

**INTRODUCTION:**

The Independent Police Review Authority (“IPRA”) issues this report, sustaining certain allegations relating to the arrest and prosecution of Subject 1. As set forth in greater detail below, on 25 July 2013, a male witness called 911 to report that he heard a female screaming from inside the garage of a home at XXXX South Avenue M. Chicago Police Officers A (Star No. XXXXX), B (Star No. XXXXX), C (Star No. XXXXX), D (Star No. XXXX), E (Star No. XXXXX), and F (Star No. XXXXX) responded to the scene and, ultimately, arrested Subject 1 for Resisting and Domestic Battery.

Officers A and B later filed various reports—and provided sworn testimony in connection with Subject 1’s criminal trial—claiming they observed Subject 1 on top of and physically restraining Witness 1, who was purportedly lying on the floor of the garage at the time of the officers’ alleged forced entry. Officers A and B further claim Subject 1 resisted arrest. In particular, the officers claim that they were forced to take him down, deliver open hand strikes, and use an arm bar and wrist lock techniques to place him in custody. Subject 1 sustained injuries (including a small laceration above his eyebrow and abrasions to his face, scalp and neck) and was transported to the hospital for medical treatment immediately following his arrest.

The officers’ reports and sworn testimony are contradicted by surveillance video obtained from Subject 1’s residence that was admitted into evidence at Subject 1’s criminal trial. The video shows someone standing in the doorway as the side door of the garage<sup>1</sup> opened. The video shows that one of the two officers lunged at Subject 1 immediately after the door was opened.

After reviewing the video at the criminal trial, the Judge commented:

Now, you can just imagine what the police are thinking when they're standing outside this door. They don't know what to expect when they go in there. And this is where the testimonies go their separate ways. And where the issue of credibility becomes important. The officers [Officer A and Officer B] testified they eventually kicked down the door and there's [Subject 1] on top of [Witness 1]. The video, at least to me, looks like the door [is] being open[ed]. [Subject 1] says that's him. And they both can't be true. If he's at the door, he can't be on top of her. I don't know how to reconcile that.<sup>2</sup>

Although the Judge found Subject 1 likely “didn’t comply with something,” he did not find proof beyond a reasonable doubt that Subject 1 committed battery against Witness 1 or resisted arrest.<sup>3</sup>

Six days after his criminal trial, on 12 November 2013, Subject 1 filed a Complaint against the City of Chicago and each of the Officers, individually, in the United States District

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<sup>1</sup> The garage has two doors: the side/service door that leads to the yard, and the vehicle entrance that leads to the alley. In the interest of clarity, wherever possible, the side/service door will be referred to as the “side door,” and the vehicle entrance will be referred to as the “overhead door.”

<sup>2</sup> Attachment 34, page 153, lines 2-12.

<sup>3</sup> Attachment 34, page 153/line 23-page 154/line 12.

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Court for the Northern District of Illinois (Eastern Division), Civil Suit No. 13 C XXXX. Subject 1 asserted three claims: (1) Unreasonable Seizure against the Officers (Count I); (2) Excessive Force and Failure to Protect against the Officers (Count II); and (3) Malicious Prosecution against both the City of Chicago and the Officers (Count III). The case settled prior to trial.

IPRA initiated an investigation in relation to the allegations set forth in Subject 1's Complaint. The investigation included witness interviews; a site visit to the garage; a viewing of the video footage shown at Subject 1's November 2013 criminal trial; and a review of relevant documents, including but not limited to an Arrest Report, Original Case Incident Report, Case Supplementary Report, Tactical Response Reports, Officer's Battery Report, medical records and photographs of Subject 1, and a transcript of Subject 1's criminal trial. The details of IPRA's investigation and findings regarding Officer B and Officer A's alleged use of excessive force, false arrest, failure to report, false reports and false testimony are set forth in this report.

**ALLEGATIONS:**

On 02 December 2013, at 1117 hours, Intake Aide 1 registered this complaint at IPRA based on allegations set forth in Civil Suit No. 13 C XXXX and subsequent investigation.

**I. EXCESSIVE FORCE**

It is alleged that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, **Officers A, B, C, D, E, and F:** used excessive force in violation of Rules 6 and 8 and General Order G03-02 on Subject 1 in that they:

- 1) struck and/or poked Subject 1 about his body with a baton; and
- 2) kicked Subject 1 on his head and/or face.

It is further alleged that on the same date and time and at the same location, **Officer A:** used excessive force in violation of Rules 6 and 8 and General Order G03-02 in that he:

- 3) grabbed Subject 1 by the neck and/or choked him;
- 4) pushed Subject 1 against a car;
- 5) took Subject 1 to the ground; and
- 6) struck Subject 1 with his weapon.

**II. VERBAL ABUSE**

It is further alleged that **Officers A, B, C, D, E, and F** threatened to Taser Subject 1 without justification, in violation of Rule 9.

**III. FAILURE TO INTERVENE**

It is further alleged that **Officers A, B, C, D, E, and F** failed to intervene to protect Subject 1 from the excessive force used by other officers on the scene, in violation of Rules 3, 6, and 8, and General Order G06-01-01.

**IV. FALSE ARREST**

It is alleged that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, **Officers A, B, C, D, E, and F:** falsely arrested Subject 1 for Resisting and Domestic Battery, in violation of Rule 6 and General Order G04-01; and coerced Witness 1 to sign a criminal complaint against Subject 1, in violation of Rule 8.

**V. FAILURE TO INITIATE COMPLAINT**

It is alleged that on 25 July 2013, at approximately 2204 hours, while at XXXX South Avenue M, **Sergeant A:** failed to initiate a complaint register investigation after being made aware of allegations of excessive force against several department members, in violation of Rule 6 and General Order G08-01-02.

**VI. FALSE REPORTS**

It is alleged that between 25 July 2013 at 2355 hours and 26 July 2013 at 0012 hours, at the XXX District station at XXXX E. 103<sup>rd</sup> Street, **Officer A made the following false reports**, in violation of Rule 14:

**Arrest Report for RD #XXXXXX**

- 1) Officer A observed Subject 1 on top of Witness 1 at the time entry was made into the garage at XXXX South Avenue M;
- 2) Subject 1 forcibly pushed Witness 1 causing her to fall and strike the left side of her head on the garage floor;
- 3) Witness 1 had injuries including scratches on both arms and/or pain to left side of her face;
- 4) Subject 1 swung his arms in an attempt to defeat his arrest;
- 5) Subject 1 swung his arms at Officer B;

**Tactical Response Report (RD #HWXXXXXX)**

- 6) Subject 1 pulled away and/or swung his arms;
- 7) the type of force that he used to take Subject 1 into custody by not including all of the force that he used.

It is further alleged that on 26 July 2013 at 0001-0012 hours, at the XXX District Police Station at XXXX E. 103<sup>rd</sup> Street, **Officer B made the following false reports**, in violation of Rule 14:

**Case Report RD #HWXXXXXX**

- 1) Officer B observed Subject 1 Subject 1 on top of Witness 1 at the time entry was made into the garage at XXXX South Avenue M;
- 2) Witness 1 told Officer B essentially that Subject 1 Subject 1 forcibly pushed Witness 1 causing her to fall and strike the left side of her head on the garage floor;
- 3) Witness 1 attempted to open the garage door to leave several times;
- 4) Witness 1 told Officer B essentially that Subject 1 was holding her on the ground, forcibly restraining her in an effort to prevent her from leaving the garage.
- 5) Subject 1 was swinging his arms in an attempt to defeat his arrest;
- 6) Subject 1 swung a closed fist at Officer B;
- 7) Witness 1 stated essentially that she wanted to pursue felony charges against Subject 1; and
- 8) Witness 1 had injuries including scratches on both arms and/or pain to left side of her face.

**Tactical Response Report (RD #HWXXXXXX)**

- 9) Subject 1 pulled away and displayed an imminent threat of battery; and
- 10) the type of force that he used to take Subject 1 into custody by not including all of the force that he used.

**Officer's Battery Report (RD #HWXXXXXX)**

- 11) Subject 1 struck Officer B and/or attempted to strike him; and
- 12) Subject 1 used his hands/fists to attack Officer B.

**VII. FALSE TESTIMONY IN COURT**

It is alleged that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, **Officer A** made the following false statements in sworn testimony during court proceedings, in violation of Rule 14:

- 1) Officer A not observe Subject 1 opening the garage door to XXXX South Avenue M on 25 July 2013;
- 2) Officer A observed Subject 1 on top of Witness 1 at the time entry was made to the garage at XXXX South Avenue M on 25 July 2013;
- 3) Subject 1 swung a closed fist at Officer B;
- 4) Witness 1 had injuries, including scratch marks and redness to the side of her head and/or face; and
- 5) Officer A made a request over the radio for an Evidence Technician.

It is further alleged that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, **Officer B** made the following false statements in sworn testimony during court proceedings, in violation of Rule 14:

- 1) Officer B did not observe Subject 1 opening the garage door to XXXX South Avenue M on 25 July 2013;
- 2) Officer B observed Subject 1 on top of Witness 1 at the time entry was made to the garage at XXXX South Avenue M on 25 July 2013;
- 3) Officer B and Officer A had to pull Subject 1 off of Witness 1;
- 4) Subject 1 swung a closed fist at him;
- 5) Witness 1 had injuries, including blunt head trauma to the side of her head; and
- 6) Witness 1 told Officer B essentially that she wanted to pursue felony charges against Subject 1 for unlawful restraint.

**APPLICABLE LAW AND RULES:**

Rules

- Rule 2: Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3: Prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals.

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- Rule 6: Prohibits disobedience of an order or direction, whether written or oral.
- Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 14: Prohibits making a false report, written or oral.

### General Orders

- G03-02: Use of Force Guidelines; effective 23 September 2002 – present
- G03-02-02: Force Options; effective 16 May 2012 – 11 March 2015
- G04-01: Preliminary Investigations; effective 07 September 2004 – 13 October 2015
- G04-04: Domestic Incidents; effective 28 December 2012 – present
- G06-01-01: Field Arrest Procedures; effective 19 December 2012 – 12 November 2015
- G08-01-02: Specific Responsibilities Regarding Allegations of Misconduct; effective 11 March 2013 – present
- S06-01: Processing Persons Under Department Control; effective 23 February 2012 – 29 January 2015

**INVESTIGATION:**

**Police Reports Related to Subject 1's Arrest**

The related **Office of Emergency Management and Communications Event Query** reveals that on 25 July 2013, at 2155 hours, a male witness called 911 to report that he heard a female screaming for help coming from inside the garage of XXXX S. Avenue M. The male caller further reported that he was not sure if the female was being raped. Beats XXXX, XXXX, XXX and XXX responded to the scene.<sup>4</sup> (Attachment 24)

A letter to IPRA Investigator A from the **Office of Emergency Management and Communications** dated 06 October 2014 reveals that the audio recordings of the related 911 call and radio transmissions had initially been saved pursuant to a subpoena, but the materials were inadvertently deleted due to a system malfunction. Information from Harris Corporation, the contractor responsible for maintaining storage of audio recordings, reveals that a permanent loss of some stored records from July 2013 occurred during an equipment update in which a system and file back-up process did not complete correctly. (Attachment 45)

The **Arrest Report** completed by Officer A documented that on 25 July 2013, at 2204 hours, Subject 1 was arrested at XXXX South Avenue M. Subject 1 was charged with one count of Domestic Battery – Bodily Harm, and two counts of Resisting Arrest. The victim, Witness 1, signed a criminal complaint against Subject 1.

According to the narrative Officer A wrote in the Arrest Report, the following occurred: Witness 1 was involved in a verbal dispute with Subject 1, who was her ex-boyfriend, inside the garage. During this argument, Subject 1 forcibly pushed Witness 1 causing her to fall and strike the left side of her head on the concrete floor of the garage. As Witness 1 attempted to get back up from the ground, Subject 1 held her down on the ground and shouted, “You ain’t going nowhere.” Officers outside of the garage heard this statement and, while attempting to make entry, heard yelling. The officers knocked, announced their presence and made a forced entry into the garage. Once inside, they observed Subject 1 on top of Witness 1. The officers attempted to place Subject 1 into custody, but he became an assailant by swinging closed fists at Officer B. Officer B used his expandable baton to gain control of Subject 1. An emergency takedown was conducted. Subject 1 pulled away and swung his arms in an attempt to defeat his arrest. Officer A delivered open hand strikes, and Officer B used an arm bar and wrist lock technique to place Subject 1 under arrest. During this struggle, Subject 1 suffered an injury to his right eye. Subject 1 received medical treatment at X Hospital.

The lockup keeper portion of the Arrest Report documents that Subject 1 had obvious pain and/or injury. Specifically, Subject 1 sustained scratches and bruising about the face. Beat XXX (Officers E and F) transported Subject 1 to X Hospital for medical treatment. The Arrest Report lists Officers E, F, C, and D as assisting arresting officers. (Attachment 5)

Subject 1's **Central Booking photos** for CB# 018709391 depict abrasions to the right

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<sup>4</sup> At the time of this incident, Officers A and B were assigned to Beat XXXX; Officers C and D were assigned to Beat XXXX; Officers E and F were assigned to Beat XXX; and Sergeant A was assigned to Beat XXX.

