

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

INTRODUCTION:

The complainant, Subject 1, was riding in the car with her boyfriend, Subject 2, when they were pulled over by the police. During the traffic stop Subject 2 was arrested and charged with Driving under the Influence of Alcohol. Subject 2 was also cited for several traffic violations. Subject 1 was arrested and charged with Resisting/ Obstructing a Peace Officer, and Sale or Possession of a Deadly Weapon.

ALLEGATIONS:

On 08 May 2016, at approximately 2026 hours, the complainant, Subject 1, contacted the Independent Police Review Authority (IPRA) and registered a complaint with IPRA Investigator A. It is alleged that on 08 May 2016, at approximately 0214 hours, at or about XXXX N. Sacramento Avenue, **Officer A, #XXXXXX**:

- 1) slapped Subject 1's cell phone out of her hand, in violation of Rule 8: "Disrespect to or maltreatment of any person, while on or off duty;"
- 2) grabbed her arm and pulled her out of the car, in violation of Rule 8: "Disrespect to or maltreatment of any person, while on or off duty;" and
- 3) caused a bruise to her eye and an injury to her lip when he grabbed and pulled her out of the car, in violation of Rule 8: "Disrespect to or maltreatment of any person, while on or off duty."

It is also alleged that on the same date, following Subject 1's arrest, at XXX W. Addison, an **Unknown Officer**:

- 1) refused to speak with Subject 1 or take her complaint regarding allegations of police misconduct, in violation of Rule 3: "Any failure to promote the Department's efforts to implement its policy or accomplish its goals."

APPLICABLE RULES AND LAW:

Rule 3: Failure to promote the Department's efforts to implement its policy or accomplish its goals.

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.

INVESTIGATION:

In a statement to IPRA on 09 May 2016, **Complainant Subject 1** stated that her fiancée, Subject 2, picked her up from a bar and they drove home.¹ As Subject 2 drove down an alley to get to their street, an officer now known to Subject 1 as Officer A initiated a traffic stop. Subject 2 pulled over in the alley. Officer A informed Subject 2

¹ Subject 1 stated that she consumed one mixed drink of Hennessy and Cranberry; and four small, personal sized bottles of wine at the bar. Subject 1 described herself as tipsy, but not drunk.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

that his lights were off, and that he drove the wrong way down an alley. Officer A told Subject 2 he smelled alcohol on his breath and subsequently asked him to step out of the vehicle. Subject 1 told Officer A she disagreed and that his actions were unlawful. Officer A called for backup and two white male officers arrived. Officer A insisted that Subject 1 step out of the car, but she refused. Officer A opened the front passenger door and slapped Subject 1's cell phone out of her hand, which she was using to record the incident. Officer A tried to pull Subject 1 out of the car. Subject 1 pulled away.

Officer A ultimately grabbed Subject 1's arm and pulled her out of the vehicle. Subject 1 stated that she sustained a swollen and bruised eye, bruising to her arm, and a cut to her lip as a result of the incident. Subject 1 did not know precisely how she sustained the injuries, but knows that it happened when Officer A pulled her out of the car. Subject 1 said that Officer A's hand or elbow may have struck her eye and/or lip; however, she did not think Officer A purposely caused the injuries. Once Subject 1 was out of the car, the officers handcuffed her and placed her into custody. Subject 1 stated that she had empty bottles of liquor in the car.

Subject 1 was arrested and transported to the police station. While in the lockup, the female officer who fingerprinted Subject 1 (Officer "B," 5 feet 7 inches to 5 feet eight inches tall, blonde hair) asked Subject 1 what happened to her eye. Subject 1 gave the officer an account of what happened and the officer said she was going to notify a sergeant. A short time later, Officer "B" returned and said the sergeant would not see Subject 1 because he had a lot to do. Subject 1 stated that when she was released from custody, she saw a tall, white male sergeant with grey hair who appeared to be in his fifties. Subject 1 presumed he was the sergeant Officer "B" spoke with; however, Subject 1 did not make contact with the sergeant. Subject 1 stated she had video of the incident on her cell phone, but she refused to show it or provide a copy to IPRA. Subject 1 did not seek medical attention. (Att. 7)

A subsequent attempt to obtain a copy of the **video recording** from Subject 1 was unsuccessful. (Att. 60)

