

## INTRODUCTION

On 30 March 2015, at approximately 0105 hours, Officer A and Subject 1, his former girlfriend and the mother of his child, engaged in a verbal altercation over the volume of the television. The altercation escalated into a physical altercation. Officer A left the house to avoid any other altercations with Subject 1 as she called the police on him, but did not secure his weapon before he departed.

On 30 March 2015, at approximately 1200 – 1250 hours, while at the same location Officer A engaged a second time in a verbal altercation with Subject 1. Subject 1 called the police a second time and Sergeant A along with other officers responded. Subject 1 informed Sergeant A of the previous incident and gave him Officer A's weapon, uniform and other police equipment. Officer A had left the premises, but was located and arrested at 1310 hours for Domestic Battery; the case was dismissed *nolle prosequere*.

## ALLEGATIONS

On 30 March 2015, Sergeant B #XXXX of the XXX<sup>th</sup> District, telephoned Crime Prevention and Information Center (CPIC) and spoke with Officer B #XXXX to register this complaint on behalf of the complainant, Subject 1. The complainant alleged that on 30 March 2015, at approximately 0105 hours, at XXXX S. Keeler, inside, **Officer A #XXXX of Unit XXX:**

1. Engaged in a verbal altercation with Subject 1, a violation of Rule 9;
2. Punched Subject 1 in the face, a violation of Rule 8;
3. Caused Subject 1 to strike her face and head against the door frame, a violation of Rule 8;
4. Called Subject 1 a "Bitch," a violation of Rule 9;
5. Directed profanities at Subject 1, a violation of Rule 9; and
6. Failed to properly secure his weapon, a violation of the Uniform and Equipment Order #U04-02 and a violation of Rules 1 and 6;
7. Was arrested for Domestic Battery, a violation of Rule 1.

## APPLICABLE LAWS AND RULES

**Rule 1** – Violation of any law or ordinance.

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

**Rule 6** – Disobedience of an order or directive, whether written or oral.

**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.

**U04-02(X) Prescribed Duty Weapon Locking Device**

(A) Sworn Department members will secure their prescribed duty firearm when the prescribed duty firearm is not on their person.

(B) Sworn members are encouraged to secure any/all other firearms which may be in their possession or under their control as mandated by Illinois Compiled Statute (ILCS) entitled "Firearms; Child Protection" (720 ILCS 5/24-9). **Note:** Effective 01 January 2000, 720 ILCS 5/24-9 "Firearms; Child Protection," stated that a firearm must be secured when the likelihood exists that a minor under the age of 14 could gain unlawful access to the firearm.

(C) Sworn Department members not carrying their prescribed duty firearm on their person and not having an alternate means to secure the prescribed duty firearm will place a locking device on their prescribed duty firearm. **Note:** Sworn Department members may secure their prescribed duty firearm in a locked box/container or secured in another location that a reasonable person would believe will prohibit access to the prescribed duty firearm by unapproved individuals and meet the requirements of 720 ILCS 5/24-9.

**INVESTIGATION:**

In his **Initiation Report**, Sergeant B #XXXX from the XXX<sup>th</sup> District reported that the complainant Subject 1 and her boyfriend Officer A were arguing about the volume of the television when the officer struck Subject 1 about the right side of her face with a closed fist. Sergeant B reported that Subject 1 sustained redness about her right cheek and a cut to the inside part of the same cheek. An E.T. was ordered to take photographs and she refused medical treatment. The report documented that Officer A fled the scene before the officers' arrival. Officer A and Subject 1 share a child and the residence at XXXX S. Keeler. The event was recorded under Case Report RD# XXXXXXXXX. (Att. 4)