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side of his face, underneath the chin, and around his neck area. (Attachment 6)

A **Case Report (RD#HWXXXXXX)** completed by Officer B on 26 July 2013 documented that on 25 July 2013, the following occurred: Officers responded to a person calling for help inside the garage at XXXX South Avenue M. Upon arrival, they heard a female voice from inside the garage screaming, "Get off me! Help! Stop! I just want to go home! Let me go! Somebody help me!" The officers then heard a male voice reply, "You ain't going nowhere." In fear for the safety of the female, the officers knocked, announced their presence and made a forced entry into the garage. While inside, the officers observed Subject 1 on top of Witness 1, who was on the ground at the time. Subject 1 was physically restraining Witness 1, and Subject 1 and Witness 1 were the only two people inside the garage. The officers attempted to place Subject 1 into custody when he became an assailant by swinging his closed fists at Officer B causing Officer B to deploy his expandable baton to gain control of Subject 1. An emergency takedown was conducted and Subject 1, acting as an active resister, pulled away and swung his arms in attempt to defeat his arrest. Officer A then delivered open hand strikes, and Officer B used an arm bar and wrist lock techniques to place Subject 1 in custody. Subject 1 sustained an injury to his right eye. Subject 1 was transported to X Hospital for medical treatment by Beat XXX (Officers E and F).

According to the Case Report, Witness 1 reported to the officers that she and Subject 1 were dating and had broken up approximately one week prior to the incident, and were attempting to reconcile. The verbal altercation began as they drove home soon after Subject 1 picked Witness 1 up from school. While inside the car, Subject 1 demanded to see Witness 1's phone. He forcibly took it from her and then accused her of seeing other people. Upon arrival at the garage, Subject 1 and Witness 1 continued the argument. Subject 1 then took Witness 1's bag and pushed her to the ground causing Witness 1 to strike the left side of her head on the concrete floor. Witness 1 attempted to open the garage door to leave several times, but Subject 1 closed it. Subject 1 forcibly restrained Witness 1 on the ground by holding her down in an effort to prevent her from leaving the garage.

The officers made notifications to Special Victims Unit, Detective A #XXXXXX. The report documents that Witness 1 wished to pursue felony charges against Subject 1. Officers B, A, C, D, E and F are listed on this report. (Attachments 7, 49)

The **Case Supplementary Report (HWXXXXXX)** completed by Detective B documents that: Subject 1 was arrested and charged accordingly. The report further documents Witness 1 was interviewed and stated she did not want to pursue felony charges. Witness 1 said she just wanted Subject 1 to learn his lesson. (Attachment 8)

A **Tactical Response Report** completed by Officer B documents that: At approximately 2202 hours, at XXXX South Avenue M, Subject 1 was a passive resister when he did not follow verbal direction and stiffened; he escalated to an active resister when he pulled away; and became an assailant when he became an imminent threat of battery. Officer B used member presence, verbal commands, wristlock and an impact weapon. It is documented on Officer B's Tactical Response Report that Subject 1 refused to provide a statement regarding the use of force. (Attachment 9)



An **Officer's Battery Report** completed by Officer B documents that: He was dressed in citizen attire and working with one partner when they responded to XXXX South Avenue M. Officer B was assaulted when Subject 1 used his hands and/or fists to attack Officer B. Officer B indicated that he received no apparent injuries during the incident. (Attachment 10)

A **Tactical Response Report** completed by Officer A documents that: At approximately 2202 hours, at XXXX South Avenue M, Subject 1 was a passive resister when he did not follow verbal direction. Subject 1 escalated to an active resister when he pulled away and swung his arms. In response, Officer A utilized member presence, verbal commands, open hand strike and a takedown/emergency handcuffing. It is documented on Officer A's Tactical Response Report that Subject 1 refused to provide a statement regarding the use of force. (Attachment 11)

Witness 1 signed a **Misdemeanor Complaint** on 25 July 2013 alleging Subject 1 intentionally caused her bodily harm by forcibly pushing her, which caused her to fall on the ground. According to the Complaint, Witness 1 sustained pain and scratches to her arm. (Attachment 37)

The **Order for Special Conditions of Bail** filed on 26 July 2013 documents the conditions by which Subject 1 could remain on bail. Subject 1 was ordered to not contact Witness 1, any witnesses, or members of her family for the entirety of the case, and he was not to enter Witness 1's home, work or school. Additionally, Subject 1 had to surrender his FOID card and all firearms in his possession, and not possess any firearm or dangerous weapon. (Attachment 37)

IPRA was unsuccessful in attempting to obtain a record of which, if any, of the involved officers had a Taser in their possession at the time of this incident. (Attachment 121)

### **Criminal Trial Testimony**

IPRA obtained a **transcript** for Subject 1's criminal trial, case number 13 DV XXXXX, held on 07 November 2013. The Domestic Battery charge was amended to Battery before the trial started. Officers B, A, and C testified for the prosecution. Subject 1 and Witness 1 testified for the defense. A video depicting the incident was also played in court after the prosecution rested its case in chief. The Officers did not testify regarding the video at this time.

**Officer B**<sup>5</sup> testified to the following: He and Officer A responded to a call of a person needing help in a garage at XXXX S. Avenue M. When they arrived and parked near the overhead garage door, Officer B could hear a female voice yelling for help and telling someone to "get off [her]."<sup>6</sup> Officers B and A banged on the overhead door, announced their presence, and demanded that the door be opened. When there was no response, they scaled a fence into the yard and approached the side door of the garage. Officer A knocked on the door as they again announced their presence. When there was no response, Officer A forced the door open. Officer B was standing behind Officer A as the door opened. They both entered the garage. Upon being

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<sup>5</sup> Officer B's testimony is page 15-42 of Attachment 34.

<sup>6</sup> Attachment 34, page 18, line 4

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asked, Officer B did not recall whether either of them had their guns displayed at the time. Officer B observed Subject 1 directly on top of Witness 1, who was lying on the garage floor. Subject 1 was holding Witness 1 to the floor. Witness 1 was trying to get away from his grip. Officers B and A pulled Subject 1 off of Witness 1 and to his feet.

Subject 1 began to pull away from the officers as they tried to handcuff him, and he refused to follow their commands to put his hands behind his back. According to Officer B, Subject 1 cocked his fist back as if he was going to swing it at the officer.<sup>7</sup> At that point, Officer B struck Subject 1 with his baton.<sup>8</sup> The two men were facing each other at the time. Officer B did not recall which part of Subject 1's body he struck, but he denied that he struck Subject 1 on the back. He did not recall if he struck Subject 1 on the buttocks. Officers B and A took Subject 1 to the floor by using an emergency takedown, which Officer B described as "just a leg sweep and a push."<sup>9</sup> According to Officer B, Subject 1 continued to resist the officers by trying to push himself up off the floor. The officers kept telling Subject 1 to stop resisting and to put his hands behind his back. According to Officer B, Subject 1 did not comply with those orders. Officer B observed Officer A use several open hand strikes while Subject 1 was on the floor. Officer B stated that he did not recall whether he or any other officer kicked Subject 1 on the face, including the three additional officers who entered the garage after Subject 1 was on the floor.

The officers were eventually able to handcuff Subject 1. After Subject 1 was in custody, Officer B observed a contusion on one of Subject 1's eyes. Officer B did not know how he sustained that injury. Once Subject 1 was handcuffed, Officer B brought him to a marked squad car on the scene. Officer B described Subject 1 as combative, agitated, and angry throughout the incident. Officer B talked to Witness 1 after Subject 1 was in custody. He described her as upset and said she appeared to be afraid of Subject 1. After reviewing the case report, Officer B recalled that Witness 1 had "blunt trauma injury to the left side of her head."<sup>10</sup> Upon further questioning, Officer B acknowledged he did not have an Evidence Technician take a photograph of Witness 1's injury, which he said was 2-3 inches in size and closer to the rear of her face than to the front. Witness 1 reported to him that she got the injury when Subject 1 pushed her to the floor. Officer B did not recall seeing any further injuries, including scratches on her arms. According to Officer B, Witness 1 informed him that she wanted to pursue felony charges.

**Officer A's** testimony<sup>11</sup> was essentially the same as Officer B's regarding their arrival on the scene. Officer A also testified to the following: He heard a female voice screaming for help and asking to be let go, followed by a male voice saying "you're not going anywhere."<sup>12</sup> The voices were coming from the garage. Officer A was unable to gain access through the overhead door, so he hopped over the neighbor's fence and entered the yard. Officer A knocked on the garage's side door and announced his presence. When there was no response, he kicked open the

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<sup>7</sup> It should be noted that Officer B initially described this motion as Subject 1 cocking his fist as if he was going to swing. Under cross examination, Officer B described the motion as a swing. When the Judge later asked him to clarify, Officer B said that he could not recall if Subject 1 actually swung his fist.

<sup>8</sup> It should be noted that Officer B initially stated that he did not recall if he struck Subject 1 but said that Officer A did. Then Officer B said that he was the one who struck Subject 1 with a baton.

<sup>9</sup> Attachment 34, page 22, line 21

<sup>10</sup> Attachment 34, page 26, lines 15-16

<sup>11</sup> Officer A's testimony is page 43-64 of Attachment 34.

<sup>12</sup> Attachment 34, page 45, lines 5-6

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door. When asked if Subject 1 was in the process of opening the door at the time Officer A kicked it open, Officer A said he could not see what Subject 1 was doing while the door was closed but that Subject 1 was not standing when Officer A first saw him. According to Officer A, when he entered the garage, he saw Subject 1 on top of Witness 1 on the floor of the garage, restraining her. Officers A and B were able to pull Subject 1 off of Witness 1. As the officers attempted to take Subject 1 into custody, he swung a fist at Officer B.<sup>13</sup> Officer A observed Officer B strike Subject 1 with his expandable baton. At that point, Officer A was trying to use an emergency takedown to get Subject 1 to the floor.

Officer A was eventually able to get Subject 1 on the floor. Once Subject 1 was on the floor, Subject 1 flailed his arms and stiffened his body to prevent the officers from handcuffing him. Officer A used open hand strikes, meaning the heel of his palm, to Subject 1's head in order to gain control of him. Other officers were then able to handcuff Subject 1. Officer A could not remember who handcuffed Subject 1. Other officers entered the garage at some point during the struggle. Officer A did not see Officer B use his expandable baton on Subject 1 once Subject 1 was on the floor.

According to Officer A, none of the officers, including himself, kicked Subject 1 at any point while he was on the floor. Officer A observed an injury to Subject 1's eye. The officers assigned to Beat XXX (identified through this investigation as Officers E and F) transported Subject 1 to the hospital for treatment. Officer A spoke to Witness 1 and observed that she had redness to the side of her head or face and scratches. He could not recall where the scratches were or which side of the head/face had redness. Officer A did not put the specific location of those injuries on the arrest report, which he referred to as an "oversight."<sup>14</sup> According to Officer A, they "made a request for the radio for an ET to respond, but they didn't come out."<sup>15</sup> When asked who made the request, Officer A said, "It might have been me."<sup>16</sup> Officer A did not remember Witness 1 saying that she did not want to sign a complaint against Subject 1.

**Officer C**<sup>17</sup> testified to the following: He and Officer D responded to the call of a person who needed help at XXXX S. Avenue M. When they arrived, Officers B and A were on scene, as well as the officers from Beat XXX (Officers E and F). Officers C and D initially went to the front of the residence until they heard Officer A state over the radio that he heard screaming coming from the garage. They then went to the garage, where Officer C heard screaming. Officers B and A went into the backyard of XXXX S. Avenue M while the other officers initially remained near the garage. Officer C heard additional screaming coming from the garage, which led him to assume Officers B and A had entered the garage. Officer C jumped over the fence into the backyard and entered the garage. When he got there, he saw Officers B and A on the floor with Subject 1. Subject 1 appeared to be trying to push up off of the floor while the officers were on top of him and trying to handcuff him. Officer C described what he saw as "a struggle."<sup>18</sup> He could not recall whether he saw either Officer B or Officer A use open hand strikes or hit Subject

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<sup>13</sup> It should be noted that Officer A specifically stated that Subject 1 actually swung his fist rather than just cocking it.

<sup>14</sup> Attachment 34, page 52, line 18

<sup>15</sup> Attachment 34, page 52, lines 1-2

<sup>16</sup> Attachment 34, page 53, line 2

<sup>17</sup> Officer C's testimony is page 64-75 of Attachment 34.

<sup>18</sup> Attachment 34, page 73, line 8

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1 with a baton. According to Officer C, he did not see any officer kick Subject 1. Officers B and A were eventually able to handcuff Subject 1. Officer C briefly spoke with Witness 1 to find out who she and Subject 1 were. Officer C did not recall hearing Witness 1 say anything about Subject 1 hitting her or restraining her. Officer C did not notice any injuries on her. Officer C did not have any further involvement with Subject 1 after he was placed inside a squad car.

