

September 28, 2016

INTRODUCTION

On 6 July 2016 at 1716 hours, the complainant, Subject 1 filed this complaint with the Independent Police Review Authority (IPRA). Subject 1 alleged that on 4 July 2015, at approximately 2203 hours, she was going upstairs to the elevated train platform at State and Lake Street after exiting the CTA subway at State and Lake Street. According to Subject 1, four police officers grabbed her from behind without warning and attempted to take her book bag from her. Subject 1 said the officers held her by her arms and an officer punched her on the right side of her body several times, as they tried to take her book bag away. Subject 1 said a female officer handcuffed her too tightly and she was taken to the top of the elevated train platform where the female officer choked her and touched her all over her body. Subject 1 said one of the officers asked her, "What are you, Sunni or Shia?" Subject 1 said she was kicked on the foot several times and her veil, cap, and face scarf were removed from her head and face and thrown on the ground. An officer searched her book bag, and the contents of the bag, including her food, were placed on the elevated train platform. Subject 1 said a dog handler arrived and smelled her and her belongings and the female officer searched Subject 1 again. According to Subject 1, as the female officer and a male officer escorted her off the elevated train platform, her jogging jacket was open, and her jogging pants were down below her waist. Subject 1 was escorted to a waiting police van.

Subject 1 said the female officer got into the van with her and required her to remove her jogging jacket, pants, shoes, and socks. The female officer untied her hair and ran her hands roughly through her hair. Subject 1 said the female officer inappropriately touched her breasts and around her vaginal area, but did not reach under her shirt or into her pants. Subject 1 said the female officer asked her, "Why did you come here to kill Americans? You are ISIS." According to Subject 1, when she arrived at the X District Station, the female officer took her into the bathroom and directed her to remove all of her clothing. Subject 1 said the officers did not return her scarf, veil, leg weights, jewelry, or food when she was released from custody.

ALLEGATIONS

The complainant, Investigator A, Office of the Independent Police Review Authority (IPRA), alleged that on 4 July 2015, at approximately 2203 hours, **Sergeant A, #XXX, Unit XXX:**

- 1) Failed to properly supervise officers under his command during Subject 1's detention, search, and arrest in violation of Rule 3.
- 2) Approached Subject 1 from behind, without warning, grabbed her arms and attempted to take her book bag, in violation of Rule 2, and 8.

The complainant, Subject 1, alleged that on 4 July 2015, at approximately 2203 hours, **Officer A, #XXXX, Unit XXX:**

- 1) Approached her from behind without warning, grabbed her arms, and attempted to take her book bag, in violation of Rule 2, and 8.
- 2) Choked her, in Violation of Rule 2, and 8.

- 3) Conducted an improper search of her at the State and Lake Street CTA Station, in violation of Rule 2, Rule 6, G06-01-03, and the Fourth Amendment of the United States Constitution.
- 4) Took her headscarf and face scarf off, and threw them on the ground, in violation of Rule 8.
- 5) Walked her to a police van with her clothes in disarray and her body exposed to the public, in violation of Rule 8, and G0-06-01-03.
- 6) Conducted an improper search of her in the back of a police van, in violation of Rule 2, Rule 6, G06-01-03, and G04-03.
- 7) Told her, "You are ISIS. Why did you come here to kill Americans?" in violation of Rule 8.
- 8) Conducted an improper search of her in the women's rest room at the First District Station in violation of Rule 2, Rule 6, and G06-01-03.
- 9) Failed to inventory or return her silver/stone ring, diamond necklace, headscarf, veil, ankle weights, and food, in violation of Rule 40, S07-01, and U04-01.
- 10) Used her personal cell phones to record images of Subject 1 during her arrest, detention, and search in violation of Rule 6, and Uniform and Property U04-01.

The complainant, Subject 1, alleged that on 4 July 2015, at approximately 2203 hours, at the State and Lake Street CTA train station, **Officer B, #XXX, Unit XXX/XXX, and Officer C, #XXXX, Unit XXX:**

- 1) Approached her from behind without warning, grabbed her arm, and attempted to take her book bag, in violation of Rule 2, and 8.
- 2) Grabbed her cap, eyeglasses, head, and faces scarf, off her head and threw them on the ground, in violation of Rule 8.
- 3) Unwrapped her hair and ran their fingers though her hair and scalp, in violation of Rule 8.
- 4) Struck her on the side of the body three times, in violation of Rule 8.
- 5) Opened her jogging jacket and pulled her pants down below her hips, in violation of Rule 8, and G06-0103.
- 6) Asked her was she Shia or Sunni while twisting her arm, in violation of Rule 8.
- 7) Failed to inventory or return her cap, eyeglasses, head, and face scarf, ankle weights, and food, in violation of Rule 40, and S07-01, and U04-01.

The Complainant, Subject 1 and Investigator A alleged that on 4 July 2015 at approximately 2203 hours, at the State and Lake Street CTA train station **Officer D #XXX, Unit XXX/XXX:**

- 1) Approached her behind without warning, grabbed her arm, and attempted to take her book bag, in violation of Rule 2, and 8.
- 2) Grabbed her cap, eyeglasses, head, and faces scarf, off her head and threw them on the ground, in violation of Rule 8.
- 3) Unwrapped her hair and ran their fingers though her hair and scalp, in violation of Rule 8.
- 4) Struck her on the side of the body three times, in violation of Rule 8.

- 5) Opened her jogging jacket and pulled her pants down below her hips, in violation of Rule 8, and G06-0103.
- 6) Asked her was she Shia or Sunni while twisting her arm, in violation of Rule 8.
- 7) Failed to inventory or return her cap, eyeglasses, head, and face scarf, ankle weights, and food, in violation of Rule 40, and S07-01, and U04-01.
- 8) Used his personal cell phones to record images of Subject 1 during her arrest, detention, and search in violation of Rule 6 and Uniform and Property U04-01.

APPLICABLE RULES AND LAWS

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department. **COMMENT:** This rule applies to both the professional and private conduct of all members. It prohibits any, and all conduct which is contrary to the letter and spirit of Department policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department, including public and open association with persons of known bad or criminal reputation in the community unless such association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders, or directives of the Department.

Rule 6: Disobedience of an order or directive whether written or oral.

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

Rule 40: Failure to inventory and process recovered property in conformance with Department orders

Special Order - S07-01: Processing Property Under Department Control.

Uniform and Property – U04-01: Personal Appearance, Uniform/Citizen's Dress Equipment.

General Order - G06-01: Conducting Field, and Strip Searches.

General Order - G04-03: Interrogations: Field and Custodial.

SUMMARY OF INVESTIGATION

CTA Surveillance Video depicts Subject 1 riding on CTA train #XXX prior to exiting the train in the CTA subway. Subject 1 stood in the doorway of the train and leaned against the railing. She was dressed in a black jogging jacket and pants. Subject 1 wore black boots under her athletic suit. She had a black scarf covering her face and only her eyes were visible. She had a gray and black scarf around her head, and she wore a white baseball cap over the scarf, with sunglasses above the visor. Subject 1 clutched a black book bag in her arms and she kept her head down. The in-train surveillance seems to indicate that the other passengers did not notice Subject 1. The surveillance on the lower platform shows Subject 1 exiting the train at State and Lake at approximately 10:00:40. Surveillance video from the station shows Subject 1 walking through the tunnel that leads to the State and Lake exit. As Subject 1 made her way through the tunnel, three uniformed police officers are seen following and pointing at her. Subject 1 kept her head lowered as she walked through the terminal. Again, the surveillance video from the tunnel shows that Subject 1 went mostly unnoticed by the other riders. Subject 1 walked through the tunnel to the State and Lake Street exit. The three uniformed police officers who were pointing at

her followed her outside. They walked up behind her quickly in an attempt to get close to her. Subject 1 then walked up the stairs to the Lake and State Street elevated train platform.

