

INTRODUCTION

On 16 March 2015, at approximately 1710 hours, in the vicinity of XXX E. 63rd St., **Officer A #XXXXXX**, handcuffed Subject 1 too tightly, physically mistreated him, and verbally abused him.

ALLEGATIONS

On 17 March 2015, at 0931 hours, the reporting party, Subject 1, telephoned the Independent Police Review Authority, and spoke with IPRA Investigator A. Subject 1 alleged that on 16 March 2015, at approximately 1710 hours, in the vicinity of XXX E. 63rd St., **Officer A #XXXXXX**:

- 1) handcuffed Subject 1 too tightly, a violation of Rule 8;
- 2) pulled Subject 1 out of the police vehicle and dropped him to the pavement, a violation of Rule 8; and
- 3) stated to Subject 1, words to the effect of, “Shut the fuck up, I don’t give a fuck,” a violation of Rule 9.

APPLICABLE RULES AND LAW

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

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

INVESTIGATION

A telephone interview was initially conducted by IPRA Investigator A **with Subject 1 on 17 March 2015, at approximately 1455 hours**. Subject 1 stated that he was speaking with a friend (NFI) when he was approached by two black male officers. One of the officers handcuffed him and placed him in the back seat of the officers’ squad car and he was then issued a citation for Drinking on the Public Way, even though he was not. Subject 1 stated that his friend was drinking a beer but he was unaware of that fact. After the officer finished writing the citation, he grabbed Subject 1 by the right shoulder of his jersey and attempted to pull him from the vehicle. Subject 1, who was still handcuffed, did not have time to step out of the vehicle when the officer released his grip on him and was not able to catch his balance, fell to the ground and struck his head on the pavement. Both officers stood Subject 1 up, removed his handcuffs and sent him on his way. Subject 1 stated that he had previously injured his neck and was wearing a neck brace at the time which he received at X Hospital and stated that he had a “bruise under his skin” as a result of the incident. Subject 1 stated that he thought the officer should not have allowed him to fall. (Att. 4)

In a statement to IPRA on 18 March 2015, the Complainant, Subject 1, stated that he was talking with a Civilian 1 when another subject by the name of “Tata” approached him and said that he was going to leave a bag with him while he runs into the currency exchange. As Subject 1 continued talking, he observed a police car drive by. The police vehicle made a u-turn and then pulled up next to Subject 1 and Civilian 1. The officers asked about the subject who had walked away and Subject 1 stated that he did not know anything about him. Observing the

bag on the ground which contained a sandwich and a partially opened bottle of beer, the officers decided to give Subject 1 the bag. Subject 1 told the officers that he just came from the hospital and offered to give them his paperwork. Subject 1 was handcuffed and instructed to crawl into the back of their police vehicle at which time Subject 1 stated he had a back problem and multiple spinal injuries and wore a neck brace. Subject 1 entered the police vehicle and sat behind the driver with his feet pointed towards the rear passenger and his back against the rear driver's side door. Both officers also entered the vehicle. After the driver officer, now known as Officer A, finished writing the citation for drinking, he exited and opened the back door and pulled Subject 1 out by grabbing his clothing. By the time the passenger officer, now known as Officer B, got around to the driver's side, Officer A let Subject 1 go and he fell to the ground. Subject 1 struck his head on the pavement. Subject 1 described the fall as his head hitting the pavement first, and then the rest of his body followed through falling with his body lying near the side of the police vehicle. Both officers pulled Subject 1's legs out of the car to help him get up. After Subject 1 was on his feet, he said that the handcuffs were too tight. Officer A stated, "Shut the fuck up, I don't give a fuck." Subject 1 was then un-handcuffed and released. Subject 1 stated that he was on the ground for approximately two or three minutes. Subject 1 stated that his wrists were swollen and he had a headache. Subject 1 sought medical treatment on 17 March 15, at X Hospital and was informed by hospital staff that he had a closed head injury and a sprained neck. (Atts. 6, 10)

ANOV Citation #XXXXXXXXXX-XX was given to Subject 1 for drinking from a 22 oz. bottle labeled Colt 45 malt liquor on the public way. (Att. 11)