**Witness 1**<sup>19</sup> testified to the following: As of July 25, 2013, she and Subject 1 had been dating for a year. They were together that evening, and they went from Subject 1's house to the store to get food. While they were on the way to the store, they got into an argument about whether either of them was cheating on the other. Subject 1 parked his car in the garage when they returned to his house. The argument continued while they were in the garage. Witness 1 became emotional and started yelling. She and Subject 1 were both loud as they argued with each other, but Witness 1 was yelling louder. Their argument did not become physical. According to Witness 1, Subject 1 did not strike her, push her, hit her, get on top of her, restrain her freedom, cause her to bump her head on anything, scratch her, or touch her in any hostile way. At some point, she heard three kicks on the side door. Witness 1 did not initially know who was kicking the door, but she assumed it was the police based on the way the door was kicked.<sup>20</sup> Subject 1 went to the door and said that he was going to open it. As he unlocked the door, the door was kicked again, opening it. Subject 1 stepped back from the door. Witness 1 was standing near the trunk of the car at that point. Subject 1 was near the front. A police officer entered the garage and told Subject 1 to "go to the back."<sup>21</sup> Another officer entered. The two officers told Subject 1 to get on the floor, which he did. According to Witness 1, Subject 1 did whatever the officers told him to do. Subject 1 did not make a fist or swing at the officers prior to getting on the floor. More officers arrived after that. The officers started beating Subject 1. One of the officers kicked Subject 1 on the face. Another officer hit Subject 1 on the back with a baton. According to Witness 1, one officer had a Taser in his hand and another officer said, "tase his ass."<sup>22</sup> Witness 1 reported that the beating continued for several minutes. She did not see Subject 1 do anything to resist the officers or fight with them at any point during the incident. Witness 1 stood back by the overhead door and screamed at the officers that Subject 1 had not done anything wrong. When she said that, one of the officers told her to leave the garage. When she went outside, one of the officers asked if she was okay and if she needed an ambulance. Witness 1 said she did not. One of the officers asked if Witness 1 wanted to press charges, and she said she did not. One of the officers transported Witness 1 to the police station. The officers had told Witness 1 she would get a ride home from there, and she expected it to be right away, but they did not transport her home for approximately four hours. Officers repeatedly questioned Witness 1 and pressured her to press felony charges against Subject 1. The officers eventually allowed Witness 1 to go home after she signed a criminal complaint.

**Subject 1's** testimony<sup>23</sup> was essentially the same as Witness 1's regarding what they were doing prior to the officers' arrival. Subject 1 also testified to the following: They had an

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<sup>19</sup> Witness 1's testimony is page 77-99 of Attachment 34.

<sup>20</sup> According to Witness 1, no police officer announced his presence outside the garage prior to kicking the side door.

<sup>21</sup> Attachment 34, page 86, line 8. Witness 1 did not clarify what she meant by "go to the back."

<sup>22</sup> Attachment 34, page 88, line 12

<sup>23</sup> Subject 1's testimony is page 99-141 of Attachment 34.

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argument in his garage during which Witness 1 got mad and screamed at him. According to Subject 1, he did not strike Witness 1, scratch her arms, push her down, sit or lie on top of her, or restrain her freedom in any way during the argument. Subject 1 heard a noise at the side door as if someone was kicking it. Subject 1 assumed it was the police because the gate to his yard was locked. Subject 1 went to the door and unlocked the bolt. As he started to turn the doorknob, the door came open. Subject 1 assumed an officer kicked the door open. Subject 1 was standing by the door and Witness 1 was behind him and to his left. The first officer who entered the garage (identified through this investigation as Officer A) hit Subject 1 with his handgun, pushed Subject 1 toward the car parked in the garage, and tripped Subject 1 to the floor. According to Subject 1, he did not clench his fists or swing his arms prior to the officer tripping him to the floor. Once Subject 1 was on the floor, he put his hands behind his back and held them there. Another officer was holding Subject 1. Officer A stood up and kicked Subject 1 on the chin. Subject 1 asked why Officer A was doing this. Officer A looked at Subject 1, stepped back, and kicked him on the nose/eye area. Subject 1 was still lying on the floor with his hands behind his back. The only movement he made was an involuntary movement of his head as a result of being kicked. Subject 1 could not remember if he was handcuffed at that point, but he felt somebody holding him. Subject 1 saw a “big Mexican cop with glasses”<sup>24</sup> standing next to him. Subject 1 looked at this officer, who hit him on the side of the face and kicked him. The officers were yelling at Subject 1 to stop moving and put his hands behind his back, which Subject 1 was already doing. One of the officers said to “tase his ass.”<sup>25</sup> An officer struck Subject 1 on the back, buttocks, and legs with a baton. The officers then lifted Subject 1 to his feet. The overhead garage door opened, and the officers brought Subject 1 to the alley, where they put him into a squad car. Officers were talking to Witness 1. A female officer (identified through this investigation as Sergeant A) arrived and talked to Subject 1. Subject 1 told her the officers beat him for no reason. Officers brought Subject 1 to the hospital for treatment.

Subject 1 also testified about the video recording of this incident. The camera was mounted on Subject 1’s house and aimed directly at the exterior of the garage. There was no camera in the interior of the garage. The video is dark because the incident happened at night, and because there was no lighting in the backyard. The Judge watched the video several times, noting that the relevant portion of the video corresponds to the time stamp of approximately 10:04:00-10:04:10.<sup>26</sup> Subject 1 testified that, as the service door opened, his arm can be seen reaching toward the door. That is the point at which Officer A grabbed Subject 1, pushed him toward the car, and took him to the floor. Subject 1 noted that Witness 1 can be glimpsed on the video walking near the door. Subject 1 identified her based on what she is wearing and through process of elimination of the people in the garage. Subject 1 indicated the point at which a second set of officers entered the garage. Subject 1 said one of those officers was the second person who kicked him. Subject 1 noted the point when someone closed the side door after the officers’ initial entry, and said he was being beaten inside the garage at the time.

Subject 1 was found not guilty on all charges after the bench trial.<sup>27</sup> In explaining his reasoning for the verdict, the Judge stated that there was no evidence in the record that Subject 1

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<sup>24</sup> Attachment 34, page 110, lines 11-12

<sup>25</sup> Attachment 34, page 110, line 22

<sup>26</sup> This corresponds to 2204 hours, but the time stamp does not use military time.

<sup>27</sup> The court’s ruling is page 152-154 of Attachment 34.

committed a battery. Additionally, the Judge pointed to the discrepancy between the testimony of Officers A and B regarding what happened when they entered the garage and what Subject 1 and Witness 1 said happened. The Judge pointed out that the video evidence supported Subject 1's and Witness 1's account, showing that someone was standing in the doorway and apparently opening the door from the inside. Given this fact, Subject 1 could not have been on top of Witness 1 as the officers claimed. Because the officers could not have been telling the truth about what happened when they entered the garage, the Judge reasoned that they lacked credibility as to what happened while they were taking Subject 1 into custody. The Judge also stated that he thought Subject 1 and Witness 1 exaggerated when they described the officers' actions once they were inside the garage, but he did not feel the Assistant State's Attorney had proven the charges of resisting arrest beyond a reasonable doubt. The judge therefore ruled in Subject 1's favor. (Attachment 34)

### **Video Recording of the Incident**

A **video recording** from a camera located on the rear of Subject 1's house<sup>28</sup> shows a view of the exterior of his garage. The video also includes a view of the open parking area to the immediate north of Subject 1's garage and the alley behind it. Due to the fact that the incident occurred at nighttime in an area with little to no artificial light, it is difficult to discern the details of what is happening on the video. The video shows that police were on the scene for approximately thirteen minutes, from 2200-2213 hours. At the beginning of the video, a police vehicle and officers can be seen in the alley. At 22:03:35, three officers entered the yard by climbing the fence on the north side of the yard. One of the officers approached the side door. At 22:04:13, the side door opened. The video is too dark to definitely establish whether the door was opened from the inside or kicked open from the outside. However, the video does show that, as the door opened, an arm<sup>29</sup> can be seen in the open doorway, apparently reaching for the door. With the door open, a small portion of the interior of the garage can be seen. The first officer (identified through this investigation as Officer A) entered the garage. He appeared to rush in the doorway and push the individual standing near the doorway further inside the garage. The other two officers followed this individual, we now know was Subject 1, into the garage. At 22:04:26, an unknown person wearing white or light-colored clothing walked past the open doorway.<sup>30</sup> At 22:04:48, two additional officers went over the fence and entered the garage. At 22:04:59, someone, presumably an officer, closed the side door from inside the garage. One officer (identified through this investigation as Officer D) can be seen near the alley outside the yard. At 10:05:58, an officer holding a flashlight opened the side door from inside the garage. After that, two people can be seen talking in the parking area north of the garage. This appears to be Witness 1 and an officer. The side door to the garage closed at 2211 hours, and the police vehicle left the alley at 2213 hours. (Attachments 31, 98)

### **Complainant's Statement to IPRA**

In a sworn statement to IPRA on 26 April 2016, **Subject 1** provided the following account of the incident, which is consistent with his testimony in criminal court: Subject 1, who

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<sup>28</sup> The camera, which is no longer at that location, was placed next to a third-floor window on the house.

<sup>29</sup> Subject 1 identified this as his own arm.

<sup>30</sup> Subject 1 identified this person as Witness 1.

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saw the officers and learned their names at his criminal trial, identified the first two officers who entered the garage as Officers A and B. According to Subject 1, the first officer who entered the garage was Officer A.<sup>31</sup> When Officer A entered the garage, he pointed a gun at Subject 1 and used the gun to strike Subject 1 on the right side of his face near his eyebrow. Subject 1 was standing near the door when this happened. Witness 1 was somewhere in the same area of the garage at the time, but Subject 1 did not know exactly where she was. Officer A pushed Subject 1 toward the car and hit him with the gun two more times. Officer A tripped Subject 1 to the floor and continued to strike Subject 1 as he fell. Subject 1's chin and cheekbone struck the floor when he fell. The second officer, whom Subject 1 believed to be Officer B, entered the garage at some point after Subject 1 was on the floor. The officers repeatedly instructed Subject 1 to put his hands behind his back, even though his hands were already behind his back. Officer B kicked Subject 1's face two or three times.<sup>32</sup> The kicks landed near Subject 1's right eye and on his chin. Officer A was holding Subject 1's hands and may have had his knee on Subject 1's back at that point. Subject 1 felt hits on the back of the head but could not see who was hitting him. Subject 1 could hear additional voices in the garage. He heard someone say, "Tase his ass."<sup>33</sup> Another officer also kicked Subject 1 two or three times. Subject 1 described this officer as tall, heavysset, and wearing glasses.<sup>34</sup> Although Subject 1 did not go into detail in his IPRA statement about all of the physical actions that were used against him, Subject 1 was unable to identify the officers who threatened him with a Taser, hit him on the back, hit him on the legs, hit him with a baton, or struck him on the buttocks with a hard object, as he previously testified about.

One of the officers closed the side door. Subject 1 did not see this happen while he was inside the garage because officers were beating him at the time. He later saw the door being closed when he looked at the video from his surveillance camera.<sup>35</sup> Subject 1 saw on the video that five or six officers had entered the garage before the door was closed. Subject 1 was unable to describe any of the other officers or determine what actions any of them took in the garage. Subject 1 did not remember whether he heard any conversation between Witness 1 and the officers while they were in the garage. After Subject 1 had been placed in a squad car, he saw the officers talking to Witness 1 near the fence, but he did not know what they were talking about.

As a result of this incident, Subject 1 sustained a cut near his right eye, scrapes on his chin and neck, bruises on the back of his head and buttocks, and marks on his back and arms. He was treated at X Hospital. According to Subject 1, the only verbal direction the officers gave him throughout the incident was when they told him to put his hands behind his back. Subject 1 was already on the floor with his hands behind his back at that point. The officers did not give any

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<sup>31</sup> Subject 1 acknowledged that he may have confused the two officers' names during his IPRA statement, although he consistently described the first officer as having a darker complexion and possibly being Hispanic. This physical description is consistent with Officer A's appearance. Subject 1 also repeatedly described the second officer as having blue or green eyes. This physical description is consistent with Officer B's appearance.

<sup>32</sup> In his court testimony, Subject 1 identified Officer A as the one who kicked him. As noted in the previous footnote, Subject 1 often became confused about which officer was which.

<sup>33</sup> Attachment 43, page 18, line 24

<sup>34</sup> On 07 December 2015, Subject 1 was at the XXX District station for an unrelated incident and saw an officer who "looks like" the second officer who kicked him. That officer has been identified as Officer D. (See Attachments 44, 51) In a subsequent conversation with IPRA, Subject 1 stated that the second officer who kicked him entered through the side door. (Attachment 116)

<sup>35</sup> Officers were not asked during their interviews about the circumstances surrounding the side door being closed shortly after they entered the garage.