There is a brief period of time that is not captured by video surveillance. This is from the time that Subject 1 exited the subway at the State and Lake Station and made her way toward the stairway leading to the elevated station at State and Lake. The surveillance video captures Subject 1 walking up the stairs to access the elevated State and Lake platform. At 10:03am, approximately three minutes after Subject 1 exited the train, the officers accost Subject 1. The video surveillance shows Subject 1 had almost reached the top of the elevated train stairway, when the three uniformed police officers grabbed her arms, causing her to drop to her knees on the stairway. The surveillance video shows the three officers grabbing Subject 1 from behind. A male and female uniformed police officer came up the stairs as soon as Subject 1 was stopped by the other three officers. Subject 1 fell immediately onto the platform step at the top of the stairs. One of the male uniformed police officers held her arms, and the female officer held her right arm as she stood on the platform and the officers surrounded her. Prior to being grabbed, Subject 1 did not stop or look behind her. Additionally, the surveillance video shows that only a few people in close proximity to Subject 1 and on the stairway stopped or turned around at any point. Subject 1 can be seen being escorted up the stairs and onto the elevated platform, already handcuffed. The surveillance video shows one male uniformed police officer holding her left arm and the female officer holding her right arm as she proceeds up the stairs. At this point, the surveillance video shows the officers at the top of the platform beyond the turnstiles, but their actions are not within view.

When Subject 1 and the officers were next seen on camera, she was lying face-down on the elevated train platform. The female officer and a male officer took cell phone pictures/video of Subject 1 and her personal possessions utilizing what appears to be their personal cell phone. A K-9 unit walked around the elevated train platform and then around Subject 1. The K-9 unit left the elevated train platform. The female officer physically searched Subject 1 as she lay on the elevated train platform. The officer searched Subject 1's pockets, raised her shirt up, exposing her abdomen. The officer then pulled her pants away from her body, checked her waistband, and looked inside the waistband of her pants. In the final images on the video, the female officer and a male officer took Subject 1, who was handcuffed behind her back, down to the street level from the elevated train platform. (Attachment 93)

E-Track Inventory Item Inquiry for HY327834 indicates the following personal items belonging to Subject 1 were inventoried and accounted for on 5 July 2015: A white metal ring with red stone, a shoelace with a yellow metal key charm with clear stones, black ankle weights, an officer safety bulletin concerning lone wolf attacks on 4 July 2015, a CTA surveillance video DVD, a black face scarf/mask, a silver hat, a black backpack containing personal items, and CTA surveillance camera still photographs. These inventories do not indicate that perishable food items were inventoried or destroyed. (Attachment 11, 61, and 95)

In interviews conducted with IPRA on 21 August 2015, and 15 March 2016, **Officer A** acknowledged that she conducted a "custodial pat-down" of Subject 1 while she was standing on the elevated train platform at the State and Lake Street elevated station. Officer A said she put her fingers through Subject 1's hair to ensure she was not hiding anything.

Officer A said she searched Subject 1 a second time when she was lying on the elevated train platform. Officer A said Subject 1 was wearing two layers of clothing but Officer A did not take any of Subject 1's clothing from her while she was on the elevated train platform. Officer A said she removed Subject 1's headscarf and veil and unzipped her jacket while she was conducting a search of her on the elevated train platform. Officer A said she placed those items on the platform or handed them to an officer standing near her.

Officer A said she patted down Subject 1 after she unzipped her jacket and she "may have" rolled down the top elastic band of Subject 1's pants so she could feel around her waist. Officer A said she "might have" reached under Subject 1's sweatshirt when she was conducting the search on the platform. Officer A said she did not believe she reached inside Subject 1's pants or exposed any skin when she searched Subject 1. Officer A said she does not believe Subject 1's jacket was open or her pants were off her waist when she was escorted to the transport van, and that she had Subject 1 remove her jacket and shoes when she was in the transport van. Officer A could not recall if she had Subject 1 remove her pants.

Subject 1 had on a long sleeve shirt, pants, and a tank top shirt underneath her jogging suit. Officer A said she did not remember if she reached under Subject 1's shirt when she was in the transport van. Officer A did not raise or rearrange Subject 1's clothing in order to visually observe any part of her body. Officer A said she might have been able to observe Subject 1's tank top when she was in the back of the transport van. Officer A said she does not believe she touched Subject 1's skin or patted her down under her tank-top shirt. Officer A said she does not know who had possession of Subject 1's personal property.

Officer A said she conducted a strip search of Subject 1 at the X District Station in a corner restroom. Officer A said Sergeant A was in the X District Station when she took Subject 1 into the restroom. Officer A said Subject 1 was required to bend and turn so Officer A could see her breasts, buttocks, and vaginal area. Officer A said she does not know who has the authority to authorize a strip search of someone in a District Station. Officer A said she did not have permission from any supervisor to conduct a strip search of Subject 1. Officer A said she threw away Subject 1's food from her book bag at the X District Station.

Officer A said she used her personal cell phone to take images of Subject 1's ankle weights and other items she was carrying in her book bag. Officer A said she was aware of the Department policy that prohibits the use of personal cell phones while on duty unless otherwise authorized by their unit commanding officer. Officer A said she did not have permission from her commanding officer to take any images using her cell phone during this incident. (Attachment 124)

In an interview conducted on 21 September 2015, **Sergeant A** said he was the supervisor present during this incident and he was responsible for overall supervision of the officers at the scene. Prior to the incident, Sergeant A was given specific alerts at roll call regarding possible "lone wolf" incidents on soft targets.¹ Sergeant A believed a lone wolf to be a person that is radicalized or motivated to attack soft targets, including CTA stations, usually alone.

¹CPD Bulletin from July 2, 2015; statement of Sergeant A, page 8, lines 1-7.

Additionally, prior to the incident, Sergeant A said he was responsible for securing the scene and trying to limit any collateral damage that might occur. Sergeant A had attended terrorism awareness training and incident response training.² Included in his training was a discussion regarding Muslim dress, customs, and viewpoints and sensitivities.³

Sergeant A was stationed at the State and Lake subway platform on July 4, 2015. Sergeant A stated that when he first saw Subject 1 he could not discern her race or sex. Around 10:30 at night, Subject 1 was walking up from the lower red line platform. Sergeant A stated that Subject 1 was dressed in a black jumpsuit, a dark colored mask over her face, and was wearing a baseball cap with sunglasses on top.⁴ According to Sergeant A, she had very visible bulges around her ankles and he could not ascertain what they were. She had a backpack in front of her body and she was holding it out from her torso.⁵ Sergeant A stated he felt she was walking in a “robotic” manner.⁶ Sergeant A stated that her manner of dress and the bulging around her ankles was the first indication of suspicious activity.⁷ He then noticed the backpack being held out from the front of her body and she was also manipulating the backpack as she walked.⁸ (Sergeant A stated that based on the information he obtained at roll call, he felt that these were behaviors that officers were asked to keep an eye out for.⁹

Sergeant A stated that it was his intention to just follow her to start with. (pg. 14). Sergeant A said there was nothing about Subject 1’s dress that indicated she was in typical Muslim attire for a woman. There were hundreds of civilians going through the subway at the time. Sergeant A, Officer D, and Officer B followed Subject 1 until they were beginning to lose sight of her because of the high volume of people. Sergeant A determined that he needed to stop her. (pg. 14). Sergeant A stated that his intention was to detain her and find out her motivation or what she was specifically doing.¹⁰ The purpose of the encounter was solely to conduct a field interview and if she came up with “plausible” answers, he would have “name checked” her and she would have been released.¹¹ Sergeant A stated that the situation “escalated” when Subject 1 did not comply with his initial requests to stop.