In a statement to IPRA on 09 May 2016, **Subject 2** stated that he and his girlfriend, Subject 1, were pulled over by a Hispanic male uniformed officer, now known as Officer A. Officer A said he pulled them over because Subject 2 was driving without his headlights on, and made an illegal turn into the alley. Subject 1 told Officer A that their headlights were on and that he had no right to pull them over. Subject 2 gave Officer A his license and insurance card. Officer A asked Subject 2 and Subject 1 about several empty wine bottles in the rear of their vehicle, and told Subject 2 he smelled alcohol on his breath. Officer A walked back to his squad car and requested backup. Additional officers arrived and one of them told Subject 2 to step out of the car for a DUI investigation. The officers opened the doors and unbuckled Subject 2 and Subject 1's seatbelts. Subject 1 sat on top of Subject 2 to prevent him from getting out of the car and told the officers they had no right to detain them. One of the officers removed Subject 2 from the vehicle and placed him inside a squad car. Two of the officers "manhandled" Subject 1 and handcuffed her. Subject 2 was issued several citations and transported to

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

the police station where he completed a field sobriety test. Subject 2 stated Subject 1 sustained injuries but he did not specify how the injuries were sustained. Subject 2 said he took pictures of Subject 1's injuries on his cell phone, but would not provide them to IPRA without a lawyer. (Att. 13)

Subject 2 was **cited** for failure to use headlights; failure to use a turn signal; failure to stop when emerging from an alley; using an alley as a through street; and transporting/ carrying alcohol/liquor. (Att. 16)

The **Vehicle Impoundment/ Seizure Report** documents that Subject 2's vehicle was impounded for driving while intoxicated. (Att. 17)

Subject 2 did not complete a **Breathalyzer test**. (Att. 20)

The **Arrest and Case Reports** document that Subject 1 was arrested and charged with Resisting/ Obstructing a Peace Officer and Sale or Possession of a Deadly Weapon. It is reported that Officer A, assigned to Beat XXXXX, curbed Subject 2's vehicle for traffic violations. During the stop, Officer A noticed a strong odor of alcohol on Subject 2's breath, his eyes were bloodshot red, and his speech was slurred. Subject 1, the front seat passenger, was reportedly angry, hostile and interfered with the investigation. When Officer A asked Subject 2 to exit the vehicle for a field sobriety test, Subject 1 lunged across the seat, locked the driver's side door, and laid on top of Subject 2. Subject 2 refused a field sobriety test, at which time Officer A informed Subject 2 he was under arrest for DUI. Due to the aggressive and unstable behavior of Subject 1, Officer A retreated to his vehicle and requested backup. Officer C, assigned to Beat XXXXX, and Officers D and E, assigned to Beat XXXXX, responded to the scene. Officer C asked Subject 2 to exit the vehicle. As Subject 2 unbuckled his seatbelt, Subject 1 again lunged across the seat and laid on top of Subject 2 to prevent him from exiting the vehicle. Subject 1 swung and flailed her arms, screamed, shouted profanities, and called the officers racists. The officers informed Subject 1 she was under arrest for obstructing/ resisting arrest.

The reports further indicate that when the officers tried to place Subject 1 into custody, she yelled, grabbed her seat, and flailed her legs. The officers asked Subject 1 to step out of the vehicle. When Subject 1 refused to comply with the officers' verbal commands, the officers grabbed Subject 1's coat and tried to pull her out of the vehicle. Subject 1 held on to the seat. After repeated attempts, the officers removed Subject 1 from the vehicle and handcuffed her. The reports document that the only force the officers used against Subject 1 was pulling her coat to remove her from the vehicle. Subject 1 was transported to the XX District for processing and taken straight to the lockup due to her aggressive and violent behavior. A custodial search revealed Subject 1 had a pocket knife with two blades, each measuring more than 2 ½ inches long. The report further reflects that Subject 1 was highly intoxicated and had severe mood swings and aggressive behavior. The lockup keeper's processing remarks note that Subject 1 was agitated from the arrest and had bruising to her right eye. Subject 1 was offered medical attention but she refused it. (Att. 21, 23, 24)

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

The **Investigatory Stop Reports** contain essentially the same information as documented in the Arrest and Case Reports. (Att. 25-26)

The **Tactical Response Reports** completed by Officers A and E document that Subject 1 did not follow verbal direction, stiffened, pulled away, “wailed” her legs, and grabbed the seat of the vehicle. The officers responded with verbal commands, escort holds, wrist locks, and arm bars. (Att. 27-28)

A search for **Police Observation Devices (PODs)** in close proximity to the location of incident met with negative results. (Att. 30)