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direction when they entered the garage. The only movements Subject 1 made while he was on the floor were involuntary head movements as a result of/reaction to being kicked on the face. (Attachment 43)

**Photographs of Subject 1** provided by his attorney depict multiple abrasions and/or bruising to the right side of his face and head, under his chin, the left side of his neck, his leg, his right buttock, and his back. It should be noted that the bruise on his back is long in shape, similar to the shape of a baton. Additionally, Subject 1's right cheek appears to be swollen and there is redness to his right eyeball. Subject 1 reported that he took the photographs himself. Some of the photographs have a date stamp of 28 July 2013. The other photographs do not have a date stamp but were reportedly taken after the incident under investigation. (Attachments 32, 84)

**Medical Records** from X Hospital document that Subject 1 arrived at the hospital on 25 July 2013 at 2219 hours. Subject 1 told medical personnel that he was having an argument with his girlfriend when the police were called. According to Subject 1, the police forced him to the ground and kicked him several times on his head during the struggle. Subject 1 was diagnosed with several head wounds, both open and closed, and a laceration to his eyebrow. Subject 1's wounds were irrigated and cleaned, and the small laceration above his eyebrow area was closed with dermabond. (Att. 19)

**Information Reports** document that IPRA Investigators A and B conducted a personal visit to the garage where the incident took place. Investigators A and B were accompanied by Subject 1. Subject 1 pointed to where he and Witness 1 stood during their verbal altercation right before the officers entered the garage, indicating that he was standing near the door, and Witness 1 was standing on the north side of the garage near where Subject 1's car was parked. Subject 1 also pointed where the camera was positioned on the date of the incident, indicating that it was mounted outside a third floor window of the three-flat building at XXXX S. Avenue M.<sup>36</sup> Subject 1 also made some comments about the incident, which were essentially the same as he provided in his testimony in criminal court and in his formal interview to IPRA. Subject 1 denied striking Witness 1 at any point during their argument but added that he pushed her before the police arrived.<sup>37</sup> (Attachments 82, 95).<sup>38</sup>

In a sworn written statement signed 15 October 2013,<sup>39</sup> **Witness 1** provided the following information: She and Subject 1, who were in a romantic relationship, were together on 25 July 2013. They were arguing on that date, with each accusing the other of cheating. They went to the

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<sup>36</sup> The camera was no longer present at that location at the time of the investigators' visit.

<sup>37</sup> During this personal visit, Subject 1 told Investigators B and A that at one point in his life he had been in a gang, but was not anymore.

<sup>38</sup> Additionally, on or about 18 April 2016, during a call with Attorney X, an attorney with Greenberg Traurig LLP and outside counsel for IPRA, Subject 1 related a conversation he had with Witness 1. Although Attorney X reports that the substance of the conversation was not entirely clear to her, she recalled Subject 1 mentioning a conversation he recently had with Witness 1 in which Subject 1 told her that IPRA was interested in her cooperation. According to Subject 1, Witness 1 responded (reportedly in jest) by requesting that Subject 1 take her to the movies, and stating that if she spoke with IPRA investigators, she may tell IPRA investigators that Subject 1 threw her purse at her on the night of 25 July 2013. Either during this or a separate call in or around April 2016, Subject 1 denied that he was or had been a gang member when questioned by Attorney X about his alleged gang affiliation that was reflected on the Case Report.

<sup>39</sup> Witness 1 provided this written statement to Subject 1's attorney, who provided it to IPRA.



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store to get food. On the way home, Witness 1 got out of the car and started to walk. When she realized that the bus was not running, she called Subject 1 for a ride. He picked her up and brought her to his house at XXXX S. Avenue M, where they parked in the garage. They sat in the car and talked, continuing the argument. Witness 1 got out of the car and went to the garage door to open it. Subject 1 told her not to open the door so that people did not hear their argument and think that he was doing something to her. Witness 1 yelled that she just wanted to go home. They yelled at each other. Witness 1 went to get her bag out of the car. Subject 1 wanted to look in the bag, but Witness 1 would not let him. Witness 1 continued yelling at Subject 1. According to Witness 1, Subject 1 did not push her, hit her, or kick her during their argument. According to Witness 1, her head did not hit the concrete floor, and she was not on the ground. According to Witness 1, she did not have any scratches on her arms, and she was not in pain.

Witness 1 and Subject 1 settled down for a moment. They heard a banging noise on the door. Subject 1 yelled, "What a minute, I'm about to open the door."<sup>40</sup> As Subject 1 unlocked the door, a police officer kicked the door. Subject 1 jumped back as the door opened. Witness 1 was standing as the officer entered. The officer took Subject 1 to the back of the car near the trunk. A second officer entered the garage. The officers put Subject 1 on the ground and put his hands behind his back. While Subject 1 was on the ground, Witness 1 saw one of the officers kick Subject 1 on the face. One of them also hit Subject 1 with a "stick."<sup>41</sup> Other officers arrived. One of them (described as heavysset) said he knew Subject 1, and he (the officer) had a Taser. Another officer told him to use the Taser on Subject 1. The heavysset officer took out the Taser and "put it on [Subject 1's] behind."<sup>42</sup> Another officer entered the garage, pointed a gun at Witness 1, and told her to leave the garage. When they got outside, that officer asked Witness 1 if she needed an ambulance. He checked her arms and face. She declined an ambulance. A sergeant (now known to be Sergeant A) arrived. Witness 1 asked Sergeant A if she could get her belongings from the garage. Sergeant A told her the officers would get everything for her. Sergeant A instructed Witness 1 to get into a squad car and said they would drive her home from the police station later.

Officers put Subject 1 in another squad car. According to Witness 1, Subject 1 never resisted the officers or tried to hit them. Witness 1 told Sergeant A that Subject 1 had not done anything to her, and she did not want anything to happen to him. Sergeant A replied that a man of Subject 1's age<sup>43</sup> would try to control Witness 1 by buying her things. When they got to the police station, the officers asked Witness 1 questions and offered her food and cigarettes. They made jokes about kicking Subject 1 and about using OC spray on another arrestee.<sup>44</sup> Sergeant A, who went back and forth between Witness 1 and Subject 1, asked if Witness 1 wanted to press felony charges against Subject 1. Witness 1 said she did not, and she just wanted to go home. The officers would not let her go home right away. They put her on the phone with a woman who asked about felony charges. Witness 1 felt pressured when she was repeatedly asked about felony charges. She kept saying she did not want them. The officers put Witness 1 in a room with

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<sup>40</sup> Attachment 38, page 2, paragraph 7

<sup>41</sup> Attachment 38, page 2, paragraph 8

<sup>42</sup> Attachment 38, page 2, paragraph 8.

<sup>43</sup> At the time of this incident, Subject 1 was 37 years old, and Witness 1 was 19 years old.

<sup>44</sup> Beat XXXX (Officers C and D), who returned to normal duties after Subject 1 was taken to the station, were involved in a different arrest immediately following the incident with Subject 1, during which one of the officers discharged OC spray at the arrestee. (See attachment 96)

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two attorneys<sup>45</sup> who repeatedly asked if she wanted an order of protection. Witness 1 finally said she did. She agreed because she felt the officers would not let her go home until she said what they wanted to hear. The attorney provided Witness 1 with information about how to get an order of protection. The attorneys said the case would be thrown out if she did not get an order of protection. The attorneys also gave her a report with the court date on it, but it was the wrong date. An officer came in the room with a piece of paper and asked Witness 1 to sign it. Witness 1 assumed it was a release form that would allow her to go home. She did not read the paper and no one explained it to her. By that time, it was approximately 0330 hours on 26 July 2013, and she had been at the police station for five hours.

Witness 1 went to court the next month and talked to the Assistant State's Attorney ("ASA") on the case. Witness 1 told the ASA that Subject 1 did not hit her and did not hit or resist the officers. Witness 1 said the ASA did not believe her because of Subject 1's "history." Witness 1 did not elaborate on what she meant. (Attachment 38)

Witness 1 did not respond to IPRA's attempts to contact her to provide a formal in-person statement to IPRA for this investigation. (Attachments 28, 46-48, 87)

Subject 1 filed **Civil Suit 13 CV XXXX** on 12 November 2013. In the civil suit, Subject 1 alleges Officer A kicked and forced entry into the side door before Subject 1 could open it, and then proceeded to use excessive force in that he took Subject 1 down to the ground. Officer B, identified as the second officer to enter the garage, did nothing to protect Subject 1 from the excessive force used by Officer A. Officers A and B then kicked Subject 1 in the head and/or face. The civil suit further alleges responding Officers C, E, F and D also used excessive force in that they beat and/or failed to protect Subject 1 from the beatings of their fellow officers. The beating included, but was not limited to, unnecessary and unreasonable use of a baton on Subject 1's body and further kicks to his head and/or face. The civil suit also alleges Witness 1 was coerced to sign a criminal complaint against Subject 1 that alleged Domestic Battery despite the fact that she informed the officers that Subject 1 did not strike her or use any physical violence toward her. (Attachment 15)

In a sworn statement to IPRA on 26 July 2016, **Accused Officer A** stood by the accounts he provided in his reports and in the testimony he provided in Subject 1's criminal trial. Officer A denied the allegations against him and did not provide any further information. (Attachments 105-106)

In a sworn statement to IPRA on 05 August 2016, **Accused Officer B** stood by the accounts he provided in his reports and in the testimony he provided in Subject 1's criminal trial. Officer B denied the allegations against him and did not provide any further information. (Attachments 113-114)

In a sworn statement to IPRA on 17 May 2016, **Accused Officer D** provided the following information: He was working with his usual partner, Officer C, on 25 July 2013. They were working Beat XXXX, which is a tactical unit, and were not wearing uniforms. They responded to a call at XXXX S. Avenue M, along with Beats XXXX (Officers B and A) and

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<sup>45</sup> It is not clear who these attorneys are, or the woman Witness 1 spoke with on the phone.

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XXX (Officers E and F). Officer D could not remember the details of the call as it was reported over the radio, but it was something about a woman calling for help from inside a garage. When Officers D and C arrived, Officer D saw Beat XXX's marked squad car in the alley. The initial radio call had not included the exact address of the garage. Soon after Officers D and C arrived, Beat XXXX gave the exact address and asked for assistance. There was a six-foot fence surrounding XXXX S. Avenue M, but the property next door was open. According to Officer D, Officers C and F<sup>46</sup> jumped over the fence to assist Officers B and A, while he and Officer E stayed in the alley near the overhead garage door. According to Officer D, he did not jump over the fence himself because he is too heavy to do so. They stayed in that area in case someone opened the door and ran out. Officer D remained in the alley until one of the officers inside the garage opened the overhead door. He could not see into the garage from where he was and could not hear any screaming coming from the garage. When the overhead door opened, Officer D saw Subject 1 on the floor. Officer B was on top of him, holding Subject 1 by the handcuffs. Subject 1 was lying flat on his stomach. According to Officer D, Subject 1 was saying something and trying to move. The officers told him to calm down. Officer D did not see who handcuffed Subject 1 because it happened before the main garage door was opened. He assumed Officer B was the one who did the handcuffing, because Officer B was on top of him when the door opened. Officer D said there was a car near the middle of the garage, perpendicular to the main garage door that he had been standing near in the alley. Officer B and Subject 1 were to the left, near the rear of the car. Witness 1 was in the garage to the right, on the other side of the car. Officers C and A were also in the garage but Officer D did not know exactly where they were because his attention was focused on Officer B and Subject 1.

Officer D saw that Witness 1 was crying, but he did not speak to her. Officer D described himself as sometimes "not the most tactful person to talk to domestic battery victims,"<sup>47</sup> so he did not approach her. He did not know if she had any injuries. Officer D used his radio to request a supervisor on the scene. He thought Witness 1 would feel more comfortable talking to Sergeant A, who was Officer D's supervisor that night and is female. According to Officer D, he also wanted a supervisor on the scene because Subject 1 was bleeding. He always calls for a supervisor when an arrestee is bleeding, to notify the supervisor about the injury.

According to Officer D, he also used his radio to call for an ambulance. According to Officer D, he requested the ambulance because Subject 1 was bleeding from his eye/temple area.<sup>48</sup> Officer D observed that Subject 1 had what appeared to be a laceration in that area, but he did not know how Subject 1 sustained that injury. Officer D reviewed the Event Query (Attachment 24) and Subject 1's arrest report (Attachment 5) and acknowledged that neither document indicated an ambulance was requested or was present on the scene of Subject 1's arrest. However, Officer D said an ambulance did indeed respond to his request. When the ambulance arrived, the paramedics asked who the victim was. The officers said Witness 1 was the victim. Officer D was unable to explain why the paramedics were directed toward Witness 1, whose injury status was unknown to him, rather than to Subject 1, who was bleeding from the

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<sup>46</sup> Based on statements from Officers E and F, it is clear that Officer D was mistaken about which of the two stayed in the alley with him and which went into the garage with Officer C.

