prohibit all brutality, and physical or verbal maltreatment of any citizen while on or off duty, including unjustified altercation of any kind.

**Rule 38:** Unlawful or unnecessary use or display of a weapon.

## ALLEGATIONS

On 20 August 2015, IPRA received a handwritten letter from the reporting party, Subject 1, who is incarcerated at Illinois Correctional Center in Mount Sterling, Ill. IPRA Intake Aide A registered a complaint on behalf of Subject 1.

It is alleged that on 19 March 2015, at approximately 0509 hours, at XXXX West Monroe Street, #X during the execution of a search warrant (XXXXXXXX), **Officer A, #XXXX:**

1. verbally threatened Subject 1 by stating, "We should kill you," in violation of Rule 9;
2. punched Subject 1 on the face, in violation of Rule 8; and
3. planted drugs on Subject 1, in violation of Rule 2.

It is alleged that on 19 March 2015, at approximately 0509 hours, at XXXX West Monroe Street, #X, during the execution of a search warrant (XXXXXXXX), **Officer B, #XXXX:**

1. verbally threatened Subject 1 by stating, "We should kill you," in violation of Rule 9;
2. pointed an assault rifle at him, in violation of Rule 38; and
3. planted drugs on him, in violation of Rule 2.

## INVESTIGATION

**In an undated letter received at IPRA on 20 August 2015,** Subject 1 stated that on 19 March 2015, he and his girlfriend, Witness 1, were in bed when officers forced their way into his residence. Officer B was the first officer inside the residence. Additional officers followed Officer B with weapons drawn. Officer B pointed an assault rifle at Subject 1's face and informed him that he was the target of the warrant. In his

letter, Subject 1 said that he was attacked by no less than four officers. Officers choked him to point that he lost consciousness. During the encounter, Officer B and Officer A stated, "We should kill you." Suddenly, a "Latin" looking officer punched Subject 1 on his right eye. The officers removed Subject 1 and Witness 1 from the residence and conducted a search of the residence. Approximately 45 minutes later, officers informed Subject 1 that officers recovered suspect narcotics. Subject 1 was arrested and charged with Possession of Control Substance and Aggravated Battery to a Police Officer. Subject 1 added that the apartment building was surrounded with surveillance cameras which may have captured officers escorting him out of the building.<sup>1</sup> (Att. 4, 36)

**In a telephone interview taken on 17 November 2015**, Subject 1 restated the same information as he documented in his letter to IPRA. In addition, Subject 1 stated when the officers arrived at the residence, the lights were off but there was light emanating from the hallway. When the officers entered the residence, he surrendered peacefully and he cooperated with the officers. Subject 1 stated the officer that punched him on the eye also punched him on the nose. Subject 1 described the officer who punched him as "Latin" looking, heavy set, approximately 5'10 in height, with black hair and no facial hair.

Officers escorted Subject 1 and Witness 1 out of the residence then into a police vehicle. While inside the police vehicle, the "Latin" looking officer appeared to have used a computer to run their names. The officers released Witness 1 and transported Subject 1 to the XX<sup>th</sup> District Station. Officers transported Subject 1 to St. Anthony Hospital and to the University of Illinois Hospital for medical attention. Subject 1 stated he sustained a fracture to his right eye.

Upon inquiry, Subject 1 stated that he did not believe that Officer A was the officer that punched him on the face. Subject 1 further alleged that Officer A, along with Officer B told him, "We should have killed you." Subject 1 stated that Officer A and Officer B transported him to the hospital. (Att. 25)

**In an audio-recorded interview** taken on 03 December 2015, at IPRA, **Witness 1** stated she and Subject 1 were asleep when she felt Subject 1 push her and state, "Wake up." As Witness 1 got dressed, she observed officers attempting to open the bedroom door. Subject 1 placed his back against the bedroom door and numerous plain-clothed officers entered the room with their weapons drawn. An officer then removed Witness 1 from the bedroom, escorted her to the living room and placed her in handcuffs. Subject 1 remained in the bedroom with several white male officers with the door closed. Witness 1 stated that as she stood in the living room, she heard a voice make a threat of "killing someone" coming from the bedroom. Witness 1 stated the door was closed and she was unable to identify the voice. Officer C escorted Witness 1 to a bathroom and searched Witness 1. Officer C asked Witness 1 who lived in the residence. Witness 1 informed the officer that she was the sole occupant of the resident and that Subject 1 did not reside with her. Officer C asked Witness 1 how she knew Subject 1. Witness 1 informed the

---

<sup>1</sup> A surveillance camera was located at the front entrance; however, there are no cameras in the rear of the building. (Att #37)

officer that she and Subject 1 have a nineteen-year-old son. Officer C escorted Witness 1 out of the residence.