Sergeant A stated that he followed her up the staircase towards the elevated platform and when he was close enough he announced his office and identified himself. (pg. 14). Sergeant A asked her to turn around two or three times.¹² When she didn’t stop, Sergeant A grabbed her right arm and again said “police, can we talk to you.”¹³ Sergeant A said she “whipped around” and grabbed the back pack and attempted to pull it closer to her body.¹⁴ According to Sergeant A, she began to maneuver the backpack which prompted him to direct her to drop the

² Statement of Sergeant A, page 8.

³ Statement of Sergeant A, page 8.

⁴ Statement of Sergeant A, page 13.

⁵ *Id.*

⁶ *Id.*

⁷ Statement of Sergeant A, page 42.

⁸ *Id.*

⁹ *Id.*

¹⁰ Statement of Sergeant A, page 24.

¹¹ Statement of Sergeant A, page 43.

¹² Statement of Sergeant A, page 14.

¹³ Statement of Sergeant A, page 15.

¹⁴ *Id.*

backpack.¹⁵ She refused to drop the backpack and at that point, Sergeant A stated that she was “fighting” with him and the other officers trying to restrain her.¹⁶ At that point, Sergeant A managed to grab the backpack away from her and she was placed under arrest as soon as she began to resist.¹⁷

Sergeant A said Officer D and Officer B came up to assist him and he was able to wrestle the bag away from Subject 1. Sergeant A said Subject 1 was taken to the top platform at the elevated train station at Lake and State Street, and he called for an Explosive K-9 unit to come to the scene. Sergeant A said the K-9 unit determined there were no explosive threats related to this incident, but Subject 1 was charged with reckless conduct and resisting arrest. Sergeant A stated that she was “immediately” under arrest when she began to resist on the stairs. Based on the arrest, Sergeant A stated that the pat-down and subsequent searches were custodial in nature. Sergeant A said Lieutenant A from the X District came to the CTA platform and Sergeant A briefed him. Sergeant A stated that he was responsible for securing the scene and trying to limit any collateral damage that might occur.

Sergeant A said he was not aware of any Department policy that prohibits the use of cell phones by officers responding to incidents. According to Sergeant A, it is common practice for officers to take photos so they can be used later to complete reports. Sergeant A was unaware of any requirement for officers to account for photographs they take using their personal cell phones. Sergeant A claimed he did not know how many times Subject 1 was searched during this incident. According to Sergeant A, when an officer physically removes all of a person’s clothing and searches him/her, that is a strip-search. It was Sergeant A’s understanding that, according to the Department rules and directives, an officer is authorized to remove a person’s clothing (outer garments), or rearrange their clothing so they may visually observe their undergarments during a custodial search, and that the officer may remove the person’s outer pants, shoes, and socks.

Sergeant A denied that he authorized Officer A to conduct a strip-search of Subject 1 in the transport vehicle or at the District Station. Sergeant A said he was at the District Station when Officer A took Subject 1 into the restroom. According to Sergeant A, no one made a request to conduct a strip-search during this incident. Sergeant A never heard Subject 1 protest that it was not appropriate to remove her headscarf or face scarf or complain that those items should not be thrown on the ground. Sergeant A did not hear anyone ask about Subject 1’s religious affiliation. It was Sergeant A’s understanding that all of the personal items taken from Subject 1 were inventoried and accounted for. (Attachment 56)

In statements to IPRA on 31 August 2015, and 15 March 2015, **Officer Dale D** said he and Officer Timothy B were assigned to a fixed post at the Lake and State subway station when this incident occurred. Officer D recounted that, the day before the incident, he was given a specific security and intelligence bulletin at roll call reporting on “specific, credible threats” towards public transportation systems by lone wolf attacks.¹⁸ According to Officer D, because he

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Statement of Sergeant A, pages 16, 23.

¹⁸ Statement of Officer D, page 6.

was specifically assigned to a transit detail, he has received more extensive terrorism training than other patrol officers.¹⁹

According to Officer D, he found Subject 1 to be suspicious based on her dress because she was wearing a jogging suit and had items strapped to her ankles. (pg. 31). Officer D specifically stated that, in his view, she was not wearing a traditional Muslim gown or face cover.²⁰ According to Officer D, if she had been wearing traditional Muslim dress, he would not have thought twice about her because she would have clearly been an individual adhering to her religious beliefs.²¹ Officer D also found the baseball cap and the way she was holding her backpack to be suspicious.²²

According to Officer D, he heard Sergeant A identify himself as he approached Subject 1, but she kept walking up the elevated train stairway as if she did not hear him. Officer D immediately grabbed Subject 1's left arm, and Sergeant A grabbed her right arm and tried to pry her book bag from her fingers. Subject 1 clenched the bag tightly and refused to release it. Officer D said Officer B and Sergeant A pried the bag from Subject 1's fingers and Sergeant A took control of it.

Officer B handcuffed Subject 1 and took her to the elevated train platform. According to Officer D, Subject 1 was trying to place her feet together and the officers were concerned because she had objects strapped to both ankles. Officer D placed his feet in between Subject 1's feet to keep her from putting her legs together. Officer D said Officer A and Officer B held Subject 1's arms.

Officer D searched Subject 1's book bag and all of Subject 1's personal possessions were inventoried, except her glasses, because they fell through an opening on the platform and were not recovered. According to Officer D, Officer A only conducted a protective pat-down of Subject 1 while she was on the elevated train platform at State and Lake, but that she searched Subject 1 when she was in the transport van and at the District Station. Officer D claimed that he never saw anyone rearrange Subject 1's clothing in such a way that her undergarments or body were exposed. According to Officer D, Subject 1's scarf, cap, sunglasses, and veil came off during her arrest, but he did not see anyone tear these items off Subject 1 and throw them to the elevated platform floor. Officer D denied seeing anyone choke Subject 1. Officer D denied hearing anyone ask Subject 1 about her religious affiliation or strike Subject 1.

Officer D admitted taking several pictures of Subject 1 on his personal cell phone. Officer D claimed that he did so to help identify certain items related to this case later. According to Officer D, he was aware that the Department prohibits the use of personal cameras while on duty, unless authorized by their commanding officer, and that personal cellular phones or other electronic devices will be worn on the belt, or carried concealed. Officer D admitted that he did not have permission from his commanding officer to use his personal cell phone to record images during this incident. According to Officer D, one of his lieutenants had since advised him

¹⁹ Statement of Officer D, page 7.

²⁰ Statement of Officer D, page 31.

²¹ *Id.*

²² *Id.*

that personal cellular phones should not be used because they may be used later as evidence. (Attachment 57, 68, 115, and 125)

In a statement to IPRA on 1 September 2015, **Officer B** said he and Officer D were assigned to a fixed post at the CTA State and Lake Train Station on 4 July 2015. Officer B specifically stated it was at a fixed post for “high terrorist activity.”²³ According to Officer B, he had been briefed at roll call to be on the lookout for possible terrorist activity, especially “lone wolf” terrorists.²⁴ Officer B has had terrorism training through the Chicago Police Department.

