

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1077035

INTRODUCTION:

The On 31 July 2015, sometime before 1735 hours, Subject 1 and his fiancée, Subject 2, each drank a cup of tequila. Thereafter, Subject 1 and Subject 2 went to the “XX Liquor” store to buy more liquor. While in the liquor store, Subject 1 became involved in an argument with the owner and security guard, Witness 1. Witness 1 called the police and Officer A and Officer B responded. Subject 1 refused to follow verbal commands given to him by Officer A and Officer B. Subject 1 resisted the officers’ efforts to handcuff him. At one point Subject 1 caused an injury to Officer B’s hand. Several Officers responded to the scene to assist with Subject 1’s arrest. Subject 1 continued to resist all of the officers on the scene. Subject 1 was subsequently placed in custody and transported to the XXX District Station for processing.

ALLEGATIONS:

On 07 September 2015, at 1124 hours, the complainant, Subject 2, registered this complaint on behalf of her fiancé Subject 1 with IPRA Investigator A.

The complainant, Subject 2, alleged that on 31 July 15, at approximately 1725 hours, in the vicinity of XXX N. Kedzie Ave., Officer B:

1. punched Subject 1 on the head twice, in violation of Rule 9-“Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”
2. kned Subject 1 on the back while he was on the ground in violation of Rule 9-“Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”
3. arrested Subject 1 without justification in violation of Rule 2-“Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”

The complainant, Subject 2, alleged that on 31 July 15, at approximately 1737 hours, in the vicinity of XXX N. Kedzie Ave., Officer A:

1. grabbed and threw Subject 1 to the ground in violation of Rule 9-“Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”
2. arrested Subject 1 without justification in violation of Rule 2-“Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”

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The complainant, Subject 2, alleged that on 31 July 15, at approximately 1738 hours, in the vicinity of XXX N. Kedzie Ave. Unknown Officers:

1. threw Subject 1 to the ground in violation of Rule 9-“Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”
2. stepped on him while he was on the ground in violation of Rule 9-“Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.”

INVESTIGATION:

In a statement with IPRA on 08 September 2015, **Subject 2** stated that she and her fiancé, Subject 1 drank a cup each of tequila prior to going to the XX Liquor store. Once inside the liquor store, Subject 1 became involved in an argument with the owner. Security guard Witness 1 ordered Subject 1 to leave the premises and Subject 1 walked out of the store. Shortly after Subject 1 walked out of the store, the police arrived. A female officer, now known as Officer B, told Subject 1 to come with her but Subject 1 refused. Officer B grabbed Subject 1’s arm, Subject 1 squeezed and bent his arm, and pulled it away from Officer B’s grip. Officer B then punched Subject 1 on the head twice without justification. The male officer, now known as Officer A, then grabbed Subject 1 and with the help of Officer B, threw Subject 1 to the ground without justification. Several other officers arrived and attempted to handcuff Subject 1. At some point while Subject 1 was on the ground, Officer B kned Subject 1 in the back without justification. Subject 2 alleged that Officers A and B arrested Subject 1 without justification.

Subject 1 was arrested and thereafter he was incarcerated in the Cook County Jail. Subject 2 stated that Subject 1 sustained a knee injury as a result of this incident and he sought medical treatment at X Hospital. (Atts. 13 & 16)

An **interview from Subject 1 was not obtained** as it was averted by the Public Defender’s Office. (Atts. 21 & 30-32)

Attempts to obtain an interview from Witness 1 and Witness 2 met with negative results. (Atts. 22, 24 & 26)

The **footage from the Security Camera of the “XX Liquor”** store, XXX N. Kedzie Ave., shows Subject 1 deliberately pulling his arms away from Officer B and Officer A to keep from being handcuffed. Subject 1 continuously moves away and struggles with the officers to prevent them from handcuffing him. Officer A performed the takedown of Subject 1, but he continued to struggle as he was on the ground. Several officers arrived and attempted to handcuff Subject 1 who continued to struggle to keep

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from being handcuffed. When Subject 1 was finally handcuffed, he was helped from the ground and escorted from the parking lot. (Atts. 35 & 42)