Evidence Technician photographs of Subject 1 taken on 08 May 2016 depict bruising underneath her right eye, redness to the inside of her upper lip, and bruising to her left arm. (Att. 39)

A search for **In-Car video** from Officer D and Officer E’s vehicle met with negative results. (Att. 41)

In-Car Video from Officer A’s vehicle depicts Subject 2 driving with the headlights off on his vehicle. Officer A followed the vehicle and initiated a traffic stop. During the traffic stop, Subject 1 directed insults at Officer A and told him his actions were illegal. Officer A asked Subject 2 to step out of the vehicle. Subject 2 refused and Subject 1 yelled and protested Officer A’s actions. Officer A requested backup. Officers C, D and E responded to the scene. Officer A and Officer C asked Subject 2 to exit the vehicle. One of the occupants in the vehicle² pushed Officer A and closed the driver side door. Subject 2 eventually stepped out of the vehicle and Officer C escorted Subject 2 from the vehicle to the squad car. Officers A and E reached into the passenger side of the vehicle, repeatedly asked Subject 1 to step out of the car and told her she was under arrest. Subject 1 refused and told the officers she did not have to get out of the vehicle. Officers A and E again reached into the vehicle and tried to pull Subject 1 from the vehicle. The officers ultimately pulled Subject 1 from the vehicle and escorted her to the squad car. Subject 1 stumbled alongside a garbage can in the alley and was placed against the hood of a squad car and handcuffed. (Att. 58)

In-Car Video from Officer C’s vehicle depicts that Officer C arrived on scene and parked in the alley behind Officer A’s SUV. Officer C’s in-car camera has an obstructed view due to the position of his parked vehicle. Officer C and Officer A had a brief discussion and then walked toward the front of Officer A’s vehicle, presumably to Subject 2 and Subject 1’s vehicle. Subject 1 repeatedly screamed, “No,” told the officers they were being recorded, and that they were violating the law. Two additional male officers, Officers D and E, arrived on scene and approached Subject 2’s vehicle. Officer C escorted Subject 2 from his vehicle and placed him inside his squad car. Subject 2 told Officer C that the officers were disrespectful and that Subject 1 was being “dragged” out of the vehicle. Officer C explained that Subject 1 interfered with the investigation and

² Based on the video, it is unclear whether Subject 1 or 2 performed this action.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

was being arrested for obstruction. The other officers escorted Subject 1 from the vehicle and took her to the rear of Officer A's vehicle where she was apparently handcuffed. The officers then leave the scene with Subject 2 and Subject 1. (Att. 57)

In a statement to IPRA on 26 May 2016, **Officer A** stated that he was assigned to traffic and DUI enforcement when he observed Subject 2 driving with his headlights off. Officer A followed the vehicle and saw Subject 2 commit several traffic violations. Officer A conducted a traffic stop and requested Subject 2's driver's license and insurance. Officer A observed that Subject 2's eyes were bloodshot, glassy, and his speech was slurred. Officer A also noticed a strong odor of alcohol emitting from Subject 2's breath. Subject 1 became agitated and screamed at Officer A while pointing her cell phone in his direction. Officer A opened the driver side door and asked Subject 2 to step out of the vehicle to perform a Field Sobriety Test. Subject 1 closed the door and laid on top of Subject 2 to prevent him from exiting the vehicle. Officer A then walked to his vehicle and requested officer assistance. The assisting officers arrived and Officer C asked Subject 2 to exit the vehicle. Subject 1 again lunged from the passenger to the driver seat and laid on top of Subject 2 while flailing her arms and legs. Officer E tried to open the passenger side door to remove Subject 1 from the vehicle so that Subject 2 could exit. Once Subject 2 exited the vehicle, Officer A went to the passenger side to assist Officer E with Subject 1. The officers told Subject 1 she was under arrest for resisting and obstructing. Subject 1 held on to her phone and grabbed the seat. The officers asked Subject 1 to step out of the car but she refused. Officer A stated that he and Officer E reached in and grabbed the middle of Subject 1's coat, where the zipper meets, and tried to pull her out the vehicle. Subject 1 squirmed and moved her legs back and forth. The officers waited and gave Subject 1 an opportunity to exit the vehicle on her own but she refused. Officers A and E again reached into the vehicle and grabbed Subject 1's coat and pulled her out of the vehicle. The officers escorted Subject 1 to Officer A's squad car and placed her against the hood to handcuff her. Officer A stated that in response to Subject 1's actions, he used escort holds, a wrist lock, an arm bar, and grabbed Subject 1's coat to place her into custody; he did not use any other force against her. Officer A denied slapping Subject 1's cell phone out of her hand, grabbing her arms and pulling her out of the car, and/or causing an injury to Subject 1. Officer A said he never noticed any injuries to Subject 1 but it was possible she injured herself as she was struggling inside the car. (Att. 50-51)