According to Officer B, when he saw Subject 1 exit the turnstiles from the lower red line platform, he verbalized that something was “not right.”²⁵ Officer B observed that Subject 1 was dressed in black with a hat and sunglasses over her scarf. According to Officer B, he observed that Subject 1 had something beneath her pants bulging around her ankles. According to Officer B, his terrorism training included descriptions of lone wolves as wearing clothing that conceals their bodies from head to toe in a manner that makes it difficult to identify the person. (pg. 32). Officer B said that, at first, the group of officers merely followed Subject 1 through the subway hall that leads to the stairs going up to the Lake and State Street elevated train station. According to Officer B, Subject 1 was walking as if she were “high-stepping: and she was looking around suspiciously.” Officer B stated that Subject 1 did not respond to verbal commands that were given by Sergeant A. (pg. 41). Officers B and D grabbed Subject 1’s left arm and Sergeant A grabbed her right arm. Sergeant A attempted to grab Subject 1’s backpack and she resisted by clutching the backpack. Officer B stated that they had to pry Subject 1’s fingers off of the bag. Subject 1 tried to pull away. Officer B and Officer D grabbed Subject 1’s left arm and Sergeant A grabbed her right arm. Officer B and Sergeant A tried to pry Subject 1’s fingers loose from the backpack she was carrying. Officer D placed Subject 1’s left arm behind her back and Officer B handcuffed her. Subject 1 was taken to the platform at State and Lake Station. According to Officer B he viewed Subject 1 as a “passive resistor.” (pg. 43)

According to Officer B, once they reached the platform, he and Officer. D held Subject 1’s legs so Officer A could conduct a custodial search. Officer B said Subject 1 was trying to put her legs together and they were not sure what she had on her ankles. Subject 1 was searched once as she was standing up and again as she was lying on the elevated train platform. Officer B said Subject 1 was screaming and crying and she refused to follow verbal instructions. Officer B did not see anyone unzip Subject 1’s jacket when she was searched and he did not observe anyone pull her outer pants down below her waist. Officer B denied seeing anyone remove Subject 1’s headscarf, and face scarf, or strike her on the side of her body. Officer B and Officer A escorted Subject 1 to the transport vehicle but he did not recall her jacket being open or her outer pants being below her waist.

Officer B denied hearing anyone ask Subject 1 if she was Sunni or Shia. According to Officer B, he was not responsible for securing her personal possessions after she was searched. Officer B acknowledged that he observed Officer D take one photograph of Subject 1 with his personal cell phone. (Attachment 67)

²³ Statement of Officer B, page 5.

²⁴ Statement of Officer B, page 7.

²⁵ Statement of Officer B, page 10.

In an interview with IPRA on 31 August 2015, **Officer C** said he and Officer A were assigned to fixed posts at the CTA State and Lake Train station on 4 July 2105. Officer C said he and Officer A were informed by Sergeant A, Officer D, and Officer B that there was a suspicious woman dressed in black carrying a book bag walking through the tunnel to the State and Lake Station. Officer C said he and Officer A followed Subject 1 as she exited the underground station and started up the stairs to the elevated train station at State and Lake Street. Officer C said Subject 1 was dressed in black and wearing sunglasses. She carried a book bag in front of her body and walked as if she had “tunnel vision.” Officer C said he and Officer A noticed Subject 1 had bulging objects around her ankles. Officer C heard officers in front of him announce their office and tell Subject 1 to stop. Subject 1 gave no indication she heard the officers.

Officer C said Subject 1 failed to comply with the officers’ directions. Sergeant A, Officer A, Officer B, and Officer D grab Subject 1 by her left and right arm and attempted to gain control of her but she resisted by clutching her bag and pulling away. Officer C said an explosive detection dog was called to the scene and it was determined that Subject 1 did not have any explosives on her. Officer C remained on the perimeter, keeping civilians from going onto the elevated train platform during this incident. Officer C said he had no physical contact with Subject 1, after she was on the elevated train platform. Officer C denied seeing anyone strike Subject 1 or mistreat her in any way. (Attachment 59, and 65)

INVOLVED OFFICER/S BACKGROUND:

Sergeant A – Sergeant A is a Supervising Sergeant with the Public Transportation Unit 701. Sergeant A is assigned full duty on the fourth watch working from XXXX-XXXX hours. Sergeant A’s appointment date was 2 January 1992, and his seniority date is 1 June 2001.

Officer A – Officer A is assigned full duty as a call taker with the Alternate Response Section. Officer A has been detailed to this unit since 23 February 2016. Officer A is assigned to second watch working from XXXX-XXXX. Officer A’s appointment date was 3 October 1994, and that is her seniority date.

Officer B – Officer B is assigned full duty as a Tactical Team Member with the Public Transportation Section/Transit Security Unit. Officer B has been detailed to this unit since 30 June 2013. Officer B is assigned to the fourth watch working from XXXX-XXXX hours. Officer B’s appointment date is 26 September 2005, and that is his seniority date.

Officer C – Officer C is assigned full duty as a Beat Officer with the Public Transportation Unit. Officer C is assigned to the third watch working from XXXX-XXXX. Officer C’s appointment date is 17 May 1993 and that is his seniority date.

Officer D – Officer D is assigned full duty as a Tactical Team Officer with the Public Transportation Section/Transit Security Unit. Officer D has been detailed to this unit since 30 June 2013. Officer D is assigned to the fourth watch working from XXXX-XXXX hours. Officer D’s seniority date is 7 July 1997.

Fourth Amendment Analysis

1. Arrest of Subject 1

In his statement to IPRA, Sergeant A said that his original intention was to engage Subject 1 in an investigatory stop. In this instance, Sergeant A, Officer B, and Officer D pointed to specific and articulable facts regarding their suspicions; their statements were not generalized or conclusory. Based on these facts, an investigatory stop would have been proper. However, the officers did not engage in a *Terry* encounter. Instead, the CTA video surveillance shows the officers quickly approaching Subject 1 from behind on the steps leading up to the green line platform at State and Lake. It also shows the officers grabbing Subject 1 from behind in such a way that she immediately fell to the steps. It is clear from the video that the three officers grabbed Subject 1 as soon as she was within an arm's length distance. The officers claim that they announced their office multiple times and repeatedly said, "Stop." However, the actions of a majority of the other individuals who climbed the stairs ahead of Subject 1 do not support their claim as they are not seen turning around or otherwise recognizing the officers' presence. Additionally, Subject 1 never looked behind her. Due to these discrepancies and the verifiable evidence of the video, it is more likely than not that the officers failed to announce their office or give any commands prior to grabbing Subject 1. The CTA surveillance video then captures the officers wrestling Subject 1 to the ground and removing the backpack from her arms. Subject 1 was then brought up the remainder of the steps and onto the platform where she was eventually handcuffed.

A police officer may lawfully stop a person for brief questioning when the officer reasonably believes that the person has committed, or is about to commit, a crime. The Illinois legislature has codified this *Terry* standard which provides the following:

"An officer may, after identifying himself as a peace officer, stop any person in a public place for a reasonable period of time when the officer infers from the circumstances that the person is committing, is about to commit, or has committed an offense..." 725 ILCS 5/107-14 (2008).

Thus, the *Terry* standard allows an officer to conduct a brief investigatory stop when there is reasonable, articulable suspicion of criminal activity. *People v. Jackson*, 366 Ill.Dec.164, 170 (1st Dist. 2012). The purpose of a *Terry* stop is to permit police to investigate situations or circumstances that provoke suspicion in order to dispel or confirm those suspicions. Officers initiating an investigatory stop must be able to point to specific and articulable facts, which taken together with rational inferences from those facts, suggest criminal activity. *U.S. v. Ruiz*, 785 F.3d 1134, 1141 (7th Cir. 2015). Context is extremely important in these instances; the reasonable suspicion needed to initiate a *Terry* stop can arise from behavior that may in other circumstances be considered innocent. *Id.* Therefore, the behavior and characteristics of the suspect can be taken into consideration by the officers.

