

October 26, 2016

**INTRODUCTION**

On 23 OCT 2015, at 1530 hours, Off-duty Officer A, #XXXXXX, Unit XXX, was driving south on Ashland Avenue with Witness 1, his wife, in their personal vehicle when he became involved in a “road rage” incident with Subject 1, the complainant. The incident continued as both parties continued south on Ashland Avenue. As both vehicles came to a stop at the intersection of Ashland and Archer Avenues, Officer A exited his vehicle with the intention of confronting Subject 1 about his actions. A number of actions took place following Officer A’s exiting of his vehicle, which included two separate displays of Officer A’s off-duty weapon and Subject 1 striking Officer A in the face. Ultimately, Subject 1 left the scene. Following the incident, Officer A and Subject 1 both reported the confrontation at separate police facilities, each providing their version of the events.

**ALLEGATIONS**

On 23 OCT 2015, at 1746 hours, Sergeant A, #XXXX, Unit XXX, filed this complaint with IPRA Investigator A, on behalf of Subject 1. Subject 1 subsequently alleged that on 23 OCT 2015, at 1530 hours, at approximately XXX S. Ashland Avenue, during the course of a road rage incident, **Officer A, #XXXXXX, Unit XXX:**

1. Threw a cup of liquid at him, in violation of the Rules and Regulations of the Chicago Police Department, Rule 2;
2. Held his firearm out of his vehicle’s window, in violation of the Rules and Regulations of the Chicago Police Department, Rule 38;
3. Pointed his firearm at him without justification, in violation of the Rules and Regulations of the Chicago Police Department, Rule 38;
4. Forcefully attempted to pull him out of his vehicle, in violation of the Rules and Regulations of the Chicago Police Department, Rule 8;

It is further alleged, by IPRA Investigator B, #XXX, that during the course of the same incident, **Officer A:**

5. Unnecessarily displayed his firearm during a “road rage” incident, in violation of the Rules and Regulations of the Chicago Police Department, Rule 38.

**APPLICABLE RULES AND LAW**

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

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

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

G03-02: Use of Force Guidelines – III. Department Policy

B. Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.

**720 ICLS 5/12-2 Assault**

A person commits an assault when, without lawful authority, he or she knowingly engages in conduct which places another in reasonable apprehension of receiving a battery.

**720 ILCS 5/12-2(c)(7) Aggravated Assault**

(c) A person commits aggravated assault when, in committing an assault, he or she does any of the following:

(7) Without justification operates a motor vehicle in a manner which places a person in reasonable apprehension of being struck by a moving motor vehicle.

**INVESTIGATION**

The **Initiation Report** of Sergeant A, #XXXX, Unit XXX, documents that on 23 OCT 2015, at 1730 hours, Subject 1, the complainant, arrived at the XXX<sup>th</sup> District Police Station in order to make a complaint. Subject 1 reported that, on the same date, at 1530 hours, he and the accused officer, now identified as Officer A, #XXXXX, were both driving south on Ashland Avenue. They became involved in a road rage incident during which Officer A threw a can of Coca-Cola at his vehicle. Officer A exited his vehicle while holding what appeared to be a firearm in his left hand, but Subject 1 fled the scene once the stoplight turned green. Officer A, however, gave chase and pointed his weapon out of one of his vehicle's windows. While stopped at another stoplight, Officer A again approached Subject 1's vehicle, opened the front door, and attempted to pull him out of the automobile. At that time, Officer A began screaming that he was a police officer and yelled for Subject 1 to exit his automobile. Subject 1 then struck Officer A as he did not produce a badge and/or identification card, and provided no reason for the complainant to believe that he was a law enforcement official. Subject 1 then fled the scene. (Att 4)