In a statement to IPRA on 27 May 2016, **Officer C** stated that when he arrived on scene and approached the driver side of the vehicle, Subject 1 lunged from the passenger seat into Subject 2's lap and swung her arms. Subject 1 had her cell phone out and said she was recording the incident. Officer C asked Subject 2 to step out of the vehicle, but Subject 2 just stared ahead. The officers told Subject 1 to let Subject 2 get out of the vehicle. Subject 1 refused and told the officers they could not make him get out of the vehicle. Officer A opened the passenger side door, at which point Subject 1 diverted her attention from Subject 2 and tried to close the passenger side door. Subject 2 then exited the vehicle and followed Officer C to the squad car. Officer C placed Subject 2 in the rear of his squad car and explained to him the reason for the stop and that he was being placed under arrest for DUI. After a few minutes, Officers A and E placed Subject 1 in

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

the police wagon for transport. Officer C stated that he did not observe Officer A commit any of the acts attributed to him in the allegations section of this report. Officer C said that his interaction was primarily with Subject 2 and that he only saw Subject 1 briefly. Officer C stated he could not tell whether Subject 1 had any injuries. (Att. 52-53)

In a statement to IPRA on 02 August 2016, **Officer D** stated that he and Officer E responded to a request for assistance with a traffic stop. Upon arrival at the scene, Officer D observed Officers A and C standing next to a vehicle speaking to the driver, Subject 2, and the passenger, Subject 1. Subject 1 was screaming, belligerent, and appeared to be recording the incident on her cell phone. When Officer C asked Subject 2 to exit the vehicle, Subject 1 told him Subject 2 was not going anywhere. Subject 2 eventually complied and exited the vehicle, while Officers A and E were on the passenger's side trying to get Subject 1 to exit the vehicle. Subject 1 was initially uncooperative and swung her arms, but was eventually taken into custody. Officer D stated that he did not observe Officer A commit any of the acts attributed to him in the allegations section of this report, and does not know how Subject 1 could have sustained an injury. (Att. 63)

In a statement to IPRA on 02 August 2016, **Officer E** stated that he and his partner, Officer D, responded to a request for a wagon at the location of incident. Officers E and D arrived on scene and saw Officers A and C standing next to a car that was pulled over in the alley. Officer C asked the driver, Subject 2, to step out of the vehicle. Subject 1 leaned over from the passenger side to the driver side, flailed her arms, and tried to prevent Subject 2 from exiting the vehicle. Officer A informed Subject 1 she was under arrest for resisting/ obstructing arrest. The officers asked Subject 1 three or four times to exit the vehicle. Subject 1 refused to follow the officers' verbal directions and was belligerent. Officer E stated that he and Officer A grabbed Subject 1's coat and arms and tried to get her out of the car. Subject 1 repeatedly flailed her arms. After a struggle, the officers removed Subject 1 from the vehicle and placed her against the squad car to handcuff her. Subject 1 dragged her feet, kicked and moved around while she was being handcuffed. Officer E denied observing Officer A commit any of the acts attributed to him in the allegations section of this report. Additionally, Officer E stated he did not observe any injury to Subject 1; and Subject 1 did not allege injury. (Att. 64)

In a statement to IPRA on 19 September 2016, **Officer F** stated that she was working in the lockup area when she first encountered the complainant, Subject 1. When Officer F reported for work, Subject 1 was already in a cell waiting to be fingerprinted and photographed. Officer F said Subject 1 was crying and agitated. Officer F noticed bruising around Subject 1's eye but did not observe any other signs of injury to her. Officer F stated that Subject 1 did not allege that she was injured during her arrest, or indicate how she sustained the injury to her eye. Officer F stated that she informed the station supervisor, Sergeant A (white male, approximately 54 years of age, glasses, 6 feet tall, 160 lbs., brown hair), about the bruising to Subject 1's eye and told him she was going to offer Subject 1 medical attention and request an ambulance, if necessary. Subject 1 declined medical attention. Officer F said she does not recall Subject 1