Reasonable suspicion is a lower threshold than probable cause and considerably less than a preponderance of the evidence. *Id.* When reviewing an officer's actions in the context of *Terry*,

the situation confronting the officers must be so far from the ordinary that any competent officer would be expected to act quickly. *People v. Shipp*, 393 Ill. Dec. 301, 309 (Ill. App. Ct. 2d Dist. 2015) quoting *People v. Thomas*, 198 Ill.2d 103 (2001). Therefore, the facts should be considered from the perspective of a reasonable officer confronted with the situation. *Id.*

The investigation following *Terry* must be reasonably related in scope and duration to the circumstances that justified the stop from the onset. Assuming reasonable suspicion exists for a *Terry* stop, a reasonable delay attributable to arranging for a canine unit to conduct a sniff may permissibly extend the duration of the stop. *Ruiz*, 785 F.3d at 1143. Additionally, even if an investigative stop is warranted, a police officer will need more to justify a substantive frisk. To justify a protective pat down of a properly detained person, the investigating officer must reasonably believe that the person is armed and dangerous. *Jackson*, 366 Ill. Dec. at 170.

A *Terry* stop can ripen to the level of an arrest, becoming custodial in nature, and require probable cause. This occurs when the stop becomes too long or unreasonably intrusive. *Id.* at 309. A seizure qualifies as an arrest only if a reasonable person in the suspect's position would not have felt free to leave. *U.S. v. Hill*, 818 F.3d 289, 292 (7th Circuit 2016). Factors to consider include the threatening presence of several officers, the display of a weapon by an officer, the physical touching of the suspect's person, or the officer's language or tone of voice which indicates that compliance with the officer's request could be compelled. *People v. Santovi*, 2014 Ill. App. 3d 130075 ¶44 (2014).

In their statements to IPRA, the officers said that Subject 1 was immediately under arrest because she began to resist. According to Officer B and D, because Subject 1 refused “verbal orders” it was decided that they would “grab her.”²⁶ When considering the factors enumerated in *Santovi* in light of the available evidence, a reasonable person in Subject 1's position would not have felt free to leave; three officers were involved in the seizure, all three officers physically took hold of Subject 1, each officer had weapons that were displayed on their hips, and the officers' commands indicated that she had to comply with their requests²⁷. Based on the video surveillance footage and the officers' statements, it is clear that Subject 1 was under arrest as soon as the officers grabbed her on the steps.

Under Illinois law, a person commits the misdemeanor of resisting arrest when he or she “knowingly resists or obstructs the performance by one known to the person to be a peace officer.” 720 Ill. Comp. Stat. 5/31-1(a). Resistance requires some physical act which creates an obstacle to impede, hinder, interrupt, prevent or delay the performance of an officer's duties. *Williams v. Jaglowski*, 269 F.3d 778, 782 (7th Cir. 2001). However, very minor physical resistance does not constitute resisting arrest. See *City of Pekin v. Ross*, 81 Ill.App.3d 127 (Ill. App. Ct. 3d Dist. 1980) (holding that the arrestee did not resist arrest when he pulled his arms down and in front of him while the arresting officer attempted to place handcuffs on him). Additionally, a mere show of authority by an officer does not constitute a seizure absent some application of physical force or the individual's submission to the assertion of authority. *Abbott v. Sangamon County*, 705 F.3d 706, 719 (7th Cir. 2013) citing *California v. Hodari D.*, 499 U.S.

²⁶ Statement of Officer D, page 10, lines 13-24; Statement of Officer B, page 11, lines 1-10.

²⁷ According to Officer B, the commands were for her to drop the backpack she was holding. Statement of Officer B, page 43, lines 9-17.

621 (1991). An officer's commands to 'stop' or 'halt' are mere displays of authority and do not constitute a formal seizure. *Id.* Therefore, an individual's defiance of an officer's order to stop, absent any application of physical force by the officer, does not constitute a resistance of an attempted arrest. *Id.* at 720.

The probable cause determination to arrest Subject 1 is made with reference to the initial seizure on the stairs. In analyzing the facts as we have them, Subject 1 was not likely aware officers were following her, she was not aware of their intentions to stop her for an investigative stop, and she was not immediately aware who had grabbed her. Once Subject 1 was grabbed from behind, she "gripped her bag really tight" and "resisted" Sergeant A's attempts to take the bag.²⁸ However, any initial struggle by Subject 1 could have been the result of her natural reaction because she was "surprised" and had no idea who had approached her from behind.²⁹ Subject 1's statement to IPRA corroborates that she was not aware that the officers were following her. Subject 1 stated that no one ever asked her to stop as she made her way to the green line platform.³⁰ The fact that almost none of the other riders in front or behind Subject 1 turned around or reacted to the officers' presence further corroborates that she was not aware she was required to stop or that the officers were behind her. Roughly three minutes passed between the time officers saw Subject 1 exit the train and when they grabbed her on the staircase. During this brief three minute period, the officers did not articulate any facts that gave probable cause to justify the arrest of Subject 1. The facts and circumstances within the officers' knowledge gave rise to a reasonable suspicion to engage in an investigative stop, but not an arrest.

This instance is similar to the facts in *Abbott v. Sangamon County*. In *Abbott*, Cindy Abbott was Tasered after refusing officer's order to stop or halt as she approached the squad car that held her son. The officer testified that he believed Cindy was attempting to help her son escape and gave her verbal commands to stop. The officer testified that when Cindy did not comply with his verbal orders, he Tasered her twice and put her under arrest for resisting. The court held that a jury could reasonably determine that at the time the officer first deployed his Taser, which constituted a formal arrest, the officer lacked probable cause to arrest the suspect for resisting arrest, because there had been no arrest or attempted arrest prior to that point. *Abbott*, 705 F.3d at 719. Additionally, the court held that Cindy's defiance of the officer's orders to halt did not constitute resistance of an attempted arrest. *Id.* at 720. Similar to *Abbott*, the justification for the arrest was that Subject 1 had resisted. However, at the point the officers' grabbed Subject 1 there had been no prior arrest or attempted arrest. Additionally, even if Subject 1 heard the commands to stop, her initial defiance of Sergeant A's orders did not constitute resistance of an attempted arrest. Based on the totality of the circumstances, the initial seizure of Subject 1 constituted a formal arrest and was unjustified pursuant to Fourth Amendment principles.³¹

However, in civil and administrative matters, because the initial arrest may be tainted by a possible constitutional violation it does not follow that an officer's later discovery of probable

²⁸ Statement of Officer B, page 41, lines 18-24.

²⁹ Statement of Subject , page 5, 52.

³⁰ Statement of Subject 1, pages 51-52.

³¹ As a result of this incident, Subject 1 was charged for resisting arrest under case number 15-12229660. At the bench trial in the matter, the judge found her not guilty of the charged offense.

cause to arrest is undermined by that earlier violation. *Williams v. Carroll*, 2010 WL 5463362 at ¶ 4 (N.D. Ill. 2010) (holding that the lack of probable cause for an initial stop does not vitiate an officer's later discovery of probable cause to arrest). While in criminal cases, the doctrine of "fruit of the poisonous tree" renders anything following the initial arrest to be tainted, no such doctrine extends when examining false arrest claims. *See Towns v. City of New York*, 176 F.3d 138 (2d Cir. 1999). Based on the officer statements, Subject 1 continued to struggle, resist, and pull away well beyond the officers' initial seizure. Officer A described her as "aggressively resisting."³² According to Officer A, Subject 1 continued to resist, fight, and pull away after the initial seizure.³³ Sergeant A stated that after the initial seizure, Subject 1 refused to drop the backpack and continued to fight with the officers trying to restrain her.³⁴ Officer B described her as a "passive resister" throughout the encounter because she was "resisting the whole time."³⁵ Officer D also described Subject 1 as a "passive resister" and stated that she ignored verbal direction and continued to pull away from the officers.³⁶ A reasonable person in the officers' shoes could have believed that the continued physical struggle by Subject 1 was enough to "impede, hinder, interrupt, prevent or delay" the officers' actions in attempting to engage Subject 1 in an investigatory stop.³⁷ Subject 1's continued actions would have created independent probable cause to arrest her for resisting. Therefore, based on the totality of the circumstances, the formal arrest for resisting was justified³⁸

2. First custodial search of Subject 1

At the time of this incident, custodial searches of an arrestee were authorized by General Order 06-01-03. Pursuant to General Order 06-01-03:

Members taking a person into custody or accepting custody from other members will be responsible for conducting a thorough search in accordance with the established Department procedures.