The **Original Case Incident Report, Case Supplementary Report, and Arrest Report of Subject 1** indicate that Officers A and B responded to a call of an assault in progress at the location of XXX N. Kedzie Ave. The victim, Witness 1, reported to the responding officers that Subject 1 threatened to kick his ass. When Officers A and B attempted to place Subject 1 in custody, he tightened his fists and stiffened his arms. Officers A and B repeatedly ordered Subject 1 to put his hands behind his back and each time Subject 1 refused to follow the officers' commands. Officer B then attempted to handcuff Subject 1, but he grabbed her hand and squeezed it against her handcuffs. Subject 1 was ordered to let go of Officer B's hand but he refused to comply with the order. The officers were finally able to remove Subject 1's hand from Officer B's hand. At that time, Officer A performed an emergency takedown to effect the arrest of Subject 1. Subject 1 was transported to the 011th District Station for processing. Subject 1 had no obvious signs of pain or injury. A name check of Subject 1 revealed a serviceable warrant with a hold for Cook County Sheriff.

Witness 3, owner of the "XX Liquor" store, reported to police that Subject 1 was drunk when he arrived at his store. While in the store, Subject 1 wanted somebody to buy him liquor. When Subject 1 was told by Security Guard Witness 1 to leave, he became irate. The store's security camera captured the events that occurred outside in the parking lot.

The footage from the liquor store security camera showed Subject 1 resisting arrest and struggling with Officers A and B. Officer A then performed an emergency takedown and a struggle ensued on the ground with Subject 1. Officer B then attempted to put a handcuff on Subject 1's left hand when Subject 1 used his right hand to squeeze Officer B's left hand. Officer B still had her handcuffs in her left hand while Subject 1 was squeezing her left hand. Officer B shouted that Subject 1 was hurting her hand and for him to let go of her hand. Officer A assisted Officer B with getting her hand free from Subject 1.

Subject 1 was charged with Simple Assault, Resisting/Obstruction of a Police Officer and Aggravated Battery of a Police Officer. Detectives requested this case be Clear/Closed Arrest and Prosecution. (Atts. 4 & 18-19)

The **Tactical Response Report and Officer's Battery Report of Officer B** show she is 5'4" and 140 pounds, and that Subject 1 is 6'2" and 315 pounds. Subject 1's actions indicate he was initially a passive resister when he did not follow verbal direction; he stiffened and backed away. Officer B responded to Subject 1's actions by using verbal commands, escort holds, a wristlock, an armbar and pressure sensitive areas. Subject 1 was an active resister when he pulled away and used handcuffs to pierce Officer B's hand. Officer B responded to Subject 1's actions with an open hand strike and an emergency take down and handcuffing. Subject 1 became an assailant when he pushed, shoved and pierced Officer B's right hand and posed an imminent threat of a battery to

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her. Officer B responded to Subject 1's actions with elbow strikes, closed hand strike/punch, knee strike and kicks.

The additional information indicates that as Officer B attempted to place Subject 1 in custody, he became an assailant and refused all verbal commands while piercing Officer B's left hand while gripping Officer B tightly. The Officer's Battery Report shows Subject 1 used his hands/fists and made verbal threats against Officer B. Officer B sustained a minor injury and Subject 1 did not sustain any injury. (Atts. 7 & 8)

The **Tactical Response Report of Officer A** shows he is 6' and 215 pounds, and Subject 1 is 6'2" and 315 pounds. Subject 1 was a passive resister when he did not follow verbal direction and stiffened his body. Officer A's response to Subject 1's actions was verbal commands, escort holds, wristlock armbar and pressure sensitive areas. Subject 1 became an active resister when he pulled away from Officer A. Officer A responded to Subject 1's actions with an emergency take down/handcuffing. The additional information indicates that Officer A used necessary force after Officer B became a battery victim when Subject 1 grabbed her hand and squeezed her handcuff causing injury to her hand. (Att. 40)

The **Tactical Response Report of Officer C, Officer D, and Officer E** indicates that Subject 1 went from a passive resister to an active resister when he did not follow verbal direction, stiffened his body and then pulled away. Officers C, D, and E responded to Subject 1's actions with verbal commands, escort holds, wristlock, armbar and takedown/emergency handcuffing. The officers used necessary force to arrest Subject 1 after he resisted and attacked Officer B. (Atts. 6, 39 & 41)

The **Arrest Photographs of Subject 1** shows no apparent injury. (Att. 5)