<sup>47</sup> Attachment 67, page 20/line 32-page 21/line 2

<sup>48</sup> It should be noted that Officer D later in his IPRA interview said he thought the ambulance was called for Witness 1. (Attachment 67, page 23, line 27)

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face. According to Officer D, the paramedics talked to Witness 1, who refused treatment. The paramedics then left the scene. From what Officer D knew, Subject 1 was the only person with an obvious sign of injury, but the paramedics apparently did not have any contact with him. Officer D was unable to explain why the paramedics did not treat Subject 1.<sup>49</sup>

According to Officer D, Sergeant A arrived while the ambulance was still on scene. Officer D believes Subject 1 was still on the floor inside the garage when she arrived, but he was placed inside the marked squad car soon after that. Officer D did not see any conversation between Sergeant A and Subject 1 at the scene. She talked to Officers B and A because it was their arrest. She then transported Witness 1 to the XXX District station. Officers E and F transported Subject 1 to the hospital for treatment. Officers B and A went to the station to complete reports related to the arrest. Officers D and C also went to the station to use the bathroom and see if Officers B and A needed assistance. Officers D and C left the station approximately 15 minutes later. Officer D later saw Subject 1 at the station after he returned from the hospital. Officer D observed that Subject 1 was quiet at that point. (Attachments 66-67)

In a sworn statement to IPRA on 19 May 2016, **Accused Officer C** provided the following information: He was working with Officer D on 25 July 2013, assigned to Beat XXXX, which is a tactical unit. They heard a call over the radio about someone calling for help at XXXX S. Avenue M. He could not remember any further details about the call. When Officers C and D arrived on the scene, they initially went to the front of the building at that address. As they did so, they heard clarifying information over the radio that there were screams coming from the garage behind the building. Officer C believed Officer A was the one who clarified the location. Officers C and D then went to the alley. When they arrived, Officer C exited the vehicle and took a position outside of the garage. Officers B and A were already there when Officers C and D got to the alley. Two uniformed officers (identified through this investigation as Officers E and F) arrived around the same time. Officers B and A went to the backyard at XXXX S. Avenue M. Officer C did not see them enter the yard and did not know how they did so. One of the uniformed officers (Officer F) stayed in the alley near the overhead garage door with Officer D. The other uniformed officer (Officer E) went with Officer C to the north side of the garage, where there was an open lot. Officer C could not see the side door to the garage from where he was and did not see Officers B and A enter the garage. Officer C heard loud shouting coming from the garage. According to Officer C, he specifically heard someone shout, "Stop resisting,"<sup>50</sup> and other things of that nature, which he assumed was coming from Officer B and/or Officer A. Thinking that the officers needed assistance, Officer C jumped over the fence into the backyard and entered the garage.

When Officer C entered the garage, he saw Officers B and A on the floor with Subject 1. The officers appeared to be struggling with Subject 1. According to Officer C, Subject 1 was lying on the floor and appeared to be pushing away from the floor in a push-up position.

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<sup>49</sup> An exhaustive search of CFD and OEMC records did not reveal any indication that an ambulance had been requested or responded to the scene of Subject 1's arrest. Additionally, none of the other officers reported seeing an ambulance on the scene. (Attachments 83, 96). Based on the totality of the investigation, as well as IPRA investigators' analysis of Officer D's recollection of the events and his demeanor during the interview, IPRA investigators have determined that Officer D was likely mistaken about calling an ambulance, and did not appear to willfully make a false statement to IPRA investigators.

<sup>50</sup> Attachment 81, page 10, line 17

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According to Officer C, Officers B and A were on Subject 1's back, one on each side, and trying to gain control of him. Officer C could not remember which officer was on which side. One of the officers was able to gain control of Subject 1's arm, allowing the two of them to put a handcuff on it. Officer C did not have a full, unobstructed view of Subject 1, but he still appeared to be in a push-up position. Officer C did not see either Officer B or Officer A strike or kick Subject 1, nor did he see either of them use a baton. According to Officer C, what he saw was a struggle to gain control of Subject 1's arm rather than an actual strike. Because Officers B and A already appeared to be in the process of getting Subject 1 under control when he entered the garage, Officer C did not assist them in completing the handcuffing.

Once the officers had control of Subject 1 and handcuffed him, Officer C turned his attention to Witness 1. Officer C talked to her near the side door of the garage. Their conversation was brief, limited to a few questions about who she and Subject 1 were. Officer C did not remember the details she told him but recalled there was a domestic relationship between them. Officer C could not remember if they talked about what had transpired between them before the officers arrived. Witness 1 appeared to be upset. Officer C did not see any injuries on her.

After Subject 1 was completely handcuffed, officers brought him to his feet. Officer C saw Subject 1 was bleeding from his face. Officer C did not talk to Subject 1 and did not learn how he sustained that injury. Someone opened the overhead door that led to the alley. An officer brought Subject 1 to the marked squad car in the alley and placed him inside. Sergeant A arrived after the overhead garage door was opened. Officer C did not remember if he talked to her or relayed the information Witness 1 had given him. Sergeant A talked to Officers B and A. Officer C did not remember if Subject 1 was already in the squad car when Sergeant A arrived. He also did not remember whether Sergeant A talked to Subject 1 on the scene. Officer C did not recall whether an ambulance was called to the scene. Officers E and F transported Subject 1 to the hospital, and Sergeant A transported Witness 1 to the XXX District station. Officers B and A also went to the station. Officer C recalled that he and Officer D also briefly stopped at the station to make sure everyone was okay. They then returned to their regular patrol. Officer C did not see Subject 1 again until his trial. (Attachments 80-81)

In a sworn statement to IPRA on 18 May 2016, **Accused Officer E** provided the following information: He was working with Officer F on 25 July 2013. At the time, they had been partners for approximately two years. They were assigned to Beat XXX, which is a marked unit, and were in uniform. They responded to a domestic disturbance call at XXXX S. Avenue M. Officer E remembered the call was about people arguing inside a garage. When they arrived, they parked their marked squad in the alley next to that address. According to Officer E, he and Officer F arrived at approximately the same time as the tactical officers: Officers B, A, C, and D. Officer E could hear arguing inside the garage. He could not remember what he specifically heard other than both parties (Subject 1 and Witness 1) were both arguing with each other. According to Officer E, while it was definitely an argument, neither one was screaming. The sound level was more like a normal conversation. Officers B and A went to the north side of the garage and jumped over the wooden fence into the yard of XXXX S. Avenue M. While Officer E was making his own way over the fence, either Officer B or Officer A knocked on the side door of the garage and announced his presence. Officer E heard the door being kicked open but did

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not see who kicked it open. Officer C jumped over the fence either right before or right after Officer E. Officers F and D were somewhere behind Officer E. Officer E did not remember if they jumped over the fence.

The side door to the garage was open, and Officers B and A were inside the garage by the time Officer E got over the fence. Even with the door open, Officer E could not see inside the garage from the fence area. Officer E entered the garage either right in front of or right behind Officer C. Officer E saw Subject 1 on the floor. He did not see how Subject 1 got on the floor. The other officers were handcuffing Subject 1 when Officer E first saw them.<sup>51</sup> Officer E did not remember if he helped with the handcuffing. Officer E could not see what Subject 1 was doing. Subject 1 was face down on the floor with officers on top of him. Officer E did not see any of the officers kick or strike Subject 1. Officer B had his baton out, but Officer E did not see him use it on Subject 1. Once Subject 1 was handcuffed, one of the officers opened the overhead garage door leading to the alley.

Officer E did not see Witness 1 in the garage until after the overhead door was opened. She was yelling something, but Officer E did not recall what Witness 1 was yelling. Officers D and F entered the garage at some point. Officer E believed they both came around and entered the garage the same way he did, but they may have come through the overhead door once it opened. One of the officers, possibly Officer A, brought Subject 1 to his feet. Once he did, Officer E saw that Subject 1 had a long cut on one of his eyes that caused his eye to be swollen. Officer E did not hear Subject 1 say anything about how he sustained that injury. Sergeant A arrived as the officers were walking Subject 1 out of the garage. Sergeant A instructed Officers E and F, who were the only officers using a marked vehicle, to take Subject 1 to the hospital for treatment. Officer E did not recall an ambulance being called.

Officers E and F took Subject 1 to the hospital as soon as they received the instruction to do so. While they were en route to the hospital, Subject 1 said he and Witness 1 hadn't been physically fighting; they had just been arguing. Officers E and F stayed with Subject 1 while he was treated at the hospital. Officer E did not remember Subject 1 saying anything to the hospital staff about how he sustained his injuries. They were at the hospital for at least two hours before returning to the XXX District station. Officer E could not remember if they brought Subject 1 to lockup or turned him over to the tactical officers. Officer E did not see Witness 1 at the station. According to Officer E, he did not have much contact with Witness 1 at the scene of Subject 1's arrest and never saw any injuries on her. (Attachments 73-74)

In a sworn statement to IPRA on 07 June 2016, **Accused Officer F** provided the following information: He was working in uniform, with Officer E, and assigned to Beat XXX at the time of this incident. They responded to a radio call of a person calling for help at XXXX S. Avenue M. Officer F did not recall any further details about the call. When they got to that address, they parked in the alley near the garage. Officers B and A were either already there when Officers F and E arrived, or they arrived at the same time. The officers all got out of their vehicles to assess what was going on. Officer F could hear yelling coming from the garage. He could not hear specific words, but he heard both a male voice and a female voice yelling.

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<sup>51</sup> Officer E specifically named Officers A and C as being with Subject 1 when Officer E entered the garage, which suggests Officer C entered the garage first.

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Officers B and A were the officers primarily assigned to the call, so they took the lead. They entered the yard to the north of XXXX S. Avenue M. Officer F stayed in the alley at the northeast corner of the garage, right next to an open parking area for the building to the north. He stood there so he could watch the overhead door in case anyone tried to run out of it. By the time Officer F reached that spot, Officers B and A were already in the yard of XXXX S. Avenue M. Officer F assumed they had jumped over the fence, but he did not see them do so. Officer E also went to the yard with Officers B and A. Officer F assumed Officer E jumped the fence as well. Another tactical officer (identified through this investigation as Officer D) remained in the alley area and was standing to Officer F's right, closer to the yard. Officer F heard the officers announce their presence and heard them bang on the door. He could not see the side door from where he was standing and did not see the officers make entry into the garage. Officer F then heard a commotion in the garage, which he described as people yelling. Officer F jumped over the fence and entered the garage through the side door.

There were three or four officers in the garage when Officer F entered the garage, including Officers B and A. Officer F could not remember any of the officers' positions in the garage. Officer F was unable to see what happened while Subject 1 was taken into custody because Officer F was outside the garage at that point. Subject 1 was already in handcuffs and in custody by the time Officer F ran into the garage. Officer F could not remember if Subject 1 was standing at that point, but he was close to the overhead door leading to the alley. Officer F saw an injury on Subject 1's face near his eye. Subject 1 did not tell Officer F how he sustained that injury. Officers B and A also did not tell Officer F how Subject 1 sustained the injury. One of the tactical officers was talking to Witness 1 near the side door. Officer F did not approach Witness 1 and did not pay enough attention to her to get a sense of her demeanor or whether she had any injuries.

Officer F did not remember how they got Subject 1 out of the garage, but he believes someone opened the overhead door, and they walked him through it. Officers F and E put Subject 1 into their marked squad car. Sergeant A arrived on the scene around that point and told them to take Subject 1 to the hospital. Officers F and E then left the alley and transported Subject 1 to X Hospital. Subject 1 did not make any complaints to the officers about his treatment during his arrest. Officer F did not recall any conversation they had with Subject 1 about what happened between him and Witness 1 prior to the officers' arrival. Officer F was unaware if an ambulance or Evidence Technician were called. According to Officer F, those would be responsibilities belonging to Officers B and A, who were the main arresting officers. Officers F and E were assigned to assist, specifically by transporting Subject 1 to the hospital. Officer F could not recall if Subject 1 was released from the hospital into their custody, or if other officers came to relieve them at the end of their shift. After reviewing Subject 1's arrest report, Officer F noted Subject 1 was indeed released into his and Officer E's custody, and they then transported him back to the XXX District station. Officer F did not have any independent recollection of that and did not remember where they transported Subject 1 once they arrived at the station. If the arresting officers were done with the paperwork, Officers F and E would have taken Subject 1 to lockup. If not, they would have taken Subject 1 to Officers B and A to finish processing him. Officer F did not recall having any further contact with Subject 1. (Attachments 93-94)

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In a sworn statement to IPRA on 16 May 2016, **Accused Sergeant A** provided the following information: She was assigned to Beat XXX, which is a tactical sergeant, on 25 July 2013. She heard a report over the radio about a domestic disturbance at XXXX S. Avenue M. The caller said he could hear a woman screaming during the disturbance. There was a shortage of available officers at the time the call came through, so the dispatcher asked if she could send a tactical unit, to which Sergeant A agreed. Officers B and A were sent to the call. A short time after that, Sergeant A heard a call over the radio requesting a supervisor at that address. Sergeant A responded to that call and parked at the mouth of the alley. She saw a marked squad car parked in the alley and walked toward it. Sergeant A saw a woman (now known to be Witness 1) standing near the mouth of the alley, and officers standing near the squad car. Sergeant A stopped and talked to Witness 1, who was crying. According to Sergeant A, Witness 1 reported that her boyfriend (Subject 1) had jumped on her and beaten her up. According to Sergeant A, Witness 1 said she had been trying to leave Subject 1, meaning she wanted to break off their relationship, but he would not let her leave. Sergeant A put Witness 1 in her squad car and asked if she needed medical attention. Witness 1 was holding her hand to her head and said she had hit her head on the garage floor or the car. Sergeant A did not see Witness 1's arms to observe whether there were scratches present and did not recall seeing any injury to Witness 1's head. Witness 1 declined medical attention because she thought she would be fine and said she wanted to press charges against Subject 1. Sergeant A told Witness 1 that they would go to the police station in a minute. According to Sergeant A, Witness 1 did not make any complaint to her about the officers' behavior. According to Sergeant A, Witness 1 actually thanked the officers for showing up when they did.