The officers escorted Subject 1 out of the apartment building and placed him in the police vehicle along with Witness 1. While in the police vehicle, Witness 1 noticed that Subject 1 had a reddened eye, but she was unable to recall which eye. Witness 1 added Subject 1 did not have any facial injuries prior to this incident. A short time later, one of the officers returned to the police vehicle, removed Witness 1 from the vehicle, and released her. The officers then left the location.

Witness 1 stated that she did not have drug paraphernalia in her apartment. Witness 1 said officers searched her residence and located \$1300.00 in US currency in her “panty” drawer rolled up in a jewelry box. Witness 1 stated that she worked hard, but she did not elaborate on her employment status, but she also stated that she collected money from friends to purchase tombstones for her deceased sons. Witness 1 further stated that she did not recall having a digital scale in her residence. She said currently owns a large scale because she sells hair and uses the scale to weigh hair for her customers. Witness 1 had no knowledge of the officers having planted drugs on Subject 1. (Atts. 22, 24, 62)

**Medical Records** obtained from St. Anthony Hospital dated 19 March 2015, document that Subject 1 was treated at the emergency department on 19 March 2015, at 1418 hours. Doctors examined Subject 1 and diagnosed him with a right orbital fracture. Subject 1 was then transferred to the University of Illinois Hospital. (Att. 27)

**Medical Records** obtained from the University of Illinois Hospital document that Subject 1 arrived at the hospital on 19 March 2015, at 1930 hours. Records Subject 1 informed hospital personnel that he was in an altercation with police and he was struck on the face. Subject 1 sustained a laceration to the lip and swelling around the right eye. A CT scan of his right eye area reflects that Subject 1 sustained a fracture to the right orbital wall. (Att. 31)

IPRA investigators presented the witness, **Witness 1 with a photo-array lineup** of officers that included Officer B and Officer A. Witness 1 was unable to identify the involved officers. (Att. 34)

IPRA investigators presented eleven (11) **photo-array lineups** to Subject 1. Subject 1 could not identify any of the accused officers. The photo array lineup administration was video recorded. (Att. 38, 39, 42)

Due to Subject 1’s comment in his letter that the apartment building where he was arrested “was surrounded” by surveillance cameras that captured the officers escorting him out of the building, the Reporting Investigator made a personal visit to the location. The R/I only observed one video camera above the front door of the building. (Att. 36)

The Reporting Investigator (R/I) attempted to ascertain if the apartment building had a functional video surveillance system. A **property search of XXXX West Monroe** revealed that Attorney 1 was the attorney for the owner of the property. On 09 February 2016, the R/I spoke with Attorney 1 who stated the owner of the apartment building, Civilian 1, was out of the country. Attorney 1 agreed to inform Civilian 1 of the R/I's inquiry. On 03 March 2016, the R/I had not heard from Attorney 1 regarding the whereabouts of Civilian 1. Attorney 1 informed the R/I Civilian 1 said he would contact Attorney 1 upon his return to the country. (Att. 35)

**Chicago Police Department Search Warrant #XXXXXXXX** issued on 16 March 2015 and executed on 19 March 2015, documented that officers were looking for suspect heroin, any paraphernalia used in weighing, cutting or mixing, packing of illegal drugs and the proceeds of sales of contraband narcotics, including U.S. currency and any records detailing illegal drug transactions. The warrant listed only a breach tool as the extra equipment on scene. (Att. 19)

The **General Case and Arrest Reports** document that Subject 1 was the subject of search warrant XXXXXXXX at XXXX West Monroe, 2<sup>nd</sup> floor. Teams XXXX and XXXX made entry to the building, went to the second floor, knocked on the door and announced their office. The officers received no response at the door and they attempted to make a forced entry. After several attempts, officers observed Subject 1 use his body to barricade the door. When the officers gained entry, the officers were met with Subject 1 who made an aggressive stance with his fist clenched. The officers gave Subject 1 verbal commands to cease his actions. However, Subject 1 shoved Officer A and attempted to strike Officer A with a closed fist. Officer A responded with closed hand strikes and an emergency take down. Subject 1 stiffened his body, pulled away and flailed a closed fist toward Officer A. Officer B and Officer A apprehended Subject 1. Assisting officers cleared the residence and detained the witness, Witness 1. Officers recovered and inventoried 50 grams of suspect heroin, \$4,101 USC and drug-related paraphernalia. Officers photographed the scene and left a copy of the search warrant with Witness 1.