The **OEMC Event Query** shows that on 31 July 2015, at 1737 hours, Security Guard Witness 1 (XXX-XXX-XXXX) called 911 and reported an Assault in Progress, at CCCC W. Maypole Ave/ XXX N. Kdedzie Ave. Security Guard Dortch further reported that the male would not leave and he is about to get out of hand. Several police officers responded to the incident. One person was arrested and transported to the XXX District Station. Beat XXXX transmitted a radio broadcast with the correct address of the incident. Photographs of Officer B's left hand were taken. (Att. 10)

The **computerized court disposition information of Subject 1's case** indicates that the three counts of Aggravated Battery of a Peace Officer were classified as Nolle Prosequi. Subject 1 pled guilty to the charge of Resisting a Peace Officer and waived a jury trial. On 10 February 2016, Subject 1 was found guilty of Resisting a Peace Officer. Subject 1 was sentenced to one year at the Sheridan Correctional Center for Drug Treatment. (Att. 38)

The **Medical Records** of Subject 1 from the Cook County Cermak Health Services indicates he was admitted on 01 August 2015, at 1751 hours. Subject 1 told hospital personnel the police slammed him on his leg five days ago. He further stated

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since the incident he has pain to his ankle that is different from his usual foot pain due to gout. Subject 1 uses a cane due to the gout in his feet. Subject 1's diagnosis was classified as HTN (hypertension), gout, and left foot/ankle pain. (Att. 36)

Special Order, S08-01-01, II, B, 10, stipulates to “terminate the investigation when it is determined at any time that the incident is unfounded or if the member is clearly exonerated. The investigator will include all reports and statements containing information which supported exonerating the accused or unfounding the allegation in the investigative file pursuant to the provisions of the Department directive entitled, “Complaint Summary Reporting and Review Procedures.”” (Att. 43)

CONCLUSION:

Accused: Officer B

Allegation No. 1:

The Reporting Investigator recommends a finding of **Exonerated** for **Allegation #1**, that on 31 July 2015, at approximately 1725 hours, in the vicinity of XXX N. Kedzie Ave., Officer B punched Subject 1 on the head, twice. Subject 2 alleged that Officer B punched Subject 1 on the head, twice. IPRA did not obtain an interview from Subject 1 per advice of his attorney. In her statement, Subject 2 stated that after Subject 1 squeezed his arm, bent it and pulled his arm away from Officer B's grip, Officer B punched Subject 1 on the head, twice. Officer B completed a Tactical Response Report and indicated she used closed hand strike/punch on Subject 1 who became an Assailant/Assault. The Tactical Response Report also indicates that Subject 1 is 6'2" and 315 pounds and Officer B is 5'4" and 140 pounds. The security camera footage from the XX Liquor store shows Subject 1 actively resisting Officer B's efforts to handcuff him. Officer B was justified in using closed hand strike/punch on Subject 1 who was an Assailant/Assault. Furthermore, Officer B was in compliance with Department policy and the Use of Force Model. Therefore, the R/I recommends that the investigation be terminated and the allegation be classified as Exonerated in accordance with S.O. 08-01-01, II, B, 10 without obtaining a report from the involved officer.

Allegation No. 2:

The Reporting Investigator recommends a finding of **Exonerated** for **Allegation #2** that on 31 July 2015, at approximately 1725 hours, at the location of XXX N. Kedzie Ave., Officer B kned Subject 1 on the back while he was on the ground. Subject 2 alleged that Officer B kned Subject 1 on the back while he was on the ground. IPRA did not obtain an interview from Subject 1 per advice of his attorney. Officer B submitted a Tactical Response Report and indicated that when Subject 1 was tightly gripping onto her left hand and while piercing her left hand with the handcuffs Officer B used knee strike and kicks on Subject 1. At that time, Subject 1 became an Assailant/Battery, when

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he refused to follow Officer B's verbal commands to let go of her hand. Officer B was justified in using knee strike and kicks on Subject 1 who was an Assailant/Battery. Furthermore, Officer B was in compliance with Department policy and the Use of Force Model. Therefore, the R/I recommends that the investigation be terminated and the allegation be classified as Exonerated in accordance with S.O. 08-01-01, II, B, 10 without obtaining a report from the involved officer.