Sergeant A then went toward the marked squad car parked near the garage at XXXX S. Avenue M. Subject 1 was inside the squad car with an officer (possibly Officer E) standing nearby. Sergeant A had a brief conversation with Officer A, who said Subject 1 had to go to the hospital because he had an injury over his eye – either a scratch, or a bump, or a cut. According to Sergeant A, Officer A told her the officers heard screaming as they were trying to get into the garage. When Officer A kicked open the door, he saw Subject 1 on top of Witness 1, punching her. Officer A was able to get Subject 1 off of Witness 1, allowing her to run away. Sergeant A told him that she had Witness 1 in her squad car and would transport her to the station so she could sign criminal complaints against Subject 1. Sergeant A told Officer A to go to the station to do his reports. Sergeant A's interaction with Officer A took place in the alley; she did not enter the garage. According to Sergeant A, she did not speak to Officer B at the scene, but he later told her that he used his expandable baton on Subject 1 because Subject 1 was swinging his fists and trying to fight with the officers. Sergeant A only saw Subject 1 when he was inside the marked squad car, and they did not have any conversation. Sergeant A did not recall specifically looking into the car to look at Subject 1. She was trying to coordinate everything quickly so she could get back to Witness 1 in the squad car.

Sergeant A transported Witness 1 to her office at the XXX District station. Sergeant A informed Witness 1 that she would have to go to domestic court. She also explained how to get an order of protection. The officers got the criminal complaint form ready for Witness 1 to sign, which she did. Sergeant A then arranged for a squad car to drive Witness 1 home. Sergeant A said Witness 1 was at the station for several hours because the detectives had come in to investigate and try to get felony charges approved against Subject 1. When asked if Witness 1



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was forced to sign a criminal complaint against Subject 1, Sergeant A said she was the one who gave Witness 1 the complaint, and Witness 1 willingly signed it. According to Sergeant A, Witness 1 was adamant about signing a complaint throughout the entire incident. Sergeant A said she explained the document to Witness 1 when she presented it to her. Sergeant A did not know if Witness 1 actually read the complaint, but Sergeant A said no one rushed Witness 1 into signing it.<sup>52</sup>

Sergeant A did not know if an Evidence Technician had been called to document Witness 1's injuries that are described on the related reports. According to Sergeant A, the arresting officers have the responsibility to call for an Evidence Technician. Sergeant A did not remember if any of the officers involved in this case said anything to her about calling for one. According to Sergeant A, she never saw Subject 1 at the station. She never had any conversation with him, and he did not tell her he wanted to file a complaint against any of the officers involved in his arrest. (Attachments 59-60)

**CPD General Order G04-04** requires, in part, that officers conducting a preliminary investigation of a domestic incident will “notify their supervisor and request an evidence technician” if there is visible injury to the victim.<sup>53</sup>

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<sup>52</sup> Sergeant A did not tell IPRA investigators whether she observed any injury to Witness 1 during their discussion at the XXX District station.

<sup>53</sup> G04-04 IV. A. 3.

**CONCLUSION:****I. EXCESSIVE FORCE**

Based on Subject 1's lawsuit, testimony during his criminal trial, and his statement to IPRA, it is alleged that Subject 1 was physically maltreated during his arrest. Some of these allegations were made against specific officers, but some were made against all of the Officers who were present on the scene of the arrest because Subject 1 was unable to identify or fully describe the officers who allegedly committed each action.

**A. Allegations Against Officer A**

It is alleged that the first officer who entered the garage struck Subject 1 with a gun, grabbed him on the neck, pushed him against a car, and tripped him to the floor. In the related CPD reports and his testimony in court, Officer A acknowledged he was the first officer to enter the garage. The only view on the video recording of the garage interior is the area immediately inside the door. The video shows that, when the garage door is first opened, Officer A appears to make physical contact with Subject 1, who identified himself as the person whose hand was visible as the door opened. According to Subject 1, Officer A grabbed him in the neck area and struck him with a gun. Then Officer A pushed Subject 1 against the car and tripped him to the floor. Witness 1, however, did not report seeing these actions in either her trial testimony or in her written statement to IPRA. In fact, Witness 1 reported that Subject 1 got on the floor on his own after Officer A instructed him to do so. The related CPD reports and Officer A's court testimony indicate that there was a struggle between the officers and Subject 1 before they were able to get Subject 1 on the floor. These reports, however, also contain information that is known to be false, as will be discussed below. Subject 1 sustained injuries to his face during the incident which could be attributed to being struck with a gun; but which could also be attributed to other actions during the incident.

Serious discrepancies exist among the accounts of the various participants in, and witnesses to, the incident in the garage. For example, while Subject 1 claims Officer A struck him in the face with a gun, this allegation is not corroborated by any other witness or officer present on the scene, including Witness 1. These discrepancies are not remedied by the video recording given that the recording of the interior of the garage is dark and unclear. It should also be noted that, at the criminal trial, the judge, who had an opportunity to observe the demeanor of all witnesses, specifically made findings that Subject 1 and Witness 1 were most likely exaggerating the conduct of the officers while inside the garage. Because there is not a preponderance of evidence in support, the allegations that Officer A used excessive force by striking Subject 1 with a gun, grabbing him on the neck, pushing him against a car, and tripping him to the floor are **Not Sustained**.

**B. Use of Baton**

It is alleged that an officer struck and poked Subject 1 with a baton. In his TRR and during his court testimony, Officer B acknowledged that he used his baton on Subject 1. According to General Order G03-02-02 V. C. 1. b., a baton is permitted to be used as an impact

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weapon on an “assailant,” defined as “a subject who is using or threatening imminent use of force against himself/herself or another person.” One type of assailant is someone whose “actions are aggressively offensive without weapons...who places a member in fear of a battery.”

Officer B testified that he used his baton on Subject 1 when Subject 1 cocked his fist back as if he was going to swing at Officer B. Officer B could not recall where he struck Subject 1, but said it happened while both men were standing and facing each other. Officer B denied striking Subject 1 on the back. This, however, is not supported by the photographs of Subject 1’s injuries. The photographs show bruises to Subject 1’s buttocks and back. The bruise on the back is long in shape and similar to the shape of a baton. The photographs corroborate the accounts from Subject 1 and Witness 1, who reported that Officer B struck Subject 1 with a baton on his back while Subject 1 was on the garage floor. Subject 1 also said the officer struck him on the legs and buttocks, again while Subject 1 was face down on the floor. The evidence in this case does not contain any alternative explanation for those bruises, which lends further support to Subject 1 and Witness 1’s accounts of the incident.

Given that the evidence shows that Subject 1 was face down on the floor when Officer B struck him with a baton, Officer B’s explanation about how and why he used his baton is not valid. Under CPD policy, using a baton against a subject whose actions do not rise to the level of an assailant is excessive. Therefore, the allegation that Officer B used excessive force in that he used his baton to strike and/or poke Subject 1 about the body is **Sustained**. As there is no indication that any of the other officers on the scene used a baton at any point, this allegation is **Unfounded** as to the remaining officers.

### C. Kick

Subject 1 alleged that two officers kicked him on the head while he was on the floor, which was corroborated by Witness 1’s testimony and written statement. In his statement to IPRA, Subject 1 specified that the kicks landed on his chin and the area around his right eye. Injuries evident in Subject 1’s medical records and photographs support the allegation that he was kicked. Subject 1 sustained multiple abrasions and bruises to his face that are consistent with being kicked. Medical professionals diagnosed him with several head wounds, both open and closed. As noted on the records from X Hospital, Subject 1 reported the kick to the hospital staff members who treated him.

The related CPD reports and accounts from the officers on the scene did not provide an alternate explanation for Subject 1’s injury. The only explanation in the CPD reports for how Subject 1 sustained the injury to his eye was that it occurred during the “struggle” to take Subject 1 into custody. Officers B and A did not provide any further explanation about the injury in their court testimonies. Officers D, E, C, and F reported to IPRA that they did not know how the injury was sustained. Officers C and E both described seeing Subject 1 facedown on the floor with Officers B and A, but neither of them described any action that would explain the injury to Subject 1’s eye. Officer C reported that Subject 1 had his head and upper body off the floor as if he was going to do a push-up while he was on the floor with Officers B and A. Officer C again used the word “struggle” to explain what he saw but said that neither of the officers struck

Subject 1. Officer E also described seeing Subject 1 face-down on the floor during handcuffing, but he did not describe any action that could have caused the kick. In the absence of an alternative explanation for how Subject 1 could have sustained the injuries to his face, his claim that an officer kicked him is the most plausible reason.

Although the evidence suggests that Subject 1 was kicked during the incident, the question remains as to who kicked him. In his court testimony, Subject 1 identified Officer A as the officer who kicked him. He then identified Officer B as this officer in his statement to IPRA, during which he also acknowledged that he may not have the names correct. Subject 1 also said that that he was face down on the floor at the time of the kicks, which may have interfered with his ability to identify the officer. Although Witness 1 testified that she saw an officer kick Subject 1, she did not specifically identify which of the officers did so. The video evidence does not include a view of where this action took place. Due to the lack of physical evidence to help confirm which officer initially kicked Subject 1, the allegation that Officer A kicked Subject 1 is therefore **Not Sustained**.

The identity of a second officer who may have kicked Subject 1 is likewise unclear. In his statement to IPRA, Subject 1 said the second officer who kicked him was Officer D, but the evidence shows that this identification may not be accurate.

Specifically, Subject 1 identified Officer D after he saw him more than two years after the incident and stated that he “look[ed] like” one of the officers who kicked him.<sup>54</sup> Second, Officer D was the only officer on the scene of Subject 1’s arrest who did not enter the garage through the side door; rather, he entered through the main overhead door once it was opened. However, Subject 1 stated that the second officer who kicked him entered through the side door. Third, Witness 1 did not testify about a second officer kicking Subject 1 and did not identify the specific officers involved in any of the force used on Subject 1. Finally, if Subject 1’s and Witness 1’s testimony that Subject 1 was lying face down on the floor with his hands in handcuffs at this point is credited, then Subject 1 would not likely have had a sufficient view to positively identify which of the officers was doing what.

Therefore, there is insufficient evidence to prove or disprove whether a second officer kicked Subject 1 or, if so, who that officer was. This allegation is therefore **Not Sustained** for the remaining officers.

#### **D. Threat to Taser**

Subject 1 and Witness 1 both alleged one officer gave another officer the instruction to, “Tase his ass.” Subject 1 described his own actions at this point as being compliant, in that he placed his hands behind his back and kept them there. Each of the officers involved in this incident denied that they threatened to discharge a Taser at Subject 1. IPRA was unable to obtain logs indicating which, if any, officer(s) on scene at the relevant time had checked out a Taser (and therefore could have provided evidence about who stated “Tase his ass.”). Additionally, no one, including Subject 1, claimed that any of the officers actually deployed a Taser at him during the incident. Because it is not clear which officer threatened to discharge a Taser at Subject 1,

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<sup>54</sup> Attachment 43, page 37, lines 9-11

this allegation is **Not Sustained** for all accused officers.

**E. Failure to Intervene**

It is alleged that Officers A, B, C, D, E, and F failed to intervene to protect Subject 1 from the excessive force used by other officers. According to General Order G06-01-01 II. A., Department “members will be responsible for the safety and security of the arrestee.” Officers A and B were the first two officers who entered the garage and were identified as the ones who used force to take Subject 1 into custody. Although Officers A and B were each engaged in their own force when they took Subject 1 into custody, they also had a duty to provide for his safety and security. However, they may not have had an opportunity to intervene. It is not clear which of the officers kicked Subject 1, or how many times that happened. If Subject 1 was only kicked once, the other officers may not have been able to prevent it. Alternatively, the injuries on Subject 1’s back indicate that Officer B struck him with the baton several times. Officer A may not have been able to prevent the first strike, but he had an obligation to protect Subject 1 from further strikes. This allegation is therefore **Sustained** against Officer A and **Not Sustained** against Officer B.

Officer C was the third officer to enter the garage. While the video shows he entered within a few seconds of Officer B’s entry, it is not clear what was happening when he reached the garage interior or what he actually saw. It is also not clear whether any excessive force was still happening when Officers E and F entered through the side door or when the overhead door was opened, which is when Officer D entered the garage. Because there is insufficient evidence that any of the other four male officers beyond Officers B and A saw the excessive force or were in a position to be able to see it, there is insufficient evidence to prove or disprove the allegation that they failed to intervene to protect Subject 1. Therefore, this allegation is **Not Sustained** against Officers C, D, E, and F.

**II. FALSE ARREST**

**A. False Arrest**

It is alleged that Officers A, B, C, D, E, and F falsely arrested Subject 1 for Resisting and Domestic Battery. According to General Order G04-01 IV. A. 4, officers who respond to calls for service will “arrest the offender if still on or near the scene and probable cause for the arrest exists.” Special Order S06-01 II. A. 3 instructs officers to complete the arrest report with “sufficient information (elements of the offense and probable cause to arrest) to substantiate all charges against an arrestee.” Officers A and B were the primary arresting officers and were the only ones to complete any reports related to this incident. Officers C, D, E, and F were only on the scene of the arrest to assist them in taking Subject 1 into custody and/or transport him.