Field searches will be conducted by a member who is of the same gender...

The order cites to the Department directive entitled "Interrogations: Field and Custodial" for a definition of 'field search.' General Order 04-03 defines the authority of a Department member to search a person stopped for temporary questioning pursuant to *Terry v. Ohio* but does not define a custodial search incident to arrest. A search incident to valid arrest does not require any additional justification for Fourth Amendment purposes. Therefore, a custodial pat down and search for officer safety once an individual is in custody does not require a warrant and is valid as a search incident to arrest. *United States v. Robinson*, 414 U.S. 218 (1973).

³² Statement of Officer A, page 33, lines 8-10.

³³ Statement of Officer A, page 45, lines 1-15.

³⁴ Statement of Sergeant A, page 15.

³⁵ Statement of Officer B, pages 42-43.

³⁶ Statement of Officer D, page 60, lines 10-17.

³⁷ The probable cause determination concerns not what the officers actually believed but what a reasonably prudent person in the officer's shoes would have believed. *See, e.g., Devenpeck v. Alford*, 543 U.S. 146 (2004).

³⁸ It is important to note that the officers stated Subject 1 was under arrest as soon as she resisted but our analysis determined that the grab on the stairs constituted the initial seizure for Fourth Amendment purposes.

In this instance, Officer A acknowledged that she conducted a “custodial pat-down” of Subject 1 while she was standing on the elevated train platform. Officer A was not involved in the initial take down of Subject 1 but served as an assisting officer.³⁹ Considering the totality of circumstances known to Officer A at the time, it could have been reasonable for her to conclude that the arrest of Subject 1 was valid because of her continued struggle with the officers after the initial seizure. Pursuant to Department guidelines, Officer A was responsible for conducting a custodial search of Subject 1 because she was the only female officer on scene. Because Officer A performed a “custodial pat-down” for officer safety permitted by law and Department policy, the initial custodial search of Subject 1 was justified.

3. Search of Subject 1 by the explosive detection canine team

Special Order 03-04-01 defines the responsibilities and tasks all canine teams, including the explosive detection canine team. Pursuant to the order, if a Department member has “determined that services of an explosive detection canine team is necessary” then the member will inform the OEMC dispatcher to request the assignment of an explosive detection canine team. The order does not further define or expound on situations in which an officer may call for an explosive detection canine team.

It has long been held that dog sniffs may occur in the absence of a warrant, probable cause, or even individualized suspicion. *See, e.g., United States v. Place*, 462 U.S. 696 (1983) (holding that a dog sniff is not a search within the meaning of the Fourth Amendment); *Illinois v. Caballes* 543 U.S. 405 (2005) (a canine sniff around the perimeter of a car following a routine traffic stop does not violate the Fourth Amendment if the duration of the stop is justified by the traffic offense). In Illinois, it has been held that to conduct a canine sniff, government must have a reasonable suspicion of criminal activity, based upon articulable facts. *See People v. Cox*, 318 Ill.App.3d 161 (Ill. App. Ct. 5th Dist. 200) (holding that permissible investigative stops under *Terry* and its progeny have been extended to almost any situation in which a law enforcement officer has a reasonable suspicion of criminal activity, including canine sniffs).

The use of canines for narcotic detection and the use of canines for explosive detection, while seemingly similar on the surface, are conceptually distinct. In times of increased national security, the use of dogs trained to sniff for explosives presents a heightened special need which may justify bypassing ordinary Fourth Amendment procedures. The use of bomb sniffing dogs, which is a separate practice from dogs used to sniff for drugs, may be subject to less stringent requirements due to heightened circumstances.

Even when applying the reasonable suspicion standard to this instance, the officers were able to point to specific and articulable facts regarding Subject 1’s behaviors that aroused their suspicions. Additionally, the officers were able to point to environmental contexts and a specific Department bulletin that added to their suspicion. When considering the totality of the circumstances and the facts known to the officers at the time, Sergeant A’s request for an explosive detection canine team was reasonable. Therefore, the sniff search that was conducted of Subject 1’s persons and belongings was justified.

³⁹ Arrest Report of Subject 1

4. Second custodial search of Subject 1

Officer A searched Subject 1 a second time when she was lying on the elevated train platform. Officer A stated that during the second search, she did not remove any of Subject 1's clothing but she removed Subject 1's headscarf and veil and unzipped her jacket. Officer A stated she patted down Subject 1 after she unzipped her jacket and she "may have" rolled down the top elastic band of Subject 1's pants so she could feel around her waist. Officer A said she "might have" reached under Subject 1's sweatshirt when she was conducting the search on the platform. Officer A said she did not believe she reached inside Subject 1's pants or exposed any skin when she searched Subject 1.

Officer A stated the reason for conducting a second custodial search was because Subject 1 was wearing two layers of clothing and she believed that Subject 1 was hiding something.⁴⁰ Officer A characterized the second search of Subject 1 as a protective pat-down that was done for officer safety.⁴¹ Officer A stated that the second pat-down of Subject 1 occurred after the canine unit performed a search of Subject 1 and her belongings.

At the time of the second custodial pat-down, Subject 1 was under arrest. Officer A stated officer safety concerns when conducting the second custodial pat-down. However, Subject 1 was already subjected to a custodial pat-down by Officer A and thorough search by a canine unit. At this point in the encounter, officer safety was not a sufficient justification. Based on the totality of the circumstances, the second custodial search of Subject 1 was unjustified.

5. Search of Subject 1 prior to transport

General Order 06-01-03 states that members accepting custody from other members will be responsible for conducting a throughout search of the arrestee. In this instance, the officers responsible for transporting Subject 1 to the X District lock-up would be responsible for conducting another search because the transport officers were accepting custody of Subject 1. Because the order requires that all field searches be performed by a member of the same gender, Officer A, as the only female officer on scene, would have been responsible for searching Subject 1 prior to transport per General Order 06-01-03.

At the point Subject 1 was taken for transport to the X District lock-up, she had undergone three previous searches. Officer A admitted that after the second pat down of Subject 1, she did not uncover any contraband or weapons. Additionally, the canine unit did not alert on Subject 1's body or backpack. Officer A stated that a "more thorough search" was needed before Subject 1 was transported to the First District lockup.⁴² Officer A was not aware of the general order requiring Department members accepting custody to perform an additional search nor was she aware whether there was a female officer present with the transport van.⁴³

⁴⁰ Statement of Officer A, page 39, lines 12-14.

⁴¹ Statement of Officer A, page 39-40, lines 12-3.

⁴² Statement of Officer A, page 48, lines 8-11.

⁴³ Statement of Officer A, page 76, lines 7-18.

Officer A's failure to understand the general orders, while concerning, does not negate the fact that the general order in place at the time required Department members accepting custody of an individual to perform a "thorough search" and the search be conducted by a Department member of the same gender. However, Officer A knew that Subject 1 was sufficiently searched at the time prior to transport as she had performed two custodial searches. Based on the totality of the circumstances, the search prior to transport was unjustified.

6. Strip search of Subject 1

At the time of this incident, General Order 06-01-03 controlled strip searches by Department members. In pertinent part, the general order states:

Arrestees will not be subject to strip search for any offense unless specific factors are present which establish [there is additional text that is covered by an attachment stamp that cannot be deciphered] that the search will uncover a weapon or contraband.

Strip searches will be ordinarily conducted in a police lockup and include prior written approval of the station supervisor using the Report of Strip Search.