Allegation No. 3:

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #3** that on 31 July 2015, at approximately 1725 hours, at the location of XXX N. Kedzie Ave., Officer B arrested Subject 1 without justification. Subject 2 alleged that Officer B arrested Subject 1 without justification. IPRA did not obtain an interview from Subject 1 per advice of his attorney. In her statement, Subject 2, Subject 1's fiancée, stated that Subject 1 became involved in an argument with the owner of the liquor store. Subject 2 further stated that Officer B told Subject 1 to come with her but Subject 1 refused. Officer B grabbed Subject 1's arm, Subject 1 squeezed his arm, bent it and pulled his arm away from Officer B's grip. The security camera footage from the XX Liquor store shows Subject 1 actively resisting Officer B's efforts to handcuff him. Security Guard Witness 1 called 911 and reported to the dispatcher an assault in progress and he also reported to the responding officers that Subject 1 threatened him with bodily harm. Subject 1 was charged with Assault of Witness 1, Resisting/Obstruction and Aggravated Battery of a Police Officer. Subject 1 pled guilty to the charge of Resisting / Obstruction and he was found guilty of the charge. The officers surpassed the standard of probable cause to arrest Subject 1. Therefore, the R/I recommends that the investigation be terminated and the allegation be classified as Unfounded in accordance with S.O. 08-01-01, II, B, 10 without obtaining a report from the involved officer.

Accused: Officer A

Allegation No. 1:

The Reporting Investigator recommends a finding of **Exonerated** for **Allegation #1** that on 31 July 2015, at approximately 1737 hours, in the vicinity of XXX N. Kedzie Ave., Officer A grabbed Subject 1 and threw him to the ground. Subject 2 alleged that Officer A grabbed Subject 1 and threw him to the ground. IPRA did not obtain an interview from Subject 1 per advice of his attorney. Officer A submitted a Tactical Response Report and indicated he performed a takedown emergency handcuffing on Subject 1 who was an active resister. The security camera footage from the XX Liquor store shows Subject 1 actively resisting Officer A's efforts to handcuff him. Subject 1 pled guilty to resisting a peace officer and was found guilty of the charge. This investigation revealed overwhelming evidence that shows Officer A was justified in conducting a takedown emergency handcuffing on Subject 1 who was an active resister. Furthermore, Officer A was in compliance with Department policy and the Use of Force

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Model (Att. # 44). Therefore, the R/I recommends that the investigation be terminated and the allegation be classified as Exonerated in accordance with S.O. 08-01-01, II, B, 10 without obtaining a report from the involved officer.

Allegation No. 2:

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #2** that on 31 July 2015, at approximately 1737 hours, in the vicinity of XXX N. Kedzie Ave., Officer A arrested Subject 1 without justification. Subject 2 alleged that Officer A arrested Subject 1 without justification. IPRA did not obtain an interview from Subject 1 per advice of his attorney. In her statement, Subject 2, Subject 1's fiancée, stated that Subject 1 became involved in an argument with the owner of the liquor store. Security Guard Witness 1 called 911 and reported to the dispatcher an assault in progress and he also reported to the responding officers that Subject 1 threatened him with bodily harm. The security camera footage from the XX Liquor store shows Subject 1 actively resisting Officer A's efforts to handcuff him. Subject 1 was charged with Assault of Witness 1, Resisting/Obstruction and Aggravated Battery of a Police Officer. Subject 1 pled guilty to the charge of Resisting / Obstruction and he was found guilty of the charge. The officers met the standard of probable cause to arrest Subject 1. Therefore, the R/I recommends that the investigation be terminated and the allegation be classified as Unfounded in accordance with S.O. 08-01-01, II, B, 10 without obtaining a report from the involved officer.

Accused: Unknown Officers

Allegation No. 1:

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #1** that on 31 July 2015, at approximately 1738 hours, in the vicinity of XXX N. Kedzie Ave. Unknown Officers threw Subject 1 to the ground. Subject 2 alleged that unknown officers threw Subject 1 to the ground. IPRA did not obtain an interview from Subject 1 per advice of his attorney. There were no other available witnesses to the incident and no other available evidence. This investigation revealed insufficient evidence to either prove or disprove the allegation.

Allegation No. 2:

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #2** that on 31 July 2015, at approximately 1738 hours, in the vicinity of XXX N. Kedzie Ave. Unknown Officers stepped on Subject 1 while he was on the ground.

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Subject 2 alleged that unknown officers stepped on Subject 1 while he was on the ground. IPRA did not obtain an interview from Subject 1 per advice of his attorney. There were no other available witnesses to the incident and no other available evidence. This investigation revealed insufficient evidence to either prove or disprove the allegation.