

INTRODUCTION:

On 12 March 2015, the Reporting Party, Subject 1 alleges that he was sitting in his vehicle when he was approached by Officer A and Officer B. The officers removed Subject 1 from his vehicle, threw him to the ground and Tasered him four times. Several unknown officers then kicked Subject 1 multiple times on his arms, legs, back, and head while he was lying on the ground. Subject 1 was placed into custody and transported to the XXXth District Station. While inside the XXXth District Station, Subject 1's requests for medical attention and a telephone call were denied. Subject 1 alleges that he was issued several false traffic citations; his vehicle was impounded without justification; his property was not properly inventoried; and officers planted drugs on him.

ALLEGATIONS:

On 26 March 2015, at 1626 hours, the complainant, Subject 1, registered a complaint via telephone with IPRA Investigator A. The complainant alleged that on 12 March 2015, at approximately 1800 hours, at the location of XXXX South Langley Avenue, Chicago, IL, **Officer A #XXXXXX;**

- 1) Stated words to the effect of, "Open up the motherfucking door,"
- 2) Failed to identify himself as a police officer,
- 3) Tasered him several times about his body,
- 4) Kicked him about his body while he was lying on the ground,
- 5) Falsified several traffic citations,
- 6) Planted drugs on him, and
- 7) Failed to properly inventory his personal belongings.

The complainant further alleged that on the same date and time and at the same location, **Officer B #XXXXXX;**

- 1) Pointed his weapon at him without justification.

The complainant further alleged on the same date and time and at the same location, **Unknown Officers;**

- 1) Kicked him about the body while he was lying on the ground,
- 2) Failed to provide him with medical attention,
- 3) Falsified citations,
- 4) Impounded his vehicle without justification,
- 5) Failed to properly inventory his belongings,
- 6) Planted drugs on him,
- 7) Refused him medical attention, and
- 8) Refused him to make a phone call.

APPLICABLE RULES AND LAW**Rules:**

- **Rule 02:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- **Rule 03:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- **Rule 05:** Failure to perform any duty.
- **Rule 08:** Disrespect to or maltreatment of any person, while on or off duty.
- **Rule 09:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders:

- **G03-02-02: Force Options**

INVESTIGATION:

In a statement with IPRA on 01 April 2015, **Complainant Subject 1** related he was sitting in his parked vehicle at 80th and Langley when two unknown white male officers approached his vehicle and stated words to the effect of, "Open up the motherfucking door." Subject 1 refused and an officer took out his gun, pointed it at Subject 1 and threatened to shoot him through the window. Subject 1 related the unknown males were not wearing protective vests and did not announce their office.¹ Subject 1 stepped out of his vehicle and one of the officers grabbed him and threw him down to the ground. Subject 1 alleged that he was then Tasered more than four times by several unknown officers.² The officers then kicked Subject 1 multiple times on his arms, legs, back, and head while he was lying on the ground. Subject 1 was placed into custody and transported to the XXXth District Station. Subject 1 related that while at the XXXth District Station his requests for medical attention and a telephone call were denied. Subject 1 further alleged that unknown officers issued him several false traffic citations and impounded his vehicle without justification. Subject 1 further alleged that officers failed to properly inventory his personal belongs that included a pair of gym shoes which were inside his vehicle at the time of his arrest. After retrieving his vehicle from the impound yard, Subject 1 related that his gym shoes were no longer inside his vehicle. Subject 1 also alleged that officers planted drugs on him. Subject 1 could not provide the names of any witnesses. (Atts. #4, 9)

¹ Through the investigation it was determined that Officers B, #XXXXXX and A, #XXXXXX were the first officers on the scene.

² Through the investigation it was determined that Officer A discharged his Taser multiple times.

A **Canvass** was conducted on 28 March 2015 in the vicinity of XXXX S. Langley Avenue, which failed to yield witnesses. (Atts. #5, 16)

The **Chicago Fire Department Ambulance Report** documents, that on 12 March 2015, Ambulance 14 responded to the XXXth District Station at 1907 hours. Paramedics found Subject 1 to be alert and responsive. Subject 1 had two small abrasions on his arms after being in an altercation with the police, but had no obvious signs of trauma. Subject 1 refused transportation to the emergency room and stated that the Chicago Police will take him at a later time if he wanted to go to the emergency room. (Att. #7)