In his **statement to IPRA** on 23 OCT 2015, **Subject 1**, the complainant, stated that, on the same date, at 1530 hours, he was traveling south on Ashland Avenue in his personal vehicle. At approximately XX<sup>st</sup> Street, a vehicle cut him off and Subject 1 responded by doing the same to that vehicle. The driver of the other vehicle subsequently threw a cup of liquid at him, which struck him on the body as he was driving his automobile. Subject 1 again responded by cutting off the vehicle and threw a cup of ice at the other motorist. Subject 1 drove away from the motorist but was stopped by a red light at the next traffic signal. At that time, Subject 1 observed the motorist exit his vehicle while holding a black gun in his left hand. Subject 1 subsequently fled the scene, driving

through a red traffic signal. Subject 1 was initially able to elude the motorist but then observed that individual following him. Subject 1 indicated that when he next observed the motorist after initially fleeing the scene, that individual was holding a firearm out of the vehicle's window and pointing it at him.

Subject 1 subsequently came to a stop at another red light and the motorist exited his vehicle and again ran towards Subject 1's vehicle. The motorist opened the driver's side door of Subject 1's vehicle and attempted to pull him out of it. At that time, Subject 1 struck the motorist on the face. The motorist then told Subject 1 that he had just battered a police officer, and retrieved his wallet and produced an unknown type of identification. The motorist grabbed Subject 1 a second time, but Subject 1 was able to break free and left the scene. Subject 1 then picked-up his grandson from school after which he went to the XXX<sup>th</sup> District Station to report the incident. Upon inquiry, Subject 1 indicated he was unable to read the identification the motorist displayed to him. Additionally, according to Subject 1, the motorist did not identify himself as a police officer prior to Subject 1 striking him. Subject 1 indicated that he sustained a sore arm but was otherwise uninjured as a result of this incident. (Atts. 7, 9)

In his **Tactical Response Report**, Officer A documented that Subject 1 was an assailant in that he struck him with a closed hand/fist. As a result, Officer A displayed his firearm but took no action greater than an escort hold. Subject 1 was not arrested at that time. The report contained no additional information regarding the incident. (Att #11)

Two **Case Reports** were completed relative to the incident, one documenting the account of Subject 1 and the other documenting the account of Officer A. The narrative of the Case Report documenting the account of Subject 1 provides essentially the same account of the incident as he provided in his statement to IPRA. It omits, however, any reference to his striking of Officer A during the incident. The **Case Report** documenting the incident based upon Officer A's account notes that he was traveling south on Ashland Avenue with Witness 1, his wife. While in the vicinity of Cermak Avenue, Officer A allowed a vehicle to merge in front of him into his lane at which time the motorist behind him began honking his vehicle's horn. The motorist then changed lanes, sped past the Officer A's vehicle, and pulled in front of it. The motorist then began swerving from lane to lane. According to Officer A, in the vicinity of XXXX S. Ashland Avenue, the motorist threw a cup filled with liquid at Officer A's vehicle. A short distance further south, the motorist threw a blue bag at Officer A's vehicle. In response, Officer A exited and approached the motorist who had also exited his vehicle. According to Officer A, he identified himself as a Chicago Police Officer and displayed his Department issued identification card. The motorist, however, claimed that Officer A was not a police officer and subsequently struck Officer A on the left side of his face. Officer A then observed the motorist reach into his vehicle. In response, Officer A pulled his weapon from its holster. Upon seeing Officer A's firearm, the motorist fled the scene by traveling

south on Ashland Avenue. Officer A then went to the XXX<sup>th</sup> District Station to report the incident. (Atts. 12, 13)

The **Arrest Report** for Subject 1 documents that he was arrested on 13 JAN 2016, at 2135 hours, and charged with battery in connection with this incident. A Supplemental Case Report documents that detectives spoke with Subject 1 regarding the incident. Subject 1 denied throwing any object at Officer A's vehicle but admitted that he threw a cup of ice at the same automobile. Subject 1 claimed that either the driver or passenger of Officer A's vehicle threw an object at his vehicle which hit and spilled on the dashboard. Subject 1 noted that he may have struck Officer A as a reaction to being grabbed by him. On July 21, 2016, Subject 1 entered a plea of guilty to misdemeanor battery and received a sentence of conditional discharge and anger management counseling in criminal case number XXXXXXXXXXXX. (Atts. 24, 25)

