

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1076956

INTRODUCTION

On 01 September 2015, at approximately 1513 hours, Subject 1, a realtor, arrived at 3237 West Pierce Avenue to meet his builder, Witness 1. Officer A, who was off-duty and working his part-time job as a realtor, was already inside the building at that location because he had a scheduled appointment. Shortly after Subject 1 entered the building, Officer A, whose identity was not known to Subject 1 at that point, pointed a weapon at Subject 1 without warning. Subject 1 was angered about having a weapon pointed at him and called 911 and requested a CPD supervisor after he learned that Officer A was a Chicago police officer. Officer A also called 911 to report the incident.

ALLEGATIONS

On 01 September 2015, at approximately 1513 hours, Reporting Party Victim, Subject 1, registered this complaint with IPRA Investigator A. Subject 1 alleged that on 01 September 2015, at approximately 1342 hours, while at XXXX West Pierce Avenue, **Officer A #XXXX:**

- 1) Failed to identify himself as a police officer, in violation of Rule 37.
- 2) Pointed his weapon at Subject 1 without justification, in violation of Rule 38.

APPLICABLE RULES AND LAW

Rule 37: Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

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

INVESTIGATION

The **Initiation Report of Sergeant A #XXXX** documented he was called out to a citizen complaint at XXXX West Pierce Avenue at 1359 hours. Sergeant A met with Subject 1 who stated that Officer A failed to identify himself as a police officer and had a gun pointed at him with no just reason. Subject 1 said to Sergeant A that Officer A only identified himself as a police officer after he raised his hands up and said, "I am a realtor, what are you doing?" Subject 1 then said Officer A was apologetic but still thought he was unjust in pointing a gun at him. Subject 1 said he was a realtor and had an appointment to be at the location of incident. Sergeant A then spoke with Officer A who stated he worked as a realtor as a second job and that he had an appointment to show the location. Officer A said he observed an open window and thought there was a burglary in progress. Officer A then drew his weapon when he heard someone approaching from the hallway and thought it was an offender. Officer A stated he pointed his weapon at the complainant's direction because he did not know if he was an offender. Once Officer A knew that Subject 1 was a realtor, he lowered and holstered his weapon. Officer A was apologetic and tried to explain to Subject 1 what had occurred, but Subject 1 was too

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angry to listen to him. Subject 1 did not want to file a complaint while at the scene, but later arrived at the XX District Station at 1517 hours and made his complaint. (Att. 4)

In a **statement** to IPRA on 15 June 2015, **Reporting Party Victim, Subject 1** stated that on the date and time of the incident, he was at the location of incident, XXXX West Pierce Avenue, to meet his builder, Witness 1. The property was a bank owned foreclosure. According to Subject 1, properties of this type do not have agent led appointment showings. Instead, interested parties get the code to access the property and let themselves in whenever they like.

Subject 1 arrived at the property and let himself inside and waited for Witness 1. Subject 1 said upon entry, he observed a broken window, which is typical of foreclosed properties in the area. Subject 1 began walking up the stairs to the second floor when he encountered the accused, off-duty Officer A, who was not in uniform. According to Subject 1, Officer A, without announcing his office, pointed his weapon at Subject 1. Subject 1 said he was approximately seven feet away and two steps away from the second floor landing. Subject 1 put his hands up and his back against the wall while saying, "I have an appointment to be here." "What the fuck are you doing?" Officer A holstered his weapon, showed his ID, and said, "It's ok, I am a Chicago Police Officer." "How would I have known who you are?" "I have to protect myself." After Officer A holstered his weapon, he continued to inspect the property. Subject 1 said no one was present when Officer A pointed his weapon at him. Subject 1 said that Officer A presented Subject 1 with his credentials when he later asked for them. Subject 1 photographed them and forwarded the photograph to IPRA.

Subject 1 said he was upset and went downstairs after the incident to call 911. Officer A also called 911 and requested a supervisor. Moments later, Subject 1 said a supervisor arrived and Officer A was honest about what he reported to the supervisor regarding the incident.¹ Specifically, Officer A did not tell the responding officers that he had announced his office prior to encountering Subject 1. Subject 1 was adamant that Officer A did not announce his office, or say anything prior to when he saw Officer A point his gun at him. When Subject 1 asked the officer why he pointed his weapon, Officer A replied, "I am trained to do this." Subject 1 added that Officer A was civil to him as they spoke about the incident. According to Subject 1, Witness 1 did not witness the incident and he does not want IPRA to contact Witness 1.

Subject 1 reported that because of the neighborhood and the price of the property, there were many realtors who viewed the property during their time there. He further explained that due to the nature of foreclosed properties, damage is usually visible. He explained that real estate agents should expect that other agents will enter foreclosed properties unexpectedly and not be scared of footsteps or broken windows. Subject 1 believed that it was inappropriate for Officer A to draw his weapon without announcing his office, and described Officer A's behavior as an overreaction. Subject 1 opined that

¹ Subject 1 also expressed displeasure with the responding officers' attitude and professionalism at the scene; he however was ultimately satisfied by the response that he received from Sgt. A at the 014th District station.