Subject 1 also provided to IPRA a **letter** from his physician, Doctor 1, explaining the circumstances of an injury he sustained in 2002. Subject 1 has been under his doctor's care since he suffered multiple spinal injuries when approximately 850 lbs., of scaffolding fell on him. Subject 1 still has difficulty in walking more than one block, standing in a moving vehicle, using stairs, and sitting down or standing up in a moving vehicle. No substantial improvement is expected and this condition is permanent. (Att. 13)

POD #1010 was obtained and viewed. The camera remained stationary during the viewing of this video. Citizens were observed walking and traffic was moving in both directions. There was no police activity observed while viewing this video. (Atts. 16- 17)

Several attempts were made to obtain any contact information regarding Subject 1's witnesses. Subject 1 informed the R/I that he would contact her after he obtained the information, but Subject 1 has not made any attempt to contact the R/I with additional witness information. (Atts. 15, 37)

Attendance and Assignment sheets obtained for the date of 16 Mar 2016, Unit XXX, 3rd Watch, reflect that Officers B #XXXXX and A #XXXXX, were assigned to Beat XXXX, Car #XXXX. (Att. 14)

Medical Records obtained from X Hospital regarding Subject 1 reflect that Subject 1 sought medical treatment on 17 March 2015, at 9:52 am and complained of neck pain. Subject 1 told hospital staff that he had fallen on a wet bathroom floor on 06 Mar 15, where he had, for a

few seconds, a loss of consciousness and neck pain which had progressively worsened. He had also been experiencing pain in the lower spine since the fall. Subject 1 also had a history of depression and back pain due to an injury he sustained in 2002. Subject 1 had X-rays taken, and a CT of the head and spine. The findings regarding the views of the head and spine did not indicate there was any compromise or fracture anywhere. Subject 1 was discharged from the hospital wearing a C-collar around his neck. No further instructions were documented.

On 17 March 2015, at 9:44 am, Subject 1 sought medical treatment again at X Hospital. Subject 1 complained of neck pain. Subject 1 told hospital staff that he was arrested last night and when he was getting out of the police car, he fell sideways hitting the left side of his head on the concrete. His vision went black and he “saw stars.” Subject 1 had one episode of emesis (vomiting) after dinner last night and had dizziness this morning and still had neck pain and stiffness. Subject 1 was prescribed acetaminophen-codeine (Tylenol #3) and instructions to follow-up with primary care if needed. (Atts. 12, 19)

In his statement to IPRA, Officer B stated that on 16 March 2015, he was assigned to Beat XXXX, working with Officer A, and not able to recall if he was in uniform or not. According to the paperwork, Officer B stated that while on routine patrol in the vicinity of XXX E. 63rd St., a black male subject was observed to be drinking on the public way. The subject is now identified as Subject 1. Officer B stated that he could only recall what was documented on the paperwork such as the event number and also the citation (ANOV) regarding the stop of Subject 1 and could not recall any additional information from memory. Officer B also stated that he could not recall the specifics of the stop involving Subject 1 because they frequent that specific vicinity throughout the year and they stop many people for drinking. Officer B was not able to recall who handcuffed Subject 1, what conversation was had with Subject 1, who placed Subject 1 into their police vehicle or who released Subject 1 from their vehicle. Officer B stated that he could not recall if he had any verbal or physical contact with Subject 1 during this incident. (Atts. 28-29, 31)

In his statement to IPRA, Officer A stated that on 16 March 2015, he was working with Officer B and assigned Beat XXXX. While driving in the vicinity of XXX East 63rd Street, they stopped and issued several ANOV citations to several subjects. The area of XXX East 63rd Street is a “hot spot” in the District and many people who frequent that area are either arrested or issued ANOV citations on a daily basis. The subjects are observed to be drinking on the public way, dealing in narcotics, or just loitering.