IPRA **canvassed** the area where this incident occurred but did not locate any surveillance camera videos that recorded any part of the incident nor were any eyewitnesses identified. A **POD** located near the location of this incident was operational, but due to its location relative to where the incident occurred, did not capture any portion of it. (Atts. 14, 16, 17)

**Evidence Technician Photographs**, which were taken on 23 October 2015, depict Officer A without any noticeable sign of injury. (Atts. 15)

IPRA spoke with an individual who contacted **911/OEMC** at the approximate time this incident occurred, but his call was about a different matter.

An **additional OEMC call** documents that, on the date of this incident, at 1512 hours, an individual, now identified as Officer A, called 911. He reported that while off-duty, he had been involved in a road rage incident near the intersection Ashland Avenue and 35<sup>th</sup> Street during which he had been punched in the face.

Officer A elaborated that the individual involved in the incident had attempted to throw an unidentified object from his vehicle. As a result, Officer A removed his firearm from its holster and instructed the motorist to exit his vehicle. A moment thereafter, the motorist struck him on the right eye. Officer A indicated that he would go to the XXX<sup>th</sup> District Police Station to report the incident. A Zone Dispatch provided details and a description of the second vehicle involved in the incident. (Atts. 18, 19, 20, 21)

In her **statement to IPRA** on 03 FEB 2016, **Witness 1**, Officer A's wife stated that, on 23 OCT 2015 at approximately 1500 hours, she and her husband were in their vehicle driving south on Ashland Avenue after exiting a store parking lot. While traveling in the left lane of traffic, an unidentified vehicle moved into the same lane in order to turn

east onto an unidentified street. At that time, the driver of the vehicle behind Officer A and Witness 1 began honking his horn and yelling out the window. Officer A continued driving south on Ashland Avenue, but the motorist passed and cut in front of them. The driver of the vehicle subsequently came to an abrupt stop and started backing up towards them. The sudden stopping and reversing of the other vehicle in front of Officer A and Witness 1 automobile occurred several times as they headed south on Ashland Avenue. Eventually, Officer A was able to pull his vehicle alongside that of the other motorist, at which time that individual threw an object at them. Upon inquiry, Witness 1 indicated that the other motorist threw a paper cup filled with liquid, possibly soda pop, which struck the windshield. She added that her husband was unable to maneuver their vehicle in front of the other motorist as he refused to allow them to do so. Furthermore, she noted that her husband did not throw any object back the motorist as they were always in the far left hand lane of southbound traffic.

As the two vehicles continued south on Ashland Avenue, the motorist threw a second object at Officer A's and Witness 1's vehicle which struck the front passenger side window. Witness 1 yelled at the motorist, asking him what he was trying to do. Officer A, Witness 1, and the motorist subsequently came to a stop at Archer Avenue due to a red traffic light. The motorist, a white male individual, exited his vehicle and approached Officer A's and Witness 1's automobile. Officer A exited his vehicle but the motorist stepped back towards his automobile. At that time, Officer A pulled his firearm from its holster and held it by his side while verbally identifying himself as a police officer. As Officer A was attempting to retrieve his badge from his pocket, the motorist approached him and struck him on the left eye one time with a closed fist. After the motorist struck Officer A in the face, he quickly returned to his vehicle and left the area by traveling south on Ashland Avenue. Upon inquiry, Witness 1 indicated that both of the objects the motorist threw at her vehicle were done while they were moving. She added that her husband removed his firearm from his holster as he did not know what the motorist was doing when the motorist returned to his vehicle.

