

**INTRODUCTION:**

The complainant, Complainant was arrested following a traffic stop. Complainant made several allegations, to include that excessive force was used against him. Additional allegations regarding the completion of required department reports were later brought by the Reporting Investigator.

**ALLEGATIONS:**

On 29 July 2014, at approximately 1100 hours, the complainant, Complainant called the Independent Police Review Authority (IPRA) and registered a complaint with IPRA Investigator A. It is alleged that on 28 July 2014, at approximately 2115 hours, at XXX W. XXX Street, Chicago, IL XXXXX, while on-duty, **Officer A, star #XXXX, Unit XXX:**

- 1) Falsely arrested Complainant in violation of Rule 2; and
- 2) Failed to complete a Tactical Response Report (TRR) for his contact with Complainant in violation of Rule 6.

It is further alleged that on the same date, time, and location of incident, while on-duty, **Officer B, star #XXXX:**

- 1) Falsely arrested Complainant in violation of Rule 2;
- 2) Pulled Complainant out of his car and slammed him against it in violation of Rule 8;
- 3) Choked Complainant in violation of Rule 8 ;
- 4) Punched Complainant on the face in violation of Rule 8;
- 5) Attempted to slam the squad car doors on Complainant's legs in violation of Rule 8; and
- 6) Failed to complete a TRR for his contact with Complainant in violation of Rule 6.

**APPLICABLE RULES:**

**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.

**G. O. #03-02-05:** Incident requiring the completion of a Tactical Response Report.

**INVESTIGATION:**

In a statement to IPRA on 20 August 2014, **Complainant** stated that on 28 July 2014, at approximately 2114 hours, at XXX W. XXX Street, he was driving and the police pulled him over. Complainant said that his lights were on and he had his seat belt on. One of the officers, now known as Officer B, approached Complainant and told him

to put out his cigarette. Complainant took a quick puff (drag) from the cigarette before putting it out. Officer B opened the door, pulled Complainant out of the vehicle, and slammed him against the car as he handcuffed him. Officer B accused Complainant of smelling like marijuana and searched him. Officer B then escorted Complainant to the back seat of the police vehicle, where he choked him and punched him in the face. Officer B then removed something from his pants pocket, put it on the seat, and claimed he found marijuana in Complainant's pants pocket. The other officer, now known as Officer A, approached and told Complainant that they were going to arrest him for the marijuana if he did not find three guns for them. Complainant did not know where to find any guns and the officers arrested him.

Complainant stated that a marked Tahoe arrived and he attempted to get out of Officers B and A's police vehicle because he did not want to be in the car with them. Officer B told Complainant to stay inside their police vehicle. Officer B began to kick Complainant on the legs, as his legs were outside of the car door, and attempted to close the door. Complainant stated a Tahoe police vehicle arrived at the scene and transported him to the police station. Complainant claimed that he suffered bruising under his right eye and marks on his wrists<sup>1</sup>, but did not seek medical care. (Atts. #7-9)

Complainant supplied IPRA with a **handwritten note** that he authored after this incident took place, prior to his interview at IPRA. The note documents that Complainant was allegedly punched and threatened with arrest, though the remaining allegations of misconduct were not reflected in this document. (Att. #12)

The **Arrest and Original Case Incident Reports** for Complainant indicate that on 28 July 2014, Complainant was arrested at XXX W. XXX Street for possession of cannabis, resisting arrest, and not wearing a seat belt. Arresting Officers B and A approached Complainant's car and smelled a strong odor of cannabis from inside the car. Complainant told the officers, "I got three bags of weed on me" and he pulled a clear-knotted plastic bag containing a green leady substance from his waistband. The officers attempted to place Complainant into custody intending to issue him an ANOV and to impound his car when Complainant became belligerent and pulled away from Officer B. Officer A and Officer B performed a handcuffing procedure and placed Complainant in custody. Complainant was also issued a traffic citation, #TE-131-856. (Atts. #13-14)

Attempts to locate **traffic citation TR-131-856** met with negative results. (Att. #17)

**Chicago Police Department General Order, #03-02-05** identifies incidents which will require the completion of a Tactical Response Report. Section II. B. 3. explains in essence that incidents which do not require documentation of a TRR when control holds utilized in conjunction with handcuffing and searching techniques which do not result in injury or allegation of injury and which by themselves are not described in Item II-A of this directive. (Att. #23)

---

<sup>1</sup> Investigator A, who took the statement of Complainant, observed that he did not have any visible injuries. (Att#8)