In her **statement to IPRA** on 02 April 2015, the complainant **Subject 1** stated that she and Officer A have been together for about two years.<sup>1</sup> They share a child together and she lives with him in his house. Subject 1 stated that she was with her family all day and upon returning home, she brought her little brother Civilian 1 (M/H 12 yoa) to the house with her. She called and sent a text message to Officer A to inform him that Civilian 1 was spending the night, which upset Officer A. Subject 1 stated that while at home things were fine until after midnight when Officer A went into the bedroom with his laptop to watch a movie, while she and Civilian 1 watched another show in the living room. Officer A came out of the room, lowered the volume of the television they were watching and proceeded to go outside to his car to get his gun from the car. Subject 1 raised the volume of the television when Officer A went outside, but Officer A lowered the volume again upon returning inside. At this time, Subject 1 asked Officer A what was his problem, and he stated, "It's my fuckin' house...when [you] start payin' the bills [you] could tell [me] what to do."<sup>2</sup>

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<sup>1</sup> Subject 1 mentioned that Officer A also struck her two years earlier, but refused to provide details about that altercation. Log #1062537 was initiated at that time and closed No Affidavit because Subject 1 did not cooperate or provide a sworn affidavit.

<sup>2</sup> Statement of Subject 1, page 10, lines 3 9, (Att. 19)

Subject 1 stated that his comment initiated the argument between them. She continued to state that Officer A told her, “[You] don’t pay for shit...”<sup>3</sup> and called her a “bitch.”<sup>4</sup> Officer A then proceeded to walk back into the bedroom and Subject 1 followed behind him, and told him, “Just close the door.”<sup>5</sup> Officer A responded by hitting her in the side of her face. Subject 1 described their physical altercation, “I reached for the doorknob and turns around...walked up...and just socked me with his left hand like on the side of the face. And I was close enough, standing close enough to like the doorframe when he punched me on this side of my, the back my head on, on, on you know the left side, hit the doorframe.” She further explained that Officer A struck her on the right side of her jaw, causing the left side of her head to hit the doorframe. She reported that he had been holding his backpack or gun in his right hand, and that is why he used his left hand to strike her. Subject 1 stepped into the room, closed the door and asked, “What the hell’s wrong with you.”<sup>6</sup> Officer A looked as though he was about to hit her again, so she pushed him. He responded, “I’m fucking tired of you,” and “I’m tired of all this shit...I’m fucking done.”<sup>7</sup> Subject 1 stated that although Civilian 1 was in the living room and was not a witness to what occurred, he heard the commotion and immediately called their mother. Subject 1 stated that she proceeded to call the police and Officer A left the house. Subject 1 sustained a laceration inside her lip. She remained in the house and the police provided her with a police report with the instructions to call them back if Officer A returned to the house.

Subject 1 stated that later that day at approximately noon, Officer A returned home and upon seeing her he stated, “You’re still fucking here? Like what the hell. Like get outta my house.”<sup>8</sup> Subject 1 stated that Officer A continued yelling and directing profanities at her in an aggressive manner. He returned to his house for his gun and his police uniform; Subject 1 did not feel safe so she called the police again. Subject 1 explained that after the first incident occurred, Officer A walked out of the house and left his gun on top of their dresser. Subject 1 stated that for fear that Officer A may return to the house that night and shoot her, she hid the gun. Officer A left the house again without his gun or police uniform when she called the police a second time. She believed that Officer A returned to house to retrieve his firearm because he had to work later that day.

Upon the officers’ arrival, Officer A had already left the scene. Subject 1 informed the responding sergeant and officers what just occurred, and about the incident earlier in the morning. She provided the sergeant with Officer A’s uniform, gun and police equipment. The sergeant called Officer A, who did not answer the call, and left him a message to come to the XXX<sup>th</sup> District for his police equipment. Subject 1 provided the sergeant and the responding officers with Officer A’s parents’ address which was a few blocks away. She later learned that the officers located Officer A and placed him under arrest. Subject 1 did not seek medical treatment for her injuries. She did not provide contact information for her brother “Civilian 1.” (Att. 19)

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<sup>3</sup> *Id.* at page 10, line 10.

<sup>4</sup> *Id.* at page 10, line 20.

<sup>5</sup> *Id.* at page 12, line 19

<sup>6</sup> *Id.* at page 14, lines 4-5.