After Officer A was struck, Officer A drove to the XXX<sup>th</sup> District Station in order to report the incident. Witness 1 subsequently left her husband at that facility in order to pick up their children from school. Later that evening, Witness 1 noticed swelling to her husband's left eye. Upon inquiry, Witness 1 indicated that she did not recall how many times her husband verbally identified himself as a police officer. Witness 1 noted that she remained in her vehicle after her husband exited it but the front passenger side window was down, so she could hear. She added that she was approximately one car length away from her husband and the motorist, and called 911 via her cellular telephone when Officer A was out of their vehicle. She further noted that Officer A's glasses fell off and Officer A took a step back after he was struck on the face, but he did not fall to the ground. (Atts. 28, 30)

In his **statement to IPRA** on 17 FEB 2016, **Officer A, #XXXXXX**, the accused officer relative to this complaint, stated that on the date and time of this incident, he was off-duty. At approximately 1430 hours, he was at a Store A located on Ashland Avenue, near Roosevelt Road. Upon finishing his shopping, he and Witness 1, his wife, left the store's parking lot in their personal vehicle and headed south on Ashland Avenue. As they were heading south on Ashland, he noticed a vehicle that was stopped in a dedicated left turn lane. The driver of the same vehicle motioned with his/her hand that he/she wanted to pull into the southbound lanes of traffic. Officer A, who was in the left lane of traffic, slowed his vehicle and allowed the driver to pull in front of him. At that time, the motorist behind Officer A and Witness 1, an unidentified white male subject, began honking his vehicle's horn. The same unidentified motorist (later identified as Subject 1) then pulled alongside Officer A's and Witness 1's vehicle and made an obscene gesture with his middle finger as he sped by them. Upon inquiry, Officer A indicated that he allowed the motorist in the dedicated left turn lane to pull in front of him because that vehicle was already protruding into the left hand lane and partially blocking the flow of traffic.

As Officer A and Witness 1 continued traveling south on Ashland Avenue, Subject 1 began weaving in between lanes and eventually maneuvered his vehicle in front of them. Subject 1 brought his vehicle to an abrupt stop and then began driving in reverse toward Officer A's and Witness 1's vehicle. Officer A subsequently stopped his vehicle and drove it in reverse so as not to be struck by Subject 1's vehicle. Subject 1 resumed heading south on Ashland Avenue but due to traffic conditions, Officer A was able to catch up with him. At that time, Subject 1 threw a cup containing an unknown liquid at Officer A's and Witness 1's vehicle, which struck it on the front passenger side window. Approximately five to six seconds later, Subject 1 threw a small blue bag at Officer A's and Witness 1's automobile, which hit the front fender. When Officer A and Subject 1 came to a red stoplight at Archer Avenue, Officer A exited his vehicle and Subject 1 exited his vehicle immediately afterwards. Officer A subsequently removed his firearm from its holster and held it against the front of his torso in a low ready position because he did not know what Subject 1 was going to do. Officer A believed that he may have said words to the effect of, "What's your problem," after the two had exited their vehicles.

Upon inquiry, Officer A indicated that he neither cut-off Subject 1 nor attempted to catch up to him in order to determine that individual's identity. Officer A stated that he only displayed his firearm when he removed it from its holster; he did not point it at Subject 1 at that time.

Subject 1 retreated back to his own vehicle after he saw Officer A's weapon. Officer A re-holstered his weapon and approached Subject 1, who was approximately 10 feet away from Officer A at the time, to determine why Subject 1 had acted so irrationally. While doing so, Officer A verbally identified himself as a Chicago Police

Officer and displayed his CPD ID card. Officer A did not have his CPD Star or any other police equipment with him at the time. As Officer A was standing by the driver side door of Subject 1's vehicle, Subject 1 turned toward Officer A, stated that he did not believe Officer A was a police officer, and punched Officer A on the left eye area one time with a closed fist. Then Subject 1 reentered his vehicle and then attempted to reach over to the passenger's seat. Believing that the Subject 1 may have been reaching for a weapon, Officer A unholstered his firearm again, pointed it at Subject 1 and told him, "Don't do it." Officer A attempted to grab Subject 1 by the outer clothing in order to remove him from his vehicle, but Subject 1 pushed away from Officer A and fled the scene. Officer A then called 911, identified himself as an off-duty police officer, and reported the battery. Officer A also provided a description of Subject 1 and his vehicle.