Medical Records obtained from **Little Company of Mary Hospital** document that, on 13 March 2015 at 1208 hours, Subject 1 sought medical treatment for abrasions to his head and right forearm; and pain to his ribs, mid back, and lower legs. Subject 1 was in police custody at the time he was admitted to the emergency room and was seen by Doctor 1. A screening of Subject 1 was performed and he was diagnosed with a contusion to his head, hypertension, and an abrasion to his right arm. Subject 1 was released to police custody on 13 March 2015 at 1441 hours. (Att. #34)

The **Department Reports (RD #XXXXXXXX, Event #XXXXXXXX)** document that Subject 1 was arrested for aggravated battery to a peace officer, two counts of resisting an officer, possession of heroin, battery, failure to stop at a stop sign, failure to wear a seat belt, operating a vehicle without insurance, and parking in handicapped space. The narrative related that Sergeant A, #XXX, received information from an anonymous concerned citizen about a black male driving a red 4-door Pontiac sedan in the area of 80th and Evans, who was selling narcotics. Sergeant A conducted surveillance and observed a vehicle which matched the exact description given, pull over and park at approximately XXXX S. Evans. Sergeant A observed the subject, now known to be Subject 1, exit the driver's seat of the vehicle and engaged in a short conversation with another black male. Sergeant A then observed the black male give Subject 1 an unknown amount of money, at which time Subject 1 then handed the black male a small item from his right hand. Subject 1 returned to his vehicle and drove southbound on Evans. Sergeant A radioed for additional units to further investigate. Officers A, #XXXXX and Officer B, #XXXXX, responded and observed Subject 1 fail to stop at a stop sign. Subject 1 then drove his vehicle to XXXX S. Langley Avenue, where he parked in a marked handicapped space. Officer A exited the driver's seat of his unmarked squad car and observed Subject 1 place multiple colored zip lock bags each containing a white powder substance, into his mouth. Officer B came around the rear of the vehicle and approached the driver's side as Subject 1 was exiting his vehicle. Subject 1 then pushed Officer B in the shoulder and attempted to run southbound. Officer A discharged his Taser and Subject 1 fell to the ground. Subject 1 refused to put his hands behind his back and violently flailed his arms and legs while officers were attempting to handcuff him. Subject 1 then flipped on to his back and repeatedly kicked Officer C, #XXXX, in his right leg and groin area. During the struggle, Officer D, #XXXX, used closed hand strikes and kicks, Officer E, #XXXX, used open hand strikes and Officer C used knee and kicks about

Subject 1, as documented in their tactical response reports. Subject 1 was placed into handcuffs, at which time he spit out the suspected narcotics. Officer C suffered soreness to his right upper leg area. Officer E suffered bruising and scrapes to his right knee. Subject 1 had Taser prong punctures and his right forearm was scraped from when he fell to the ground. Subject 1 was transported to the XXXth District Station for processing. Ambulance #14 arrived at the XXXth District Station to check Subject 1 for any injuries. Subject 1 refused medical attention. (Atts. #17, 27).

A **Tactical Response Report (TRR)** completed by **Officer A, #XXXXX**, documented that Subject 1 “did not follow verbal direction,” “stiffened,” “fled,” “pulled away” and “refused to be handcuffed.” Officer A responded with “member presence,” “verbal commands,” “Taser (probe discharge) and (contact stun).” (Att. #20)

A **Tactical Response Report** completed by **Officer C, #XXXX**, documented that Subject 1 “did not follow verbal direction,” “stiffened,” “fled,” “pulled away,” and “refused to be handcuffed,” and “attack[ed] without weapon.” Officer C responded with “member presence,” “verbal commands,” “escort holds,” “wristlock,” “arm bar,” “take down/emergency handcuffing,” “knee strike,” and “kicks.” (Att. #21)

The **Officers Battery Report** for **Officer C, #XXXX**, documented that he received minor injuries, to include bruises, swelling and minor abrasions. (Att. #22)

A **Tactical Response Report** completed by **Officer B, #XXXXX**, documented that Subject 1 “did not follow verbal direction,” “stiffened,” “fled,” “pulled away,” and “refused to be handcuffed,” and “attack[ed] without weapon.” Officer B responded with “member presence,” “verbal commands,” and “take down/emergency handcuffing.” (Att. #23)

The **Officers Battery Report** for **Officer B, #XXXXX**, documented that he did not receive any type of injury. (Att. #24)