At the XX<sup>th</sup> District Station, officers requested a K-9 unit to the station. K-9 "Achilles" made a positive indication for the scent of narcotics on the confiscated U.S. currency. Officers questioned Subject 1 on the ownership of the U.S. currency recovered from the apartment. Subject 1 informed the officers that he earned the money from washing vehicles in the backyard at XXXX West Monroe. Officers charged Subject 1 with Possession of Control Substance, Resisting/ Obstructing a Peace Officer, Aggravated Assault to a Peace Officer and Aggravated Battery to a Peace Officer. (Att. 9, 10, 30)

In a **Tactical Response Report** submitted by Officer B, #XXXXXX, documents that as officers attempted to apprehend, Subject 1 he failed to follow verbal directions, stiffened his body, pulled away from officers and attacked the officers with flailed fist. Officer B responded to Subject 1's action with his presence, verbal commands, armbar and take down/emergency handcuffing. (Att. 16)

In a **Tactical Response Report** submitted by Officer A, #XXXX, documents that as officers attempted to apprehend, Subject 1, he failed to follow verbal commands, stiffened his body, pulled away from the officers and attacked the officers without a weapon. Officer A responded with closed/hand strike/ punch. (Att. 14)

**Inventory Records** document that officers recovered and inventoried 50 grams of suspect heroin, and bundles of US currency. (Atts. 20, 55)

In a **statement** taken on 20 May 2016 at IPRA, **Officer A, #XXXX**, said on 19 March 2015, he was assigned to Beat XXXX, in the XX<sup>th</sup> District Tactical Team. The team was assigned to execute a search warrant (XXXXXXXXXX) at XXXX West Monroe, Apt #X. The team had a debriefing regarding the target of the warrant, a description of the residence and any all contraband.

The officers entered the building, walked to the second floor apartment door, repeatedly knocked and announced their office. The officers did not receive a response. Officer A used a large steel bar, referred to as the “Chicago Ram”, to force open the door. Officer A stated he did not have his firearm drawn. As the door opened slightly, Officer A observed a male black on the other side of the door attempting to hold the door closed. Officer A repeatedly instructed the male black, now known as Subject 1, to back away from the door, but Subject 1 failed to comply. Officer A struck the door again and Officer A entered the apartment. Once inside, Officer A observed Subject 1 standing in the doorway in an aggressive stance, with his fist clenched and yelling profanities. Subject 1 shoved Officer A on the chest. Officer A attempted to grab Subject 1, but Subject 1 swung his fist at Officer A. Officer A could not recall if he and Subject 1 ended up on the floor of the apartment. Officer A stated he punched Subject 1 twice in succession about the face to gain control of him. Subject 1 continued to stiffen his body and pull away from the officers. With the assistance of Officer B, who was standing in close proximity, Officer A handcuffed Subject 1. Officer C detained Witness 1. Once in custody, officers removed Subject 1 and Witness 1 from the residence. Additional officers entered the residence and conducted a search of each room, which included the rear porch of the residence. During the search of the residence, Officer A recovered a large amount of suspect heroin (168 bags) in a black plastic bag in a large gray jacket. Officers also recovered large amounts of United States currency, and a scale. Subject 1 informed the officers that he earned the money by washing vehicles in the rear of the building.

Officers took photographs of the residence before and after the search of the residence. All of the recovered evidence was photographed. Officers released Witness 1 and transported Subject 1 to the XX<sup>th</sup> District Station. Upon their arrival to XX<sup>th</sup> District Station and during processing, Officer A observed swelling to Subject 1’s face. Uniformed officers transported Subject 1 to the hospital for medical treatment. Officer A remained at the XX<sup>th</sup> District Station to complete and submit all reports.

Officer A stated that he documented his response to Subject 1’s actions in a Tactical Response Report and other Department reports. Officer A denied the allegation

that he verbally threatened Subject 1. Officer A stated that he used closed hand punches to gain control of Subject 1 after Subject 1 attacked him. Officer A denied the allegation that he planted drugs on Subject 1.