Officer A added that he attempted to pull Subject 1 out of his vehicle in order to arrest him for a battery to a police officer. Officer A stated that Subject 1's punch struck the glasses he was wearing which knocked them off of his face, but did not break them. Additionally, Officer A noted that his wife remained in their vehicle during the entire encounter and the automobile was not damaged as a result of the objects striking it. Following this incident, Officer A proceeded directly to the XXX<sup>th</sup> District Station in order to complete the appropriate reports. Officer A concluded his statement by denying the allegations that he threw a cup full of liquid at Subject 1, held his firearm out the window, and pointed his firearm at the other motorist without justification. He reiterated that he attempted to pull the other motorist of his vehicle in order to place him under arrest for battering him. (Atts. 35, 36)

In his **supplemental statement** taken on 15 JUN 2016, **Officer A** indicated that prior to the commencement of his supplemental statement, he had the opportunity to review the transcript of his previous statement relative to this incident. He noted that all of the answers he provided in his initial statement were true and correct to the best of his recollection.

Officer A began his supplemental statement by retracing and confirming the events that led up to his contact with Subject 1, the complainant. He denied throwing any objects at Subject 1's vehicle, but indicated that Subject 1 twice threw objects at his automobile, the last occurring when they were under a viaduct just north of Archer Avenue. Officer A indicated that the physical encounter between him and Subject 1 occurred on Ashland Avenue, just north of Archer Avenue; both he and Subject 1 were in the left lane of southbound traffic, next to the left turning lane of the same roadway. An unidentified vehicle was in between Officer A's automobile and that of Subject 1's car when they came to a stop.

Upon inquiry, Officer A indicated that the incident began as he was driving south on Ashland Avenue, near Cermak Road. At some point previous to the aforementioned intersection, Officer A stopped his vehicle to allow another automobile to enter traffic in

front of him. Subject 1, who was behind Officer A, subsequently sounded the horn of his vehicle. He then drove around Officer A while displaying an obscene gesture with his middle finger. Officer A indicated that although Subject 1 was always in front of him while they headed south on Ashland Avenue, Subject 1 slowed his vehicle so that the former could catch up to him. In his initial statement regarding the incident, Officer A explained that while he and Subject 1 were heading south on Ashland Avenue, Subject 1 was in front of him and abruptly brought his vehicle to a stop. In his supplemental statement, Officer A indicated that this action occurred early in their encounter, when they were two to three blocks south of Cermak Road.

Officer A stated that when he and Subject 1 brought their respective vehicles to a stop at Ashland and Cermak, Officer A exited his vehicle before Subject 1. Officer A claimed that he did so to determine why Subject 1 was “assaultin’ [him] with his vehicle” when Subject 1 had previously brought his automobile to an abrupt stop and drove in reverse towards Officer A’s and Witness 1’s vehicle. Officer A indicated that he did not have his firearm out of its holster when he initially exited his vehicle but did so when Subject 1 “violently” opened the front door of his automobile. Once Officer A determined that Subject 1 was not in possession of “anything that was threatening” to him, Officer A re-holstered his firearm. Officer A noted that upon seeing that Officer A was holding a firearm, Subject 1 immediately returned to his vehicle. Officer A then moved toward Subject 1 and identified himself as a police officer, both verbally and by displaying his CPD ID. Officer A did not have his CPD Star on him at the time or any other police-related equipment. Officer A then stated to Subject 1, “What is your problem; I’m a police officer.” Subject 1 replied, “You’re not a fucking cop,” and punched Officer A in the face with his left hand.