In a statement to IPRA on 05 October 2015, accused **Officer B**, stated essentially the same information as indicated in the arrest and case incident reports. Officer B added that Officer A was the driver of the squad car and he was the passenger. After the officers stopped Complainant, Officer A approached the driver's side of Complainant's vehicle and asked him for his driver's license; Officer B also asked if he had anything illegal on him. Complainant replied that he had a couple of bags of "weed" on him. Officer B was at the passenger side of Complainant's vehicle. Officer A then instructed Complainant to exit the car and he complied. Officer A was going to issue Complainant an administrative notice of violation (ANOV) for cannabis. Officer B remained at the passenger side of the vehicle while Officer A and Complainant were talking. Complainant became upset and belligerent after he learned that he was going to receive an ANOV citation and his vehicle was going to be towed. Officer A began to place handcuffs on Complainant and he pulled away and stated, "Why ya all messin' with me?"

At this point, Officer B joined Officer A in assisting to handcuff Complainant. Officer B grabbed one of Complainant's arms and pulled it to where Officer A could place the handcuffs on Complainant. Complainant resisted by pulling away and stiffening his body. The officers gained control of Complainant and asked him to sign the ANOV citation. Complainant refused. The officers explained to Complainant that if he did not sign the citation, he would be taken into custody and transported to the station for processing. Complainant still refused to sign the citation at which time, the officers called for a transport car because their vehicle did not have a cage in the back. Officer C and Officer D arrived at the scene. While the officers were escorting Complainant to the other police vehicle, Complainant refused to walk on his own as he would take a few steps and then stop. Officer B stated that he does not recall any problems with Complainant when he was placed inside the other police vehicle. Officer B stated that he did not punch and/or strike Complainant on the face, kick him on the legs, and or attempt to shut the police vehicle door while his legs were outside the vehicle. Complainant eventually entered the back of the police vehicle and was transported to the XXX District Station for processing. Officer B stated that Complainant never complained of any injuries. Furthermore, Officer B stated that he did not complete a TRR because he used a minimal force to place Complainant into custody and therefore, a TRR was not required. (Atts. #21-22)

On 10 July 2015, **Officer A** accepted mediation as to the allegation that he failed to complete a Tactical Response Report for his physical contact with Complainant. (see Mediation Agreement)

In statements to IPRA, witness **Officer D** and witness **Officer C**, stated that they did have no recollection of this incident. (Atts. #25-26)

## **CONCLUSION:**

The reporting investigator recommends a finding of **Not Sustained** for **Allegation #1, that Officer B** falsely arrested Complainant. Officer B stated that they stopped Complainant because he was not wearing his seat belt. Officer B stated that after they stopped Complainant and informed him that he was receiving an ANOV citation, Complainant refused to sign the citation, and therefore he was arrested. Complainant contends that he was wearing his seatbelt. Complainant claimed that the marijuana he was arrested for was planted on him by Officer B. Complainant further contends that the officers attempted to convince him to cooperate in locating firearms for them and when he refused, he was arrested. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.

The reporting investigator recommends a finding of **Not Sustained** for **Allegation #2, that Officer B** pulled Complainant out of his car and slammed him against it. Complainant contends that this occurred, though Officer B stated that it did not. There is no independent evidence available as to this allegation and Complainant had no injuries to his person. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.

The reporting investigator recommends a finding of **Not Sustained** for **Allegation #3, that Officer B** choked Complainant. Complainant contends that this occurred, though Officer B stated that it did not. There is no independent evidence available as to this allegation and Complainant had no injuries to his person. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.

The reporting investigator recommends a finding of **Not Sustained** for **Allegation #4, that Officer B** punched Complainant on the face. Complainant contends that this occurred, though Officer B stated that it did not. There is no independent evidence available as to this allegation and Complainant had no injuries to his person. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.

The reporting investigator recommends a finding of **Not Sustained** for **Allegation #5, that Officer B** attempted to slam the squad car doors on Complainant's legs. Complainant contends that this occurred, though Officer B stated that it did not. There is no independent evidence available as to this allegation and Complainant had no injuries to his person. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to

definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.

The reporting investigator recommends a finding of **Not Sustained** for **Allegation #6, that Officer B** failed to complete a TRR for his contact with Complainant. Officer B stated that he did not complete a TRR because he used minimal force to place Complainant into custody. Officer B explained that as Complainant stiffened his body and attempted to pull away, he pulled Complainant's arm behind his back and assisted Officer A in placing the handcuffs on Complainant, without further incident.

The level of force as alleged by Complainant, had it occurred, would have warranted that a TRR be completed. However, Officer B contends that such force was not used. Officer B contends that the level of physical contact he had with Complainant surmounted to simple controlling techniques required to affect his arrest. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.