Officer A violated G06-01-03 when she took Subject Subject 1 was required to bend and turn so Officer A could visually see her breast, buttocks, and vaginal area. Officer A said she did not have permission from anyone to conduct this search nor did she have any basis for believing that the search would uncover a weapon or contraband. Officer A's actions were contrary to Fourth Amendment and Department principles. Based on the totality of the circumstances, the strip search of Subject 1 was unjustified.

CONCLUSION/ANALYSIS:

The Reporting Investigator recommends that **Allegation #1 against Sergeant A**, that he failed to properly supervise officers under his command during the detention, search, and arrest of Subject 1 be **SUSTAINED**.

Sergeant A, as the supervisor on scene during this incident, made the decision to stop Subject 1 on the steps to the elevated train platform to determine if she was a threat. Sergeant A violated Rule 2 when he, and officers under his command, conducted this stop in a manner that was contrary to the stated policy, goals, rules, regulations, orders or directives of the Department. Sergeant A violated Rule 3 when he failed to promote the Department's efforts to implement its policy or accomplish its goals and Rule 10 by being inattentive to his duties. The Department states Rule 3 applies to supervisory and other members who, through carelessness, inefficiency or design fail to implements all policy goals, rules, regulations, orders, and directives of the Department.....or who through carelessness, inefficiency or design fail to become aware of any such violation, when their assigned duty or supervisory responsibility would require them to become so aware.

Sergeant A was present when Officer A and Officer D used their personal cell phones to take video images of Subject 1 and/or her personal possessions at the elevated train station. He was present in the District Station when a strip-search was conducted on Subject 1, and when Officer A disposed of Subject 1's perishable food items.

When Sergeant A was interviewed on 21 September 2015, Sergeant A said he was not aware of any Department policy that prohibits the use of personal cell phones by officers responding to incidents. He said it is common practice for officers to take photos so they can be used later to complete reports. Sergeant A said there is no requirement for officers to account for photographs they take using their personal cell phones. Sergeant A had a supervisory responsibility and an assigned duty to know that Uniform and Property U 04-01, Personal Appearance, Uniform/Citizen's Dress and Equipment states, "**members will not have in their possession or usecameras while on duty, unless otherwise authorized by their unit commanding officer. Personal cellular phones or other electronic telecommunications devices will be worn on the belt or carried concealed.**" Sergeant A violated Rules 3 and 6 through his inattention to duty or through carelessness, inefficiency, or design when he failed to become aware of this violation, when his duty or supervisory responsibility required him to become so.

Sergeant A said he did not know how many times Subject 1 was searched during this incident, and he did not give anyone permission to conduct a strip-search of Subject 1 at the X District Station. Sergeant A can be clearly seen on the CTA video walking around the elevated train platform as Subject 1 was being searched by Officer A and then by a K-9 unit. Sergeant A was the on-scene supervisor when Subject 1 was removed from the elevated platform by Officer A and Officer B and taken to a transport van where Officer A improperly searched her again. Sergeant A was at the District Station when the transport van arrived and Officer A took custody of Subject 1 and escorted her to the rest room where she conducted a strip-search on Subject 1. Sergeant A said he knew Officer A was conducting a search of Subject 1 when she took her into the restroom. Officer A said Sergeant A knew she was taking Subject 1 into the restroom to ensure she was not in possession of any items she should not take into the lock-up.

Sergeant A said he knew Subject 1 was searched at least once on the platform and he expected her to be searched again either in the paddy wagon or at the station. Sergeant A said that was common practice. During his interview, Sergeant A said the purpose of those searches i.e. in the van or at the station, is to conduct a more thorough search in order to look for smaller items. He went on to say when a person is in custody officers have the right to search any part of the body that can secret something small. It is inconceivable that Sergeant A had no idea Officer A was going to conduct a strip-search of Subject 1.

Officer A informed Sergeant A that she did not find any contraband on Subject 1 during the two searches she performed on her while she was on the elevated train platform. The K-9 handler advised Sergeant A that no explosive devices were found during his sweep of the platform and Subject 1 and the objects around her ankles were ankle weights. Sergeant A said he did not know that Officer A conducted a fourth search of Subject 1 in the back of the transport van and he was not aware she conducted a strip-search in the District Station where he was present. Sergeant A had a supervisory responsibility to know the number and types of searches

that were being conducted on Subject 1. Subject 1 had been searched on three separate occasions by Officer A and once by a K-9 unit before she reached the District Station. Sergeant A violated Rule 3, 6, 10, and G06-01-03 through inattention to duty and carelessness, inefficiency or design when he failed to become aware of this violation, when his assigned duty or supervisory responsibilities would require him to be aware that Officer A was conducting a strip-search prior to obtaining prior written approval from the station supervisor

Sergeant A said he had possession of the book bag containing Subject 1's food and personal items. Officer A threw away perishable food items belonging to Subject 1. Officer A said she disposed of the food items outside the District Station after Subject 1 was placed into lock-up. S07-01 states, "Perishable items that will rot or decompose, such as fruit, or meat, and not specifically excluded by this directive will not be retained after being inventoried. Inventorying officers will instead complete the inventory, **obtain the designated supervisor's approval** and dispose of the perishable items." "Whenever perishable goods are disposed of pursuant to item IV-C-3-g of this directive **the approving supervisor**: enter into eTrack "comments "section of the inventory information about how and when the items were destroyed; print copy 1 –Inventory copy and fax to the Evidence Recovery Property Section (ERPS), notifying ERPS the items have been destroyed, and send copy 1 – Inventory Copy and the original fax coversheet to ERPS through police mail." Sergeant A violated Rules 3, 6, and S07-01 when through his inattention to duty or carelessness, inefficiency or design he failed to become aware of this violation, when his assigned duty or supervisory responsibility required him to be aware that Officer A was disposing of food items without complying with Department policy.

The Reporting Investigator recommends that **Allegation #2** against Sergeant A, that he approached Subject 1 from behind without warning, grabbed her arm and attempted to take her book bag be **SUSTAINED**. Sergeant A violated Rule 2 when he assisted Officer A, Officer B and Officer D in restraining Subject 1 and taking her book bag. Subject 1 was stopped and placed under custodial arrest without justification. Sergeant A said he identified himself as a police officer and Subject 1 failed to stop. The officers who were with Sergeant A indicate they heard Sergeant A identify himself to Subject 1. A review of the CTA Video and Subject 1's statement suggest, it is more likely than not, that Subject 1 did not hear Sergeant A direct her to stop. Subject 1 did not know who grabbed her from behind or who was trying to take her book bag. The actions of these officers were contrary to the letter and spirit of the Department's policy on interrogations in the field and custodial.

The Reporting Investigator recommends that **Allegation #1 against Officer A**, that she approached Subject 1 from behind without warning, grabbed her arm, and attempted to take her book bag be **SUSTAINED**. Officer A violated Rule 2 when she assisted Sergeant A, Officer B, Officer C, and Officer D in restraining Subject 1. Subject 1 was stopped and placed under custodial arrest without justification. Sergeant A said he identified himself as a police officer and Subject 1 failed to stop. The officers who were with Sergeant A indicate they heard Sergeant A identify himself to Subject 1. A review of the CTA Video and Subject 1's statement suggest, it is more likely than not, that Subject 1 did not hear Sergeant A direct her to stop. Subject 1 did not know who grabbed her from behind or who was trying to take her book bag. The actions of these

officers were contrary to the letter and spirit of the Department's policy on interrogations in the field and custodial.

The Reporting Investigator recommends that **Allegation #2** against **Officer A**, that she choked Subject 1 without justification be **NOT SUSTAINED**. Subject 1 was in police custody when this search was conducted. Officer A said Subject 1 was not cooperative and she may have held her face and attempted to turn her head while Subject 1 was being searched. Officer A and the other officers present deny that Subject 1 was ever choked. The available evidence was insufficient to prove or disprove this allegation.