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Officer A used the excuse of the broken window to cover his actions and provide an explanation for why he was scared, and justify pointing his weapon. Subject 1 reported that many real estate agents have concealed carry permits and stressed that Officer A's display of his weapon because he was scared could create hazardous situations. (Att. 17)

The **Chicago Police Department Event Query (XXXXXXXXXX & XXXXXXXXXXXX)** documents the 01 September 2015 911 calls that Officer A and Subject 1 made. Subject 1 reported an off duty officer pulled a gun out on him. Officer A requested police service for a dispute with Subject 1. (Atts. 10, 14, 23)

Subject 1 produced a **photograph** of Officer A's real estate credentials and his Chicago Police Department Identification Card, which he obtained on the day of the incident. Subject 1 used his cell phone to take the photograph. (Att. 16)

In a **To/From Subject Witness Report, Officer B, #XXXX** documented that on the day of the incident, she was on duty, in uniform and assigned to Beat XXXX. On this day, Officer B responded to the scene of a complaint by a realtor that an off-duty police officer pulled a gun on him. Upon arrival, Officer B met with Subject 1 and Officer A outside in front of the building. Subject 1 told Officer B that he was really upset that a gun had been pulled out on him for no reason, and that Officer A did not identify himself until after his weapon was out, though Officer A was very apologetic after Subject 1 identified himself. Officer A related to Officer B that he was a realtor and had a scheduled showing. Officer A said that upon entry into the property, he had observed an open window and heard footsteps that led him to believe he walked in on a burglary. Officer A said that after Subject 1 approached from a hallway, Officer A drew his weapon because he did not expect anyone to be at the property. Officer B described Subject 1 as angry, agitated but cooperative. Officer B described Officer A as calm, cooperative and apologetic about the incident. (Att. 19)

In a **To/From Subject Report, Accused Officer A #XXXX** documented that on the day of the incident, he was off-duty, alone, dressed in cargo pants and a shirt. Officer A is a licensed realtor and had a scheduled appointment confirmed to view the vacant property located at XXXX West Pierce Avenue.² Officer A said he walked to the back of the second flat home to survey the property when he observed on the second floor, a large window (5 x 8) broken. Officer A walked up the rear wooden porch and looked through the window and immediately announced his office before entering fearing this damage was recent and the possibility of offenders on scene. Officer A then entered through the broken window and proceeded to clear each room, looking for unwanted visitors and continued to announce "police." According to Officer A, while still in the second floor vacant residence entrance doorway, he observed Subject 1 standing on the second floor landing (10-12 feet away). Officer A was surprised and shocked to see anyone inside the vacant property. Officer A said he never heard anyone in the building nor did Subject 1 say anything when Officer A was announcing his office. Officer A said he identified himself and questioned why Subject 1 was in this vacant property. Subject 1 told Officer

² Officer A provided a confirmation email of the appointment he had for XXXX West Pierce Avenue at 2-3 P.M. on September 1, 2015. (Att. 27, p.3)

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A he was a realtor but refused to show Officer A any form of identification to prove that he was one. Subject 1 instead criticized Officer A and stated he knew the law. Officer A said his service weapon was out while investigating the possibility of offenders on scene when he first encountered Subject 1, but that at no time did he point his weapon at Subject 1. Subject 1 took pictures of his police identification and realtor's card while still refusing to show Officer A his identification. (Att. 27)

On 17 May 2016, **Accused Officer A** gave IPRA a digital recording interview. Officer A provided clarification to the report that he completed and submitted on 20 April 16 regarding the allegation of pointing of his weapon at the complainant, Subject 1.

Officer A stated that as trained by the Chicago Police Department when an officer is clearing a room, his weapon is supposed to be drawn at all times in case they encountered offenders. Officer A explained that on the day of the incident, 01 September 2015, he was at the location of incident because he had an appointment with a client. As Officer A inspected the house, he observed a broken window. Officer A fearing that maybe an intruder could be inside the house, he drew his weapon and proceeded to clear each room, while announcing his office. As he turned, he encountered a doorway and a staircase. As he made this turn, Officer A's torso and weapon was facing the staircase, at which point, he observed Subject 1 staring at a wall. Officer A immediately identified himself and asked Subject 1 who he was as the weapon was pointed in Subject 1's direction. Subject 1 told Officer A that he was a real estate agent and Officer A said to Subject 1 that he was one as well. Officer A immediately holstered his weapon and apologized. According to Officer A, at no time did he intend to draw his weapon at Subject 1 because it was already drawn prior to entering and clearing that area in which Subject 1 was standing. Officer A said he had his weapon facing in Subject 1's direction and not necessarily pointing the weapon directly at Subject 1. Officer A said that he did not have his finger on the trigger. Officer A said that if Subject 1's perspective was that Officer A intentionally pointed his weapon directly at him, Subject 1 was incorrect because that was not Officer A's intent. Officer A was merely facing that area when they happened to encounter each other. (Att. 28)

CONCLUSION

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #1** against Officer A in that he failed to identify himself as a police officer to the complainant in violation of Rule 37. Although it is in dispute whether Officer A announced his office prior to his armed encounter with Subject 1, the evidence clearly established that Officer A identified himself as a police officer as soon as the situation stabilized, and also provided his CPD credentials. The evidence is clear that Officer A complied with Rule 37 when he identified himself and provided his credentials to Subject 1 upon request.

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The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #2** against Officer A that he pointed his weapon at Subject 1 without justification in violation of Rule 38. The incident as described by both parties about their encounter when they viewed a vacant property is substantially similar. The main discrepancy is whether Officer A announced his office as he moved through the house; for tactical reasons there is no requirement that officers announce their office prior to drawing or pointing their weapons. It is not in dispute that Officer A had his weapon drawn and pointed towards Subject 1 when he encountered Subject 1. Both parties agree that the pointing of the weapon toward Subject 1 was brief because Officer A quickly holstered his weapon. There is also no dispute that the building had a broken window. Officer A drew his weapon as a precaution as he moved through the vacant house because he was fearful that a robbery occurred and an offender may have been present. Although Subject 1 opined that Officer A overreacted, Subject 1 also believed that Officer A pointed his weapon because he was scared. There is no evidence to dispute Officer A's explanation that he was justified when he drew and pointed his weapon because he was fearful. Therefore this allegation should be unfounded.