A **Tactical Response Report** completed by **Officer E, #XXXX**, documented that Subject 1 “did not follow verbal direction,” “stiffened,” “fled,” “pulled away,” and “refused to be handcuffed.” Officer E responded with “member presence,” “verbal commands,” “escort holds,” “wristlock,” “armbar,” “pressure sensitive areas,” “open hand strike,” and “take down/emergency handcuffing.” (Att. #25)

A **Tactical Response Report** completed by **Officer D, #XXXX**, documented that Subject 1 “did not follow verbal direction,” “stiffened,” “fled,” “pulled away,” and “refused to be handcuffed.” Officer D responded with “member presence,” “verbal commands,” “escort holds,” “wristlock,” “armbar,” “pressure sensitive areas,” “open hand strike,” and “take down/emergency handcuffing.” (Att. #26)

Inventory Sheets document items inventoried that included four (4) bags of suspected heroin, United States currency, taser cartridge and prongs, jewelry, and a cellular telephone. (Att. #36)

A search for **PODS (Police Observation Devices)** revealed that there were no PODS in the vicinity of where the incident took place. (Att. #30)

The **Taser Download** documents that on 12 March 2015 at 1832 hours, Officer A's Taser was discharged twelve (12) times. (Att. #35)

In an audio recorded statement to IPRA on 08 October 2015, **Accused Officer A #XXXXX**, stated that on 12 March 2015, he was partnered with Officer B #XXXXX, when they took part in a narcotics surveillance operation with Sergeant A #XXX. Officer A was instructed by Sergeant A to conduct a traffic stop on a subject, now known to be Subject 1, after he was observed in a possible narcotics transaction. Subject 1 parked his vehicle in a handicapped spot and Officer A approached the passenger side of the vehicle, while Officer B approached Subject 1 on the driver's side of the vehicle. Officer A observed Officer B announce his office as he was walking towards the front driver's side door of Subject 1's vehicle. At the same time, Subject 1 opened the driver's side door, exited the vehicle, and pushed Officer B out of the way and ran southbound. Subject 1 ran on to the sidewalk while Officer A ran parallel to him on the street.

Officer A pulled out and activated his Taser, as Subject 1 was an "active resister since he just pushed [his] partner."³ Officer A related he was ten feet away from Subject 1 when he deployed his Taser, but the Taser had no effect on Subject 1. Officer A came to a stop, discharged his Taser at Subject 1 again, at which time the prongs struck Subject 1 in his back and he fell to the ground. Officers D, #XXXX, E, #XXXX, and C, #XXXX, approached Subject 1 in an effort to gain control of his arms and place him into custody. Subject 1 turned over on to his back and began pushing and kicking the officers. The officers continued ordering Subject 1 to stop resisting and to show his hands, but he refused.

Officer A began pulling on the trigger of the Taser in an effort get voltage through the prongs, but the Taser had no effect. Officer A believed that Subject 1 may have knocked the prongs out of his body. Officer A approached Subject 1 in an effort to drive stun⁴ Subject 1 on his thigh. Officer A continued to depress the trigger, but it had no effect.

Officer A stated that at that time, he remembered that to engage the Taser current manually, there is an activation button on the side of the Taser, outside of the trigger guard. Officer A activated the arc and drive stunned Subject 1 several times as he continued to fight with the officers.

³ Officer A, Attachment 51 , Page 21, Lines 12-13

⁴ The process of placing the Taser against an individual's body and activating the electric current manually.

Eventually, the assisting officers were able to gain control and handcuff Subject 1. After being arrested, Subject 1 spit out several small bags containing suspected narcotics.

Officer A explained that in the course of trying to drive stun Subject 1, he was confused and thought that the arc would have been engaged by pressing the trigger. Officer A denied committing any of the allegations against him. (Atts. #50, 51)

In an audio recorded statement to IPRA on 28 December 2015, **Accused Officer B, #XXXXXX**, related information similar to that of his partner, Officer A, #XXXXXX. Upon the traffic stop of Subject 1, Officer A approached the passenger side of the vehicle. Officer B walked towards the driver side of Subject 1's vehicle and was at the rear tire of the vehicle when Subject 1 exited the vehicle. Subject 1 approached Officer B and shoved him backwards. Officer B stated, "it was enough to push me where [Subject 1] was able to run on Langley."⁵

Subject 1 ran down Langley, and Officer A, who was standing near