Officer A indicated that Subject 1 had used his vehicle as a weapon when he earlier brought it to an abrupt halt, placed it in reverse, and then drove towards his vehicle. He added that even though he had a clear view of Subject 1’s license plate, he did not call 911 to report the incident because he did not think to do so. Officer A stated that when he first exited his vehicle, he did so because he was going to arrest Subject 1 for assaulting him with his vehicle when Subject 1 used his vehicle as a weapon in purposely backing in the direction of Officer A’s and Witness 1’s vehicle.

Officer A noted that he did not initially announce his office once Subject 1 exited his vehicle because Officer A’s attention was focused on the complainant’s hands. Upon removing his firearm from its holster, Officer A held the weapon at the low-ready position. He indicated that he removed his firearm from its holster as he feared for his own safety and that of his wife, and did not know what Subject 1’s intentions were when he exited his vehicle. Officer A conceded, however, that due to the fact that he did not announce his office, Subject 1 did not know that Officer A was a police officer until after Officer A reholstered his weapon and approached Subject 1’s vehicle.



After Subject 1 struck him, Officer A unsuccessfully attempted to remove Subject 1 from his vehicle. Subject 1, however, reached towards the opposite side of his vehicle and due to the fact that Officer A's eye was watering from strike, he could not clearly see what the complainant was doing. Officer A subsequently unholstered his firearm a second time, pointed it at Subject 1 and stated, "Don't do it!" Upon seeing that Subject 1 was not reaching for a gun or other weapon, Officer A placed his firearm back in the holster and again attempted to pull Subject 1 out of his vehicle in order to arrest him. At that time, however, the traffic light changed to green, and Subject 1 pulled away from Officer A and left the scene in his vehicle. After Subject 1 left the scene, Officer A called 911 and reported the incident. Officer A stated that he completed a Tactical Response Report in which he justified displaying and pointing his firearm as an attempt to gain "compliance." Regarding the allegations, Officer A indicated that he displayed his firearm but denied that it was unnecessary. Officer A reiterated that he did not call 911 as the incident was a continually unfolding because it was a stressful situation. (Att. 46)

## CONCLUSION

It is recommended that **Allegation #1**, that on 23 October 2015, at approximately XXXX S. Ashland Ave, at 1530 hours, that Officer A, #XXXXXX, threw a cup full of liquid at Subject 1, the complainant, in violation of Rule 2, be **NOT SUSTAINED**. This investigation revealed insufficient evidence to either support or refute the allegation. Subject 1 stated that Officer A first threw a cup full of liquid at him just after this incident began, Officer A, however, denied throwing any object at Subject 1, and his denial of taking such action is supported by Witness 1, who stated that her husband did not throw any item at the complainant's vehicle. Based on the contradicting statements, it cannot be determined by a preponderance of the evidence that Officer A threw a cup of liquid at Subject 1 as alleged.

It is recommended that **Allegation #2**, that on 23 October 2015, at approximately XXXX S. Ashland Ave, at 1530 hours, that Officer A, held his firearm out of his vehicle's window, in violation of Rule 38, be **NOT SUSTAINED**. Similar to the first allegation, there is insufficient evidence to determine if Officer A engaged in this misconduct as alleged. According to Subject 1, he observed Officer A holding his firearm out of his vehicle window, while the parties were driving south on Ashland Avenue. Although Officer A admitted that he removed his firearm from its holster after he exited his vehicle at the stoplight at Archer Avenue, he denied holding it out of the window of his vehicle, as Subject 1 alleged. Witness 1 supports her husband's denial by noting that Officer A first removed his firearm when both vehicles came to a stop at Archer and Ashland Avenues. Based on the contradicting statements, it cannot be determined by a preponderance of the evidence that Officer A held his gun out of his car window, as alleged.