<sup>7</sup> *Id.* page 14, lines 10 - 12.

<sup>8</sup> *Id.* page 19, lines 25 - 26.

Attempts were made to contact and interview “**Civilian 1,**” but all attempts were met with negative results. (Atts. 36, 52)

The **Evidence Technician photographs** taken of Subject 1 at approximately 0233 hours 30 March 2015 depicted slight redness and minor swelling to the right side of her face and a laceration inside her mouth on the right side. No other injuries were sustained or depicted. (Att. 20)

The **Event Queries** from 30 March 2015 documented the police response to XXXX S. Keeler Ave. Subject 1 called 911 at approximately 0105 hours, and complained that her husband, off-duty officer #XXXX, struck her in the face. Units XXXX and XXXX responded and generated Case Report XXXXXXXXX. The second event query documented that at 0139 hours, an evidence technician was requested to photograph the right side of Subject 1’s face. Subject 1 called 911 again at 1215 hours to report a domestic disturbance with an off-duty officer who kept coming to the residence. Subject 1 informed the dispatcher that she hid the gun in the residence. The final event query reported that at the off duty police officer was placed under arrest for domestic battery. (Atts. 5, 22)

The **Original Case Incident Report**, XXXXXXXXX – Domestic Battery, documented that after a heated verbal altercation between Officer A and Subject 1, Officer A turned and struck Subject 1 on the right side of her face causing redness and a small laceration inside her right cheek (Att. 8)

**Inventory No. 13407101** documented that a Smith and Wesson M&P 9mm firearm, magazine, bullets and holster belonging to Officer A were recovered from XXXX S. Keeler Avenue on 30 March 2015. (Att. 23)

The **Arrest Report** of Officer A documented that he was arrested on 30 March 2015 at 1310 hours at XXXX S. Komensky for Domestic Battery. The report documented that Officer A had punched Subject 1 in the face with a closed fist, causing swelling and a laceration to her face during a verbal altercation. Officer A was arrested and transported to the XXX<sup>th</sup> District for processing. (Att. 6)

**Central Booking photographs** taken of Officer A did not depict any visible injury to his face. (Att. 7)

In the **Relief of Powers** Report from Sergeant C #XXXX from BIA, he documented that Lieutenant A #XXX ordered him to relieve Officer A of his police powers pending the investigation. (Atts. 26 – 31)

The **Court Disposition** documented that the domestic battery charge against Officer A was dismissed *nolle prose* on 14 April 2015. (Att. 21)

In his statement to IPRA on 23 September 2015, **Sergeant A** stated that on 30 March 2015 he responded to a domestic altercation that had started the previous night. Sergeant A responded to the afternoon incident on 30 March 2015 where he was informed by Subject 1 that

Officer A came to the residence to retrieve his work gear. Sergeant A stated that according to Subject 1, the altercation started over the volume of the television when she refused to lower it when he asked her to do so Subject 1 told Sergeant A that she concealed Officer A's weapon in a pillow case or laundry bag to hide it from Officer A. Sergeant A was not sure if the weapon had been in a closet in the bedroom or a linen closet outside of it. He recalled recovering a bag with Officer A's uniform, his firearm, a holster, and a clip with 17 rounds. Officers C and D responded and completed the paperwork for this incident.<sup>9</sup> The officers later located Officer A in front of his father's house at XXXX S. Komensky and placed him under arrest. Sergeant A stated that Officer A was compliant, did not have any weapons on his person and was not under the influence of any drugs or alcohol. Sergeant stated that Subject 1 did not make any allegations to him that were not already documented in this Log investigation or the Case Report that was completed earlier that day. (Att. 50)

In his statement to IPRA on 06 October 2015, **Accused Officer A** stated that he was at home working on a PowerPoint presentation for his statistics class when Subject 1 came home with her brother, Civilian 1 and their son. Officer A stated that he went into the bedroom to avoid the noise, but Subject 1 raised the volume of the television set in the living room. Officer A exited the bedroom, lowered the volume on the television and went outside to his car to retrieve his gun and his book bag from the trunk. Upon entering the house, he noticed that Subject 1 had raised the volume of the television again. He asked her to lower it because he was doing school work, but she refused and instead told him to go to his parents' house. Officer A lowered the volume again, but Subject 1 raised it up. He walked away toward the bedroom and heard Subject 1 as she got up from the couch, ran toward him, grabbed him from behind by the back of his shirt and pulled him. After Subject 1 grabbed Officer A's shirt, he turned toward Subject 1, who then struck him on the face.