According to the Arrest Report that Officer A prepared, prior to the officers’ arrival, Subject 1 pushed Witness 1 to the floor and held her there. Subject 1 was still on top of Witness 1 on the floor when the officers entered the garage. The Case Report that Officer B prepared contains a similar description of what the officers observed when they entered the garage. In contrast to the reports, the video shows that Subject 1 could not have been on top of Witness 1 on

the floor when the officers kicked open the door. Although the camera does not have a full view of the garage interior, it clearly shows someone was standing in or near the doorway as the door opened.

However, the misdemeanor complaint that Witness 1 signed only details information that the officers claimed they got from Witness 1: that Subject 1 intentionally caused her bodily harm by forcibly pushing her, which caused her to fall on the ground and caused her pain. While there is insufficient evidence to prove that this conduct occurred, there is likewise insufficient evidence to disprove that Witness 1 initially told the officers that it did. Under Illinois law the crime of domestic battery occurs when an individual knowingly or intentionally causes bodily harm to a family or household member.<sup>55</sup> Bodily harm consists of “physical pain or damage to the body.”<sup>56</sup> Therefore, a claim that Subject 1 pushed Witness 1 to the ground technically satisfies the elements of domestic battery. Officer A, Officer B, and Sergeant A all maintain that Witness 1 made these allegations against Subject 1. Witness 1 also signed a misdemeanor complaint for domestic battery against Subject 1. Although Witness 1 subsequently insisted that she never told the officers that Subject 1 pushed her to the ground, all parties agree that an argument was certainly taking place in the garage. This was established both by the statements of Subject 1 and Witness 1 as well as the 911 call that reported a woman screaming. Furthermore, Subject 1 himself concedes that he “may have pushed” Witness 1 during the argument, although he denies pushing her to the ground. Therefore, the evidence shows that there was some sort of altercation between the parties during which Subject 1 possibly pushed Witness 1. The evidence also shows that multiple officers, including Sergeant A, maintain that Witness 1 made these allegations and moreover, Witness 1 willingly signed a complaint for domestic battery. The only evidence to the contrary are the statements of Subject 1 and Witness 1. Based on a totality of the circumstances, it cannot be determined by a preponderance of the evidence that Witness 1 never told the officers that she was pushed by Subject 1.

The officers also charged Subject 1 with Resisting Arrest. Serious discrepancies exist between the accounts from Subject 1, Witness 1, and the involved officers about what happened while the officers physically took Subject 1 into custody. The video evidence does not show what happened during the incident and there is no independent evidence that can help determine which account is accurate. Because there is insufficient evidence to prove or disprove the allegation that the officers falsely arrested Subject 1, the allegation is **Not Sustained** against all officers.

## **B. Coercion**

It is alleged that Officers A, B, C, D, E, and F coerced Witness 1 to sign a criminal complaint against Subject 1. Witness 1 repeatedly stated that she told the officers she did not want to sign a criminal complaint. She finally signed something she did not read because they had kept her at the station for several hours. Witness 1 did not specify which of the officers had her sign the complaint, but she referenced having contact with several of them while she was at the police station. In her statement to IPRA, Sergeant A said she was the one who presented Witness 1 with the criminal complaint form to sign. Sergeant A also stated that she fully

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<sup>55</sup> 720 ILCS 5/12-3.2(a)(1)

<sup>56</sup> *In re J.A.* 336 Ill. App. 3d 814, 820 784 N.E. 2d 373, 378 (2003)

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explained the court process to Witness 1, and Witness 1 was adamant throughout the night that she wanted to press charges against Subject 1. Because it is not clear which of the other officers may have had direct conversation with Witness 1 regarding the complaint and what that conversation entailed, and because we cannot determine whether to ascribe more or less weight to either Witness 1's or Sergeant A's conflicting statements, there is insufficient evidence to prove or disprove the allegation that Witness 1 was coerced into signing a complaint. This allegation is therefore **Not Sustained** against Officers A, B, C, D, E, and F.

### **III. FAILURE TO INITIATE COMPLAINT**

It is alleged that Sergeant A failed to initiate a complaint register investigation after being made aware of allegations of excessive force against several department members. According to General Order G08-01-02 II. B., supervisory CPD members who receive allegations of misconduct "will initiate a complete and comprehensive investigation" by reporting the allegations to IPRA and recording the information they receive in an Initiation Report.

According to his trial testimony, while he was inside the police vehicle outside of his garage, Subject 1 told Sergeant A that the officers beat him for no reason. In her statement to IPRA, Sergeant A acknowledged that she saw Subject 1 in the vehicle, but denied that she had any conversation with him. Sergeant A also said she never saw Subject 1 at the police station. None of the officers on the scene recalled seeing any conversation between Subject 1 and Sergeant A on the scene of his arrest. Witness 1 also did not report seeing any such conversation. Because there is insufficient evidence to prove by a preponderance that Subject 1 informed Sergeant A about the allegations of excessive force, this allegation against Sergeant A is **Not Sustained**.

### **IV. FALSE REPORTS AND FALSE TESTIMONY IN COURT**

It is alleged that Officers A and B willfully made false statements in reports and sworn testimony as to material facts relating to Subject 1's arrest and prosecution. As set forth below, a preponderance of the evidence supports some of these allegations against Officers A and B.

#### **A. False Reports**

##### **a. Officer A**

It is alleged that between 25 July 2013 at 2355 hours and 26 July 2013 at 0012 hours, at XXXX E. 103rd Street, Officer A made several false statements in the Arrest Report related to this incident, which he wrote and attested to. There is more than a preponderance of evidence to support that these statements were willfully made and material. This false information was material to Subject 1's arrest and later prosecution as it was used to establish and/or support the probable cause necessary to charge Subject 1 with Domestic Battery and then offered into evidence in furtherance of his prosecution. The following outlines the evidence showing each statement that was false:

In the report, Officer A claimed that he observed Subject 1 on top of Witness 1 at the

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time entry was made into the garage. As previously discussed, the video shows Subject 1 could not have been on top of Witness 1 on the floor when the door was opened because his hand is visible at the door as the officer entered. Although the camera does not have a full view of the garage interior, it clearly shows Subject 1 standing in or near the doorway as the door opened. The video shows that Officer A had some sort of physical contact with Subject 1 almost immediately after the door opened. While it is possible that Officer A may not have had a perfect recollection of every detail of the incident, it is not credible that he could have been mistaken about seeing Subject 1 on top of Witness 1 when the door opened. Additionally, after Officer A reviewed his reports and watched the video, he was given an opportunity to correct any inaccuracies in those reports. Rather than making any corrections, he stood by his prior account. This indicates that this false statement was not merely a mistake, but was a willful lie. Because the officers used this false statement as part of the basis for the charges they placed against Subject 1, the false statement is also material. Therefore, the allegation that Officer A provided a false report about seeing Subject 1 on top of Witness 1 is **Sustained**,

In the report, Officer A also asserted that Witness 1 told the officers essentially that Subject 1 forcibly pushed Witness 1 causing her to fall and strike the left side of her head on the garage floor. Officer A also asserted that Subject 1 was holding Witness 1 on the floor, forcibly restraining her in an effort to prevent her from leaving the Garage According to both Witness 1 and Subject 1, the verbal argument they had before the officers arrived did not escalate to a physical fight. Although Subject 1 said he may have pushed Witness 1 at some point, both he and Witness 1 insist he did not push her to the floor at any point during the incident. Except for the area immediately inside the door, the video evidence does not include a view of what happened inside the garage, either before the officers arrived or while they were there. Additionally, even if there was video evidence of what occurred, it is not possible to prove what Witness 1 said to the officers when she relayed her account of what happened. There is insufficient evidence to prove or disprove the allegations that Officer A falsely reported that Witness 1 told the officers essentially that Subject 1 pushed her to the floor and held her there. Therefore, these allegations against Officer A are **Not Sustained**.

In the report, Officer A claimed that he observed that Witness 1 had injuries including scratches on both arms and/or pain to on the left side of her face. This report of injuries sustained by Witness 1 is contradicted by information provided by Subject 1 and Witness 1, is not supported by any physical or photographic evidence, and is not supported by any witness other than Officer B. In fact, none of the other officers recall seeing any facial injuries on Witness 1. Officer B also included a reference to these alleged injuries in his reports. It is not credible that both officers were mistaken about the same injuries. What is more likely is that they colluded about the injuries in order to support the basis for the charges they placed against Subject 1. Because there is more than a preponderance of evidence in support of the allegation that Officer A made a false report regarding the injuries that he observed on Witness 1, the allegation is **Sustained**.

It is also alleged Officer A falsely reported on the Arrest Report that Subject 1 swung his arms in an attempt to defeat his arrest and aimed closed fists at Officer B, and falsely reported on the Tactical Response Report both that Subject 1 pulled away and/or swung his arms. Although Subject 1 and Witness 1 deny Subject 1 swung his arms, pulled away, or directed closed fists at



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Officer B, there is insufficient evidence to prove or disprove the allegation. Therefore, this allegation is **Not Sustained** against Officer A.

As to the allegation that Officer A falsely reported on the Tactical Response Report the type of force used to take Subject 1 into custody, serious discrepancies exist among the accounts of the various participants in, and witnesses to, the incident in the Garage. Officer A only reported member presence, verbal commands, open hand strikes, and a takedown/emergency handcuffing as the actions he took during this incident. It is not clear whether or not he used any additional force in order to take Subject 1 into custody, including kicking him. The allegation as to a false report regarding the type of force used to take Subject 1 into custody is therefore **Not Sustained**.

**b. Officer B**

It is alleged that between 0001 and 0012 hours on 26 July 2013, at XXXX E. 103rd Street, Officer B made several false statements in the reports that he wrote related to this incident, which are the General Offense Case Report, a Tactical Response Report, and an Officer's Battery Report. As with the false statements that Officer A made in his own reports that are described above, there is more than a preponderance of evidence to support that Officer B's false statements were willfully made and material. This false information was material to Subject 1's arrest and later prosecution as it was used to establish and/or support the probable cause necessary to charge Subject 1 with Domestic Battery and then offered into evidence in furtherance of his prosecution. The following outlines the evidence showing each statement was false:

In the Case Report, Officer B falsely reported that he observed Subject 1 on top of Witness 1 at the time entry was made into the Garage. The video shows that Subject 1 could not have been on top of Witness 1 because he was standing in or near the doorway at that time. Officer B was the second officer to enter the garage. Although the video does not show Officer B making physical contact with Subject 1 near the doorway like it does for Officer A, it does show that Officer B entered the garage immediately after Officer A did. By the time Officer B entered, Officer A had already made physical contact with Subject 1. It is not possible that Officer B could have seen Subject 1 on top of Witness 1 at this point. Additionally, after Officer B reviewed his reports and watched the video, he was given an opportunity to correct any inaccuracies in those reports. Rather than making any corrections, he stood by his prior account. This indicates that this false statement was not merely a mistake, but was a willful lie. This false statement was material because it was used as the basis for the charges that the officers placed against Subject 1. Therefore, the allegation that Officer B provided a false report about seeing Subject 1 on top of Witness 1 is **Sustained**,

In the Case Report, Officer B also reported several things that Witness 1 relayed to him about what occurred prior to the officers' arrival. Specifically, he reported that Witness 1 stated essentially that Subject 1 forcibly pushed Witness 1 causing her to fall and strike the left side of her head on the garage floor; that she attempted to open the garage door to leave several times; that Subject 1 was holding her on the ground, forcibly restraining her in an effort to prevent her from leaving the Garage, and that Witness 1 wanted to pursue felony charges against Subject 1.

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As noted above in the discussion of Officer A's similar allegation, it is not possible to prove what Witness 1 said to the officers when she relayed her account of what happened, including whether she wanted to pursue criminal charges. There is insufficient evidence to prove or disprove the allegations that Officer B falsely reported the information he said that Witness 1 provided to him. These allegations are therefore **Not Sustained**.

Officer B also reported in the Case Report that Witness 1 had blunt trauma injuries including scratches on both arms and/or pain to left side of her face. As noted above, this report of injuries is not supported in the record. The only other person who reported seeing injuries was Officer A. The officers used these alleged injuries to support the charge the placed against Subject 1, which makes this a material lie. Therefore, the allegation that Officer B willfully offered a false report regarding material facts in relation to injuries he observed on Witness 1 is **Sustained**.

It is further alleged that Officer B falsely reported on the Case Report that Subject 1 was swinging his arms in an attempt to defeat his arrest and was swinging his closed fists at Officer B. Subject 1 and Witness 1 deny Subject 1 swung his arms or directed closed fists at Officer B. Nevertheless, there is insufficient evidence to prove or disprove the allegation that any report to the contrary is a willful misstatement of a material fact, as opposed to a mistaken or different perception. Therefore, this allegation is **Not Sustained** against Officer B.