It is recommended that **Allegation #3**, that on 23 October 2015, at approximately XXXX S. Ashland Ave, at 1530 hours, that Officer A pointed a firearm at Subject 1 without justification, in violation of Rule 38, be **NOT SUSTAINED**. As with the previous allegations, there is insufficient evidence to either support or refute this allegation. Subject 1 alleged that while holding his gun out of his car window, Officer A also pointed his gun at Subject 1. Officer A denies ever pointing his gun at Subject 1 while holding his gun out of the car window. Witness 1 corroborates her husband's denial in that she states Officer A did not remove his firearm until after exiting his vehicle, while both he and Subject 1 were stopped at Archer and Ashland Avenues. Based on the contradicting statements, it cannot be determined by a preponderance of the evidence that Officer A pointed his gun at Subject 1 while driving down Ashland Avenue, as alleged.

However, Officer A himself admits to pointing his gun at Subject 1 after being struck in the face. Therefore, it must be determined whether that display of his weapon was reasonable based on the totality of the circumstances. Officer A states that immediately after striking Officer A in the face, Subject 1 re-entered his vehicle and appeared to be reaching for something on the passenger side. Concerned that Subject 1 was reaching for a weapon, Officer A unholstered his gun, pointed it at Subject 1 and gave him a verbal command to stop. Officer A states that once he determined Subject 1 did not reach for a weapon, Officer A reholstered his weapon and proceeded to grab Subject 1 by the arm to prevent him from leaving the scene. Officer A's actions were reasonable under the circumstances. Despite Officer A announcing his office, Subject 1 had struck him in the face. Immediately after that, Subject 1 began to reach into his vehicle, causing Officer A to fear he was reaching for a weapon. At that point Officer A needed to gain immediate control of the situation for his own safety as well as the safety of other motorists. Based on the totality of the circumstances, it was reasonable for Officer A to point his gun at Subject 1 and order him to stop. The allegation that Officer A pointed his gun at Subject 1 unnecessarily is **NOT SUSTAINED**.

It is recommended that **Allegation #4**, that on 23 October 2015, at approximately XXXX S. Ashland Ave, at 1530 hours, that Officer A forcefully attempted to pull Subject 1 out of his vehicle, in violation of Rule 8, be **NOT SUSTAINED**. As with the previous allegations, there is insufficient evidence to either support or refute this allegation. There is no dispute that there was physical contact between the complainant and the accused. Specifically, it is uncontroverted that Subject 1 struck Officer A in the face and that Officer A grabbed Subject 1 by the arm. However, Subject 1 and Officer A maintain vastly different versions as to how these events transpired. Subject 1 states that as their cars were stopped at Ashland and Archer, Officer A ran up to the driver's side of his vehicle, opened the door and grabbed his arm in an attempt to pull Subject 1 out of the car. Subject 1 states that he only struck Officer A in the face because he did not know what was happening and he did not know he was a police officer. Officer A states both he and Subject 1 exited their vehicles and as Officer A approached Subject 1, he initially

had his gun in a “low-ready” position. Upon seeing the gun, Subject 1 began to retreat into his vehicle and Officer A holstered his weapon but continued to approach Subject 1’s vehicle. Officer A states that as he reached Subject 1’s vehicle, he announced his office and displayed his Chicago Police Department identification card. At which point Officer A states that Subject 1 struck him in the face and immediately re-entered his vehicle. Officer A admits to grabbing Subject 1 by the arm to try and remove him from the vehicle. Both parties agree that Subject 1 was able to enter his vehicle and drive away. Witness 1 essentially corroborates Officer A’s version of the events in that she states Subject 1 struck Officer A in the face before Officer A grabbed him by the arm.