Officer A stated that he was still holding in his hands his gun which was holstered and his book bag when Subject 1 struck him. He immediately attempted to detain her and hold her down. Officer A stated that he away from him as he stated to her, "What the hell are you doing?"<sup>10</sup> Officer A was holding his book bag in one hand and his holstered gun in the other one when he pushed Subject 1 away from him.

Officer A stated that as a result of pushing Subject 1 away from him, he believed that she struck her head or face on the door or doorframe. Officer A stated that Civilian 1 remained in the living room and was not a witness to the incident. Officer A left his house that night and went to his parents' house in order to avoid any other altercation. It was at his parents' house that Officer A took photos of the redness to his face. Upon inquiry, Officer A denied that he struck her, either with his hands or the objects he held. He consistently reported that Subject 1 initiated the physical altercation, and that his actions were only in response to her striking him. When asked why she struck him, Officer A explained that earlier in the day he did not accompany Subject 1 to her mother's house and she remained angry with him.

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<sup>9</sup> Sergeant A stated that Sergeant D also responded to the incident, but had no contact with Subject 1 or Officer A since Sergeant A had already handled the situation.

<sup>10</sup> Statement of Officer A, page 11, lines 17 – 18. (Att. 49)

Officer A stated that he returned to the house later that day at about 1130 hours to get his gun and other things. He knew that Subject 1 and Civilian 1 planned to go to a museum in the morning, but upon entering the house he observed that Subject 1 was still in the house. Subject 1 began to yell at him and told him that she had called the police on him. Officer A looked for his gun, and asked Subject 1 for his gun, but could not locate it. Officer A stated Subject 1 told him that she did not know where his gun was located, but he believed that Subject 1 hid the gun. He proceeded to leave the house to avoid any further arguments and returned to his parents' house. Officer A denied directing any profanities at Subject 1 during this second incident. After he left, Subject 1 called the police again. Officer A admitted that he did not secure his gun under lock and key and did not take his gun with him when he initially left the house. Officer A stated during their altercation, he tucked the gun in a bin of clothes that was next to their bed.

Officer A denied calling Subject 1 a "bitch," or that he directed profanities at her. Officer A denied punching Subject 1 about the face. Officer A admitted that he pushed Subject 1 off him in order to stop her from striking him and as a result the push caused Subject 1 to strike her face and head on the doorframe.

Officer A explained that he and Subject 1 separated after the 30 March 2015, and barely communicated for about two months. They reconciled in approximately June 2015 and resumed living together. At the time of his statement to IPRA, Officer A described Subject 1 as his girlfriend and reported that they reside together. (Att. 49)

Officer A provided IPRA with **photographs** of himself on 06 October 2015. The photographs were taken by him on 30 March 2015 at approximately 0227 hours.<sup>11</sup> The photos depicted minor redness to the right side of his face. (Att. 48)

## CONCLUSION:

The Reporting Investigator recommends that **Allegation #1** against Officer A that he engaged in a verbal altercation with Subject 1, a violation of Rule 9, be closed with a finding of **NOT SUSTAINED**. There is no dispute that Officer A and Subject 1 engaged in an argument that stemmed from a dispute over the volume of the television. It is also not in dispute that Subject 1 pursued Officer A to the bedroom after he walked away from the argument in the living room. The only witness to the argument "Civilian 1" did not cooperate with the investigation and there are no other witnesses or evidence.

Although Officer A did engage in an argument, beyond Subject 1's allegation, there is no evidence to support that his verbal response rose to the level of misconduct.