Finally, it is alleged that Officer B falsely reported on the Tactical Response Report both (1) the type of force Officer B used to take Subject 1 into custody and (2) that Subject 1 pulled away and displayed an imminent threat of battery. It is also alleged that Officer B falsely reported on the Officer's Battery Report that Subject 1 struck him and/or attempted to strike him and used his hands/fists to attack him. Officer B reported that he used member presence, verbal commands, a wristlock, and an impact weapon, referring to his baton. As noted above in the discussion of the allegations of excessive force, there is insufficient evidence to prove or disprove whether Officer B used any force beyond what he reported. His use of a baton was found to be excessive, but he did acknowledge the use on his Tactical Response Report. That report did not include any details about the baton that could be evaluated to determine whether or not it was truthful. Additionally, even though Subject 1 and Witness 1 dispute Officer B's statements about Subject 1's alleged actions to resist arrest, as stated above, there is insufficient evidence to prove or disprove the allegation that Officer B made a willful misstatement of a material fact. Therefore, the allegations of false statements included in Officer B's Tactical Response Report and Officer's Battery Report are **Not Sustained**.

### **B. False Testimony in Court**

It is alleged that Officers A and B willfully made false statements when they testified relative to this matter on 07 November 2013 at Domestic Violence Court at 555 W. Harrison. As set forth below, a preponderance of the evidence supports some of these allegations against Officers A and B.

#### **a. Officer A**

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It is alleged that Officer A falsely testified that he did not observe Subject 1 opening the garage door and that he observed Subject 1 on top of Witness 1 at the time entry was made into the Garage. Because of Officer A's proximity to Subject 1 and the fact that he had physical contact with Subject 1 as soon as he entered the garage, Officer A's assertion in court that he did not observe Subject 1 opening the garage door is not credible. Additionally, as noted above in the discussion about the Arrest Report that Officer A completed, the video shows that Subject 1 was standing near the garage door as it opened. Therefore he could not have been on the floor on top of Witness 1 at that point. Officer A also reviewed his court testimony and was given an opportunity to make any changes or corrections to it after watching the video. He did not make any corrections, which indicates that this was not a mistake but a willful lie. This testimony was material to the prosecution of Subject 1 for Resisting and Domestic Battery and is directly contradicted by video of the event at issue. Therefore, the allegation that Officer A willfully offered false testimony is **Sustained**.

It is further alleged Officer A falsely testified that Subject 1 swung a closed fist at Officer B. Serious discrepancies exist among the accounts of the various participants in, and witnesses to, the incident in the garage, and we cannot determine whether to ascribe more or less weight to one or more of the conflicting accounts. Therefore, there is insufficient evidence to prove or disprove the allegation that Officer B made a willful misstatement of a material fact, which, therefore, is **Not Sustained**.

It is also alleged that Officer A falsely testified that Witness 1 had injuries, including scratch marks and redness to the side of her head and/or face; and that he made a request over the radio for an Evidence Technician.<sup>57</sup> As noted above in the discussion about the Arrest Report that Officer A wrote, there is no evidence that Witness 1 actually had such injuries. Officers A and B made false reports about Witness 1 having injuries in order to support the charges they placed against Subject 1. In order to bolster the false claim of injuries, Officer A then falsely claimed that he requested an Evidence Technician to photograph these alleged injuries. The Office of Emergency Management and Communications automatically creates a record of all requests for Evidence Technicians. An exhaustive search of CPD and OEMC records did not reveal any documentation revealing that such a request had been made. The lack of this documentation indicates that the request was never made. The allegations that Officer A falsely testified that Witness 1 had injuries and that he requested an Evidence Technician to photograph her injuries are therefore **Sustained**.

### b. Officer B

It is alleged that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer B falsely testified that he did not observe Subject 1 opening the side door to XXXX South Avenue M on 25 July 2013. Because Officer B testified that he *did not recall* seeing Subject 1 (or anyone else) open the garage door, rather than making a definitive statement that Subject 1 did not open the garage door. Accordingly, the allegation that his testimony was false in this respect is **Not Sustained**.

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<sup>57</sup> An exhaustive search of CFD and OEMC records did not reveal any indication that an Evidence Technician had been called. Additionally, none of the other officers knew whether an Evidence Technician had been called to the scene.

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It is further alleged Officer B falsely testified that he observed Subject 1 on top of Witness 1 at the time he entered the garage and that he and Officer A had to pull Subject 1 off of Witness 1. As noted above, the video shows Subject 1 standing near the doorway when it opened, which clearly contradicts Officer B's testimony about seeing Subject 1 on top of Witness 1 at that time. Because Subject 1 was not on top of Witness 1, Officer B's further testimony that he and Officer A had to pull Subject 1 off of Witness 1 is also false. It is not credible that the false statements were mistakes rather than willfully made. Officer B also reviewed his court testimony and was given an opportunity to make any changes or corrections to it after watching the video. He did not make any corrections, which indicates that this was not a mistake but a willful lie. As with the similar allegations against Officer A, these false statements were used as the basis for the charges against Subject 1, thus making the false testimony material. For the reasons previously stated, including that such testimony was material to the prosecution of Subject 1 for Resisting and Domestic Battery; is directly contradicted by video of the event at issue; and because Officer B stood by his prior testimony after viewing the video, the allegation that Officer B willfully offered false testimony is **Sustained**.

It is also alleged Officer B falsely testified that Subject 1 swung a closed fist at him and that Witness 1 stated essentially that she wanted to pursue felony charges against Subject 1 for unlawful restraint. As previously explained with respect to Officer B's official police reports, there is insufficient evidence to prove or disprove the allegation that Officer B made a willful misstatement of a material fact; thus, they are **Not Sustained**.

Finally, it is alleged that Officer B falsely testified that Witness 1 had injuries, including blunt head trauma to the side of her head. As noted above in regards to Officer A, there is no evidence that Witness 1 had any such injuries. There were no photographs of the injuries and Officer A is the only other officer who reported seeing them. Officer B falsely testified about the injuries to further support the charges that the officers placed against Subject 1. Due to the lack of evidence or witness support about the injuries, this allegation is **Sustained**.

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**FINDINGS:**

**Accused #1**                      **Officer Robert A, #XXXXXX, Unit XXX/XXX**

**Allegation #1**                      **Not Sustained**

**Allegation #2**                      **Not Sustained**

**Allegation #3**                      **Not Sustained**

**Allegation #4**                      **Not Sustained**

**Allegation #5**                      **Not Sustained**

**Allegation #6**                      **Not Sustained**

**Allegation #7**                      **Not Sustained**

**Allegation #8**                      **Sustained** – Violation of Rule 3, “Any failure to promote the Department’s efforts to implement its policy or accomplish its goals,” in that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, Officer A, #XXXXXX, Unit XXX/XXX, failed to intervene to protect Subject 1 from the excessive force used by other officers on the scene.

**Sustained** – Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, Officer A, #XXXXXX, Unit XXX/XXX, failed to follow the provisions of General Order G06-01-01 when he failed to intervene to protect Subject 1 from the excessive force used by other officers on the scene.

**Sustained** – Violation of Rule 8, “Disrespect or Maltreatment of any person, while on or off duty,” in that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, Officer A, #XXXXXX, Unit XXX/XXX, failed to intervene to protect Subject 1 from the excessive force used by other officers on the scene.

**Allegation #9**                      **Not Sustained**

**Allegation #10**                      **Not Sustained**

**Allegation #11**                      **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 25 July 2013, at approximately 2355 hours, at the XXX District Station at XXXX E. 103<sup>rd</sup> Street, Officer A, #XXXXXX, Unit XXX/XXX, falsely reported on the Arrest Report that he observed Subject 1 on top of Witness 1 at the time entry was made into the garage at XXXX South

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Avenue M.

**Allegation #12**      **Not Sustained**

**Allegation #13**      **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 25 July 2013, at approximately 2355 hours, at the XXX District Station at XXXX E. 103<sup>rd</sup> Street, Officer A, #XXXXXX, Unit XXX/XXX, falsely reported on the Arrest Report that Witness 1 had injuries including scratches on both arms and/or pain to left side of her face.

**Allegation #14**      **Not Sustained**

**Allegation #15**      **Not Sustained**

**Allegation #16**      **Not Sustained**

**Allegation #17**      **Not Sustained**

**Allegation #18**      **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer A, #XXXXXX, Unit XXX/XXX, falsely testified that he did not observe Subject 1 opening the garage door to XXXX South Avenue M on 25 July 2013.

**Allegation #19**      **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer A, #XXXXXX, Unit XXX/XXX, falsely testified that he observed Subject 1 on top of Witness 1 at the time entry was made to the garage at XXXX South Avenue M on 25 July 2013.

**Allegation #20**      **Not Sustained**

**Allegation #21**      **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer A, #XXXXXX, Unit XXX/XXX, falsely testified that Witness 1 had injuries, including scratch marks and redness to the side of her head and/or face.

**Allegation #22**      **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer A, #XXXXXX, Unit XXX/XXX, falsely testified that he made a request over the radio for an Evidence Technician.

**Accused #2**                      **Officer B, #XXXXXX, Unit XXX/XXX**

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- Allegation #1**            **Sustained** – Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, Officer B, #XXXXXX, Unit XXX/XXX, failed to follow the provisions of General Order G03-02 when he used excessive force on Subject 1 in that he struck and/or poked Subject 1 about his body with a baton.
- Sustained** – Violation of Rule 8, “Disrespect or Maltreatment of any person, while on or off duty,” in that on 25 July 2013, at approximately 2204 hours, at XXXX S. Avenue M, Officer B, #XXXXXX, Unit XXX/XXX, failed to follow the provisions of General Order G03-02 when he used excessive force on Subject 1 when he struck and/or poked Subject 1 about his body with a baton.
- Allegation #2**            **Not Sustained**
- Allegation #3**            **Not Sustained**
- Allegation #4**            **Not Sustained**
- Allegation #5**            **Not Sustained**
- Allegation #6**            **Not Sustained**
- Allegation #7**            **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 26 July 2013, at approximately 0001 hours, at the XXX District Station at XXX E. 103<sup>rd</sup> Street, Officer B, #XXXXXX, Unit XXX/XXX, falsely reported on the Case Report that he observed Subject 1 on top of Witness 1 at the time entry was made into the garage at XXXX South Avenue M.
- Allegation #8**            **Not Sustained**
- Allegation #9**            **Not Sustained**
- Allegation #10**           **Not Sustained**
- Allegation #11**           **Sustained** – Violation of Rule 14, “Making a false report, written or oral,” in that on 26 July 2013, at approximately 0001 hours, at the XXX District Station at XXXX E. 103<sup>rd</sup> Street, Officer B, #XXXXXX, Unit XXX/XXX, falsely reported on the Case Report that Witness 1 had injuries including scratches on both arms and/or pain to left side of her face.
- Allegation #12**           **Not Sustained**
- Allegation #13**           **Not Sustained**

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<b>Allegation #14</b>	<b>Not Sustained</b>
<b>Allegation #15</b>	<b>Not Sustained</b>
<b>Allegation #16</b>	<b>Not Sustained</b>
<b>Allegation #17</b>	<b>Not Sustained</b>
<b>Allegation #18</b>	<b>Not Sustained</b>
<b>Allegation #19</b>	<b>Not Sustained</b>
<b>Allegation #20</b>	<b>Sustained</b> – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer B, #XXXXX, Unit XXX/XXX, falsely testified that he did observed Subject 1 on top of Witness 1 at the time entry was made to the garage at XXXX South Avenue M on 25 July 2013.
<b>Allegation #21</b>	<b>Sustained</b> – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer B, #XXXX, Unit XXX/XXX, falsely testified that he and Officer A had to pull Subject 1 off of Witness 1.
<b>Allegation #22</b>	<b>Not Sustained</b>
<b>Allegation #23</b>	<b>Sustained</b> – Violation of Rule 14, “Making a false report, written or oral,” in that on 07 November 2013, at Domestic Violence Court at 555 W. Harrison, Officer B, #XXXX, Unit XXX/XXX, falsely testified that Witness 1 had injuries, including blunt head trauma to the side of her head.
<b>Allegation #24</b>	<b>Not Sustained</b>
<b><u>Accused #3</u></b>	<b><u>Officer C, #XXXXX, Unit XXX</u></b>
<b>Allegation #1</b>	<b>Unfounded</b>
<b>Allegation #2</b>	<b>Not Sustained</b>
<b>Allegation #3</b>	<b>Not Sustained</b>
<b>Allegation #4</b>	<b>Not Sustained</b>
<b>Allegation #5</b>	<b>Not Sustained</b>



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**Allegation #6**            **Not Sustained**

**Accused #4**            **Officer D, #XXXX, Unit XXX**

**Allegation #1**            **Unfounded**

**Allegation #2**            **Not Sustained**

**Allegation #3**            **Not Sustained**

**Allegation #4**            **Not Sustained**

**Allegation #5**            **Not Sustained**

**Allegation #6**            **Not Sustained**

**Accused #5**            **Officer E, #XXXX, Unit XXX**

**Allegation #1**            **Unfounded**

**Allegation #2**            **Not Sustained**

**Allegation #3**            **Not Sustained**

**Allegation #4**            **Not Sustained**

**Allegation #5**            **Not Sustained**

**Allegation #6**            **Not Sustained**

**Accused #6**            **Officer F, #XXXXX, Unit XXX**

**Allegation #1**            **Unfounded**

**Allegation #2**            **Not Sustained**

**Allegation #3**            **Not Sustained**

**Allegation #4**            **Not Sustained**

**Allegation #5**            **Not Sustained**

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**Allegation #6**            **Not Sustained**

**Accused #7**            **Sergeant A, #XXXX, Unit XXX**

**Allegation #1**            **Not Sustained**