The Reporting Investigator recommends **Allegation #3** against **Officer A**, that she conducted an improper search of Subject 1 at the State and Lake CTA Station, be **SUSTAINED**. Officer A conducted an initial custodial search of Subject 1 while she was standing on the elevated train platform and Subject 1 and her personal belongings were swept by an explosive K-9 unit and it was determined she did not have any explosive items. Officer A's stated purpose for conducting this search was "officer safety." Officer A was not justified when she conducted an additional custodial search of Subject 1 as she lay on the elevated train platform. Officer A violated Rule 2, 6, General Order G06-01-03, and the Fourth Amendment of the United States Constitution.

The Reporting Investigator recommends that **Officer A** be **EXONERATED** regarding **Allegation #4**, that she took Subject 1's headscarf and face scarf off and threw them to the ground. The actions taken by Officer A were lawful and proper. Subject 1's head and face scarf were removed during a custodial search. Officer A said she handed these items to an officer standing nearby prior to conducting the custodial search or she placed the items on the train platform. Officer B and Officer D said they did not see Officer A throw these items on the platform. There is no indication there was any malice or forethought when the items were placed on the platform or handed to other officers. Officer A acknowledged that she removed Subject 1's head and face scarf. Officer A's actions were lawful and proper during this custodial search.

The Reporting Investigator recommends that **Allegation #5** against **Officer A**, that she walked Subject 1 to a police van with her clothes in disarray and her body exposed to the public, be **UNFOUNDED**. A review of the CTA video does not support the allegation. Subject 1 wore multi-layered clothing throughout this incident. None of those items was removed before Subject 1 was placed inside the police van to be transported to the First District Station.

The Reporting Investigator recommends that **Allegation #6** against **Officer A**, that she conducted an improper search of Subject 1 in the back of a police van, be **SUSTAINED**. Officer A searched Subject 1 in the back of the police van prior to transporting her to the District Station. Officer A had conducted two custodial searches of Subject 1 prior to escorting her to the van. Additionally, Subject 1 and her personal belongings were searched by an explosive detection dog and it was determined she did not have any contraband. Officer A's search of Subject 1 in the van was not justified. Officer A had no expectation that she would uncover any items that had not been found during the three prior searches. Officer A violated Rule 2, General Order G06-01-03, and General Order G04-03.

The Reporting Investigator recommends that **Allegation #7** against **Officer A**, that she told Subject 1, “You are ISIS, Why did you come here to kill Americans?” be **NOT SUSTAINED**. There is insufficient evidence to prove or disprove this allegation. Officer A said she never made these comments and there was no one in the back of the van during this incident except Officer A and Subject 1. Officer C was standing outside the van but he did not hear the conversation between Officer A and Subject 1.

The Reporting Party recommends that **Allegation # 8** against **Officer A**, that she conducted an improper search of Subject 1 at the First District Station, be **SUSTAINED**. Officer A violated G06-01-03 - Conducting Field, and Strip Searches, and Rules 2 and 6, when she took Subject 1 into a restroom at the First District Station where she directed her to remove all of her clothing. Subject 1 was required to bend and turn so Officer A could visually see her breast, buttocks, and vaginal area. Officer A said she did not have permission from anyone to conduct this search. Officer A’s actions were contrary to the Department’s policies, goals, rules, regulations, orders, and/or directives.

The Reporting Investigator recommends that **Allegation #9** against **Officer A**, that she failed to inventory or return Subject 1’s silver/stone ring, diamond necklace, headscarf, veil, ankle weights, and food be **SUSTAINED**. All of Subject 1’s personal items were returned or properly inventoried except the perishable food items she had in her possession at the time of her arrest. **Officer A** violated Rules 6, 40, and Special Order, S7-01, IV, C.3g, and V-J., Processing Property under Department Control, which requires that perishable food items be inventoried and entered into CLEAR prior to being destroyed. Officer A acknowledges she threw Subject 1’s food away after she was placed in lock-up. The food items were not inventoried, destroyed, and entered into CLEAR in accordance with Department policy.

The Reporting Investigator recommends that **Allegation #10** against **Officer A**, that she used her personal cell phone to take images during the detention and arrest of Subject 1, be **SUSTAINED**. Officer A violated Rule 6, and Uniform and Property, U04-01, Personal Appearance, Uniform/Citizen Dress and Equipment when she is seen on CTA video footage taking images using a cell phone camera. Officer A acknowledged during her interviews that she used her personal cell phone to take images during this incident. Officer A said she failed to get supervisory approval prior to using her personal cell phone to take these images.

The Reporting Investigator recommends that **Allegation #1** against **Officer B**, and **Officer D** that they approached Subject 1 from behind without warning and attempted to take her book bag, be **SUSTAINED**. These officers violated Rules 2 and 8. The actions taken by these officers to place Subject 1 under custodial arrest were not lawful or proper. Subject 1 did not engage in any behavior that would justify her arrest when she was grabbed from behind without warning. It is more likely than not that these officers did not identify themselves to Subject 1, as required by law, *prior* to grabbing her from behind and attempting to take her book bag.

The Reporting Party recommends that **Allegation #2, 3, and 7** against, **Officers B, C, and D** that they:

#2 - Grabbed her eyeglasses, head scarf, and face scarf off her head and threw them on

the ground.

#3 - Unwrapped her hair and ran their fingers through her scalp.

#7 - Failed to properly inventory or return her cap, glasses, head scarf, and face scarf, ankle weights, and food.

be **UNFOUNDED**. Officer A removed Subject 1's clothing items and checked her hair while searching her, Officer A disposed of Subject 1's food at the X District Station after Subject 1 was placed into lock up. Officer B, C, and D did not commit these acts.

The Reporting Investigator recommends that **Allegation #4, 5, and 6** against **Officers B and D** that they:

#4 – Struck Subject 1 on the side of the body three times.

#5 – Opened Subject 1's jogging jacket and pulled her pants down below her hips.

#6 – Asked if Subject 1 was Sunni or Shia.

be **NOT SUSTAINED**. The allegations are not supported by sufficient evidence that can be used to prove or disprove the allegation. Officer B and Officer D were the only officers who assisted Officer A when she conducted a custodial search of Subject 1 on the elevated train platform. They deny they ever struck Subject 1 or that they questioned her. All the officers present during these incidents deny they saw or heard anyone commit these acts.

The Reporting Investigator recommends that **Allegation #1** against **Officer C** that he:

#1 – Approached Subject 1 from behind, without warning, and attempted to take her book bag.

be **UNFOUNDED**. Officer C was providing perimeter security when this act occurred.

The Reporting Investigator recommends that **Allegations #4, 5, and 6** against **Officer C** that he:

#4 – Struck Subject 1 on the side of the body three times.

#5 – Opened Subject 1's jogging jacket and pulled her pants down below her hips.

#6 – Asked was she Sunni or Shia.

Be **NOT SUSTAINED**. Officer C was providing perimeter security when these acts occurred.

The Reporting Investigator recommends that **Allegation #8** against **Officer D**, that he used his personal cell phone to take images of Subject 1 during her detention and arrest, be **SUSTAINED**. Officer D is seen on CTA surveillance video using a cell phone to take images during the detention and arrest of Subject 1 in violation of Rule 6, and Uniform and Property, U04-01, Personal Appearance, Uniform/Citizen Dress and Equipment. Officer D acknowledged during his interviews he used his personal cell phone to take images and he was aware of the

Department directive that addresses the use of cameras. Officer D said he failed to get supervisory approval as required before taking these images.

SIGNATURE PAGE ONLY

Investigator A

Supervisor A

Deputy Chief A

Chief Administrator A