The Reporting Investigator recommends that **Allegation #2** against Officer A that he punched Subject 1 in the face, a violation of Rule 8, be closed with a finding of **SUSTAINED**. Subject 1 alleged that during the altercation with Officer A, he punched her on the right side of

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<sup>11</sup> During his statement to IPRA, IPRA Investigator A reviewed these photographs on Officer A's mobile phone and noted that they were timestamped 0220-0227 hours, which was consistent with his narrative. Officer A emailed to IPRA these photographs; the "properties" identified 2126 hours at 29 March 2015 as the time the photographs were created. (Att. 47)

her face when she followed him to close the bedroom door. Subject 1 was consistent in her call to 911, her allegations to the responding officers and in her statement to IPRA that Officer A struck her on the face. The police report and ET photographs documented that she sustained minor injuries to her face, including slight swelling and redness to her right cheek and a minor laceration on the inside of her right cheek. Officer A stated that during the altercation he pushed Subject 1 off of him, after she struck him on the face. When asked to explain how Subject 1 obtained her injuries, he opined that she may have struck her face in the doorframe when he pushed her away; he denied that he struck her face purposefully or accidentally. The evidence established that there was a physical altercation between the parties that led to both of them displaying minor injuries. Subject 1 responded to the altercation by calling the police, while Officer A left his home to stay at his parents' house. In consideration of Subject 1's injuries, her consistent description of the incident and both parties' actions after the incident, the preponderance of the evidence established that Officer A was the primary aggressor, and that this allegation should be Sustained.

The Reporting Investigator recommends that **Allegation #3** against Officer A that he caused Subject 1 to strike her face and head against the door frame, a violation of Rule 8, be closed with a finding of **SUSTAINED**. There is no dispute that Officer A caused Subject 1 to strike the door frame. Officer A admitted that he pushed Subject 1 off of him to prevent her from battering him and to stop her aggressive actions. As described above, the preponderance of the evidence established that Officer A was the primary aggressor during this altercation. Therefore Officer A's justification for pushing Subject 1 is not found credible and this allegation should be Sustained.

The Reporting Investigator recommends that **Allegation #4** against Officer A that he called Subject 1 a "Bitch," a violation of Rule 9, be closed with a finding of **NOT SUSTAINED**. Officer A denied calling Subject 1 a "bitch," and there are no witnesses or evidence to support or refute this allegation. Subject 1 stated that her little brother "Civilian 1" and their infant son were at home during the incident, but "Civilian 1" failed to cooperate with the investigation. In addition, Officer A denied using that type of language around "Civilian 1" and his infant son. Therefore, due to the lack of witnesses and evidence, this allegation should be closed Not Sustained.

The Reporting Investigator recommends that **Allegation #5** against Officer A that he directed profanities at Subject 1, a violation of Rule 9, be closed with a finding of **NOT SUSTAINED**. Officer A denied directing profanities at Subject 1. Officer A stated that Subject 1's little brother "Civilian 1" and their infant son were at home during the incident and he denied using that type of language around them. In addition, there are no witnesses or evidence to support or refute this allegation. Therefore, due to the lack of witnesses and evidence, this allegation should be closed Not Sustained.

The Reporting Investigator recommends that **Allegation #6** against Officer A that he was inattentive when he failed to secure his weapon, a violation of U04-02(X) and Rules 1 and 6, be closed with a finding of **SUSTAINED**. There is no dispute that Officer A did not have his weapon secured as required by Chicago Police Department policy. Officer A admitted that he did not secure his weapon under lock and key violating the Uniform and Personal Equipment



**Violation of Rule 1** – “Violation of any law or ordinance,” in that on 30 March 2015, at approximately 0105 hours, at XXXX S. Keeler, Officer A violated the law when he committed Domestic Battery, in violation of the Illinois criminal code.

**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," in that on 30 March 2015, at approximately 0105 hours, at XXXX S. Keeler, Officer A's actions and conduct brought discredit upon the Department when he was placed under arrest for Domestic Battery, in violation of the Illinois criminal code.