Officer A described himself as male white, approximately 6'0 in height, approximately 215 lbs., with facial hair and long hair. At the time of the incident, Officer A weighed approximately 230-240 lbs., wore plain clothes, a Chicago Police Department raid vest. Officer A stated that at the time of the incident he had a full beard. (Att. 54)

In an **audio-recorded statement** taken on 27 May 2016 at IPRA, **Officer B, #XXXXX**, stated on 19 March 2015 he was assigned to the XX<sup>th</sup> District Tactical Team, Beat XXXX. The team was assigned to execute a search warrant (XXXXXXXXXX) at XXXX West Monroe, Apt #X. The team had a debriefing during which the target of the warrant was identified, and a description of the residence was provided and the type of contraband to be seized.

Officer B stated that the team entered the building located at XXXX W. Monroe and the team went to the second floor apartment. The officers knocked and announced their office, but received no response. Officer A, who had the Chicago Ram, hit the door, but it made little movement. Officer A struck the door hinges several and the door opened up. Officer A entered the residence. Officer B had a rifle strapped over his shoulder, close to his body and pointed at the down-ready position. As Officer A entered the residence, Officer B was slightly behind and next to him when Subject 1 shoved Officer A. Subject 1 then began to swing his fists in an aggressive manner at the officers. Officer A and Officer B took Subject 1 down to the floor. Officer B utilized an arm bar in an effort to gain control of Subject 1, but he continued to stiffen his body and flail his arms. At some point, the officers were able to gain control and Officer B handcuffed Subject 1. After Subject 1 was removed from the residence Officer B observed swelling to Subject 1's face. Officer B added that Officer A told him that he struck Subject 1.

Officer B explained after officers removed Subject 1 from the residence, the officers checked and cleared and searched the rooms. The officers recovered and inventoried large sums of US currency, drug paraphernalia and clothing. Officers transported Subject 1 to the XX<sup>th</sup> District station. Upon arrival to the district station, Officer B observed swelling around Subject 1's eye. Officer B and another officer transported Subject 1 to Saint Anthony Hospital for treatment.

Upon inquiry, Officer B stated that Subject 1 did not lose consciousness during the encounter. Officer B stated that at no time did he or Officer A threaten Subject 1. Officer B said he did not point a rifle at Subject 1 and he did not plant drugs on Subject 1.

Officer B stated that he and Officer A were the only two officers who had physical contact with Subject 1. Officer B added Subject 1 told the officers that he earned the money that was recovered during the search from washing cars at the rear of the building.

Officer B described himself as a white male, with brown eyes, 6'1" in stature, 210 pounds, he sports a beard, and tattoos. Officer B described Officer A as white male, approximately 5'11-6'0 in height, with a full beard, long hair and approximately 230-240 pounds. (Att. 57)

In an **audio-recorded statement** taken on 8 June 2016 at IPRA, **witness Officer C**, stated that she was part of the search warrant served at XXXX West Monroe. Officer C stated that her assignment was to take photographs of the residence before and after the execution of the warrant. Officer C stated the officers entered the building in a stack formation and she was at the rear of the stack. Upon entry to the building, she heard a loud commotion at the front door. She later learned that the entry team had some difficulty entering the front door of the residence. Once the breach and entry team entered the residence Officer C heard the officers announce their office. Officer C added the officers would have had their weapons out as they entered the apartment to execute the search warrant. She added typically officers, including herself, would have had their weapons are pointed in a safe direction. As Officer C made her way into the residence, she took control of Witness 1. Officer C handcuffed, searched and removed Witness 1 from the residence.

Officer C stated that she did not witness Officer B or Officer A commit the allegations as reported. (Att. 56)

## CONCLUSION

The reporting investigator recommends that **Allegation #1**, that Officer A threatened Subject 1 by telling him, "We should kill you." be **Not Sustained**. Subject 1 stated that when the officers entered the residence, an unknown officer choked him and he lost consciousness. Subject 1 stated this was when he heard Officer A and Officer B state, "We should kill you." It is not plausible that Subject 1 could have heard this comment if he lost consciousness, as he claims. Witness 1 reported that as she stood in the living room she heard someone inside the bedroom make a threat about "killing someone". However, Witness 1 did not know who made the comment. There remains insufficient evidence to support or disprove this allegation.