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

requesting to speak to a supervisor; and she did not tell Sergeant A or any sergeant that Subject 1 wanted to file a complaint or speak with a supervisor. Officer F stated that if Subject 1 had asked her to take either action, she would have told Sergeant A to speak with her. Officer F described herself as 5 feet 7 inches tall, 140 lbs., blonde hair, always worn up in a ponytail. (Att. 65)

Court records document that the Resisting/ Obstructing charge against Subject 1 was amended and Subject 1 plead guilty to Reckless Conduct. The Sale or Possession of a Deadly Weapon charge against Subject 1 was not prosecuted or *nolle prosequi*. (Att. 78)

CONCLUSION:

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegations #1-3** against **Officer A**, that he slapped the complainant, Subject 1's cell phone out of her hand, grabbed her arm and pulled her out of the car, and caused a bruise to her eye and an injury to her lip when he grabbed and pulled her out of the car. Department reports document that Subject 1 was angry, hostile, intoxicated, and interfered with the investigation. Subject 1 reportedly lunged across the seat, laid on top of Subject 2, swung and flailed her arms and legs, grabbed the seat and refused to comply with the officers' verbal commands. In a Tactical Response Report, Officer A documented that he used force to place Subject 1 into custody. Officer A stated that he used escort holds, wrist locks, and an arm bar—all techniques used to subdue an agitated subject with the least amount of force. In an interview with IPRA, Officer A stated that he and Officer E grabbed Subject 1's coat near the middle, zipper area in an effort to get her out of the vehicle. Officer A stated he did not grab Subject 1's arm and pull her out of the car, or injure her in any way. Officer A also denied slapping Subject 1's cell phone out of her hand. The In-Car video corroborates the fact that Subject 1 was uncooperative and disregarded the officers' lawful orders. The video also shows Officers A and E reaching into the vehicle in an effort to get Subject 1 to step out, but the video does not depict Officer A slapping Subject 1's cell phone out of her hand, or provide any conclusive information as to how Subject 1 sustained the injuries.

By Subject 1's account of the incident, she was a passive resister whose actions escalated to that of an active resister. Subject 1 stated that when Officer A pulled over her and Subject 2, she told Officer A that his actions were unlawful and refused to step out of the car or cooperate with his investigation. Subject 1 stated that she pulled away from the officers, and Officer A grabbed her arm and pulled her out of the vehicle. Subject 1 stated that she sustained a swollen and bruised eye, bruising to her arm, and a cut to her lip as a result of Officer A's actions. Subject 1 did not know precisely how she sustained the injuries, but knows that it happened when Officer A pulled her out of the car. Subject 1 added that she did not think Officer A purposely caused the injuries.

Subject 2's account of the incident was consistent with Department reports in that he stated Subject 1 laid or sat on top him to prevent him from getting out of the car and

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1080443

complying with the officers' orders. He also stated that Subject 1 told the officers they had no right to detain Subject 2. Subject 2 could not describe how Subject 1 sustained the injuries, but stated that two officers "manhandled" her.

There is no question that Officer A had physical contact with Subject 1; however, it is not clear how Subject 1 sustained the injuries. Subject 1 was apparently intoxicated at the time of the alleged incident, and could not provide any articulable explanation as to how the injuries were sustained; neither could Subject 2. Subject 1 stated that she recorded a portion of the incident, which could have provided additional insight as to the physical contact that occurred inside the vehicle; however, she refused to provide it to IPRA. Without any additional information, there is insufficient evidence to prove or disprove the allegations.

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #1** against an **Unknown Officer**, that he refused to speak with Subject 1 or take her complaint regarding allegations of police misconduct. Subject 1 stated that while she was in the lockup, she told the officer who fingerprinted her, who she named as "Officer B," that her eye was injured during her arrest. The officer, identified via Department reports as Officer F, and fits the description provided by Subject 1, reportedly told Subject 1 that she was going to notify a sergeant. Subject 1 stated that Officer F returned and told her the sergeant was too busy to see her. In a statement to IPRA, Officer F stated she noticed bruising around Subject 1's eye and offered her medical attention; however, she said Subject 1 did not allege that she was injured during her arrest, or indicate how she sustained the injury to her eye. Officer F stated that she does not recall Subject 1 requesting to speak to a supervisor or asking to file a complaint. Officer F stated that if Subject 1 had asked her to take either action, she would have told the station supervisor to speak with her. At this time, there is insufficient evidence to prove or disprove the allegation.