Officer A stated that when they stopped at that location, he observed a black male standing across the street talking with another black man, and one of them was drinking what Officer A believed to be an alcoholic beverage from a bottle which was in some sort of a bag. One of the black males is now known to be Subject 1, and the second black man’s identity is unknown. According to Officer A, the second subject was told to leave the area. Officer A then approached and asked Subject 1 for his identification, recovered the bottle from him and found it to indeed be an alcoholic beverage, a 22 ounce bottle of Colt 45 Malt Liquor. Subject 1 was then handcuffed. During the stop, Subject 1 was very irate, belligerent, and cursing, and saying that he didn’t like the police and didn’t like being stopped by the police. Subject 1 was hollering and saying that someone gave him the bottle and it wasn’t his. Officer B stood as the guard officer

and did not have any verbal contact with Subject 1. Officer A observed Subject 1 to be wearing a heavy coat and carrying a cane, but he did not observe him to be wearing a neck brace.

When Officer A instructed Subject 1 to enter the squad car, Subject 1 became argumentative and began cursing but Officer A could not recall exactly what was said. Subject 1 entered the squad car on the rear passenger side by placing one foot in and then proceeded with the rest of his body. Subject 1 mentioned something about his leg but Officer A was not able to recall what he said. Officer A told Subject 1 that if he was having problems getting in, he could sit the long way on the seat and stretch his legs out if it was better for him. Officer A stated that Subject 1 responded by cursing at him. Officer A entered the vehicle and Subject 1 continued to curse and say that he was going to complain against him. Officer A ran Subject 1's name and then completed an ANOV citation, exited the vehicle, opened the back door, and told Subject 1 to step out. Officer A observed Subject 1 to be sitting in an upright position and facing forward when the door was opened. After Subject 1 made several unsuccessful attempts to exit the vehicle, Officer A then asked Subject 1 if he needed assistance getting out of the vehicle. Subject 1 responded by stating, "I don't need your fucking help." Officer A stood back and watched Subject 1 place his left foot on the ground and attempt to get up on his feet to establish his balance, but he instead rolled out of the car onto the ground. Officer A further explained that as Subject 1 was trying to put his weight on his left foot, which was outside of the car, he tried to slide out but instead he rolled out of the vehicle onto the ground. Subject 1 fell to the ground with his left shoulder making contact with the ground and then his left side. Officer A did not observe Subject 1 strike his head on the pavement. As Subject 1 continued to curse, Officer A grabbed him by his shoulder, and his arm, and lifted him up to his feet. When Officer A asked Subject 1 if he was injured and needing medical attention, Subject 1 stated, "Fuck no, I don't want anything from you." Officer A un-handcuffed Subject 1 and had him sign the citation. He also handed it to him and gave him the empty beer bottle and told him to get rid of it at the nearest receptacle. Officer A stated that at no time did Subject 1 say he had any medical issues, or that the handcuffs were too tight and they should be loosened.

Officer A stated that he did not recall having any contact with another subject by the name of Civilian 1 while on the scene on 16 March 15.

Officer A denied the allegations made against him. (Atts. 35, 36)

CONCLUSION

The reporting investigator recommends that **Allegation #1** that Officer A handcuffed Subject 1 too tightly, be closed with a finding of **Not Sustained**. Officer A stated that after observing Subject 1 standing on the sidewalk and drinking an alcoholic beverage, he was handcuffed and instructed to enter the back seat of the police vehicle. Subject 1 did not sustain any injury to his wrists and never mentioned at any time that he was handcuffed too tightly nor did he complain of any injury. There were no witnesses identified or located. There is insufficient evidence or facts to corroborate or disprove this allegation.

The reporting investigator recommends that **Allegation #2** that Officer A pulled Subject 1 out of the police vehicle and dropped him to the pavement, be closed with a finding of **Not**

Sustained. Officer A stated that he did not have physical contact with Subject 1 when he was exiting the rear of the police vehicle. When he asked Subject 1 if he needed assistance, Subject 1 refused and cursed at Officer A. Officer A stated that after Subject 1 fell to the ground, he assisted him to his feet. Officer B stated that he could not recall if he had any physical contact with Subject 1 during this incident. Since there were no witnesses identified or located, there is insufficient evidence or facts to support or disprove this allegation.

The reporting investigator recommends that **Allegation #3** that Officer A stated to Subject 1 words to the effect of, "Shut the fuck up, I don't give a fuck," be closed with a finding of **Not Sustained**. There were no witnesses identified or located, there is insufficient evidence to prove or disprove the allegation.