The reporting investigator recommends that **Allegation #2** that Officer A punched Subject 1 in the face be **Exonerated**. In his written correspondence and in his statement to IPRA, Subject 1 stated that when the police entered the residence he surrendered peacefully and cooperated with the officers. However, Witness 1 stated that when the officers arrived, Subject 1 placed himself against the door to defeat the entry of the officers. In his statement to IPRA, Officer A stated that as he and his team members attempted to make entry, Subject 1 used his body to block the door. Once the officers made entry to the apartment, Subject 1 stood in an aggressive stance with fist clenched and yelling profanities. As Officer A attempted to take control of Subject 1, Subject 1 shoved Officer A and he began to swing and flail his fist at Officer A. In fear of receiving a battery, Officer A punched Subject 1 on the face in an effort to gain control of him.

Officer A documented his actions in response to Subject 1's actions in the Department reports.

The reporting investigator recommends that **Allegation #3** that Officer A planted drugs on Subject 1 be **Unfounded**. In this instance, the officers obtained a search warrant before they entered the residence. In order to obtain a search warrant, a showing of probable cause to a neutral and detached magistrate whose function is to provide close judicial scrutiny is required. The search warrant must be particular in the areas to be searched and the items to be seized. Thus, in this instance, the involved officers had probable cause to believe that narcotics were located at the residence because a warrant was obtained. Based on that search warrant, a large amount of purported heroin was found hidden in a large gray man's jacket vest. The individualized baggies were photographed and inventoried. Subject 1 told the officers the \$4101.00 of USC currency that officers recovered was earned from washing vehicles. However, Witness 1 explained that the money was for tombstones for her deceased sons, but she offered no explanation as to how she acquired the money. A drug detection canine made a positive indication for the presence of drugs on the currency. Because of the stringent warrant requirements, it is not reasonable that the officers planted the purported heroin at the residence during the search. Based on the evidence in the record and the totality of the circumstances, it is not plausible that the officers planted 168 individualized baggies that amounted to 50 grams of purported heroin, the 4101.00 in US currency that indicated positive for the presence of narcotics, and the scale at the residence that was searched.

The reporting investigator recommends that **Allegation #1** that Officer B threatened Subject 1 by telling him, "We should kill you" be **Not Sustained**. Subject 1 stated that when the officers entered the residence, an unknown officer choked him. Subject 1 further stated as a result, he lost consciousness but he heard Officer A and Officer B tell him, "We should kill you." It is not plausible that Subject 1 heard this when he lost consciousness. Witness 1 reported that as she stood in the living room she heard someone inside the bedroom make a threat about "killing someone". However, Witness 1 did not know who made the comment. There remains insufficient evidence to support or disprove this allegation.

The reporting investigator recommends that **Allegation #2** that Officer B pointed an assault rifle at Subject 1 be **Not Sustained**. The officers were in the midst of executing a search warrant. Officer B denied he pointed his assault rifle at Subject 1. Officer C stated it is typical for police officers that are executing a search warrant would have their weapons drawn but pointed in a safe direction. There remains insufficient evidence to support or disprove this allegation.

The reporting investigator recommends that **Allegation #3** that Officer B planted drugs on Subject 1 be **UNFOUNDED**. In this instance, the officers obtained a search warrant before they entered the residence. In order to obtain a search warrant, a showing of probable cause to a neutral and detached magistrate whose function is to provide close judicial scrutiny is required. The search warrant must be particular in the areas to be



searched and the items to be seized. Thus, in this instance, the involved officers had probable cause to believe that narcotics were located at the residence because a warrant was obtained. Based on that search warrant, a large amount of purported heroin was found hidden in a large gray man's jacket vest. The individualized baggies were photographed and inventoried. Subject 1 told the officers the \$4101.00 of USC currency that officers recovered was earned from washing vehicles. However, Witness 1 explained that the money was for tombstones for her deceased sons, but she offered no explanation as to how she acquired the money. A drug detection canine made a positive indication for the presence of drugs on the currency. Because of the stringent warrant requirements, it is not reasonable that the officers planted the purported heroin at the residence during the search. Based on the evidence in the record and the totality of the circumstances, it is not plausible that the officers planted 168 individualized baggies that amounted to 50 grams of purported heroin, the 4101.00 in US currency that indicated positive for the presence of narcotics, and the scale at the residence that was searched.