Based on the conflicting versions of this event, we do not have sufficient evidence to sustain the allegation as made by Subject 1, which is that Officer A forcefully grabbed Subject 1 by the arm and tried to pull him out of the car without provocation or justification. Officer A admits to using force against Subject 1, but claims his use of force was justified. Officer A asserts, and we agree, that there was probable cause to arrest Subject 1 for the battery he committed when he struck Officer A in the face. However, the question remains whether Officer A’s use of force was excessive when he grabbed Subject 1’s arm in an attempt to place him under arrest and prevent him from fleeing the scene. There is insufficient evidence from which to prove it was. Officer A, by his own admission, immediately resorted to physical force to gain cooperation from Subject 1. Officer A did not verbally advise Subject 1 that he was under arrest and request that Subject 1 get out of the car before using force to produce Subject 1’s cooperation. However, based on the circumstances, it appears that the situation unfolded quickly and there may not have been time for Officer A to do so. Therefore, the evidence is inconclusive as to whether Officer A’s use of force here was excessive, and this allegation is NOT SUSTAINED.

It is recommended that **Allegation #5**, that on 23 October 2015, at approximately XXXX S. Ashland Ave, at 1530 hours, Officer A unnecessarily displayed his weapon during a road rage incident, in violation of Rule 38, be **SUSTAINED**.

Officer A admitted that he was the first to exit his vehicle, when he and Subject 1 came to a stop at Ashland and Archer. Officer A further admitted that he unholstered his weapon and held it in the low ready position as he approached Subject 1’s car. IPRA maintains that Officer A’s decision to exit his vehicle and confront Subject 1 about his actions unnecessarily escalated matters and led to Officer A displaying his weapon without justification during this road-rage incident.

Officer A acknowledged that his encounter with Subject 1 happened over time as they traveled from Store A at XX<sup>th</sup> and Ashland until just prior to their having reached the stoplight at Ashland and Archer. He also acknowledged that the most egregious of Subject 1’s alleged driving actions took place “way before” then. Officer A stated that he had a clear view of Subject 1’s license plate during their road-rage incident, but that he

“did not know” why he did not call 911 to report the matter. Officer A further acknowledged that he did not announce his office when he exited his vehicle, when he displayed his weapon, or when Subject 1 initially exited his vehicle. When asked if there was any way that Subject 1 would have known that Officer A was a police officer prior to, during, or after he first displayed his weapon, Officer A responded, “No.” During Officer A’s second statement to IPRA on 15 June 2016, he added that his intention upon exiting his vehicle in the first place was to “arrest” Subject 1 for aggravated assault. When asked why he did not announce his office at that point if his intention was to arrest him, Officer A maintained that he was focused on whether Subject 1 might have had a weapon in his hands when Subject 1 exited his vehicle. However, the only reason Officer A gave to justify displaying his weapon upon exiting his vehicle is that Subject 1 opened his car door “violently.” IPRA finds Officer A’s overall response to and participation in this road rage incident to be problematic. IPRA maintains that Officer A had multiple opportunities to handle this matter prudently and responsibly, but he failed to do so. Instead, Officer A initiated an in-person approach of Subject 1’s vehicle in the middle of a busy street with a civilian vehicle positioned between them. Furthermore, there was nothing presented by Officer A or uncovered by IPRA during its investigation to support the idea that Officer A needed to exit his vehicle when and where he did. Therefore, given the totality of the circumstances, Officer A’s decision to display his weapon without announcing his office and while bearing no visible signs that he was a police officer engaged in police action was unjustified. As such, IPRA maintains that the allegation that Officer A unnecessarily displayed his weapon during an off-duty road rage incident must be SUSTAINED.

## **FINDINGS**

### **Accused**

### **Officer A, #XXXXXX, Unit XXX**

**Allegation #1**

**Not Sustained**

**Allegation #2**

**Not Sustained**

**Allegation #3**

**Not Sustained**

**Allegation #4**

**Not Sustained**

**Allegation #5**

**Sustained-** Violation of Rule 38, “Unlawful or unnecessary use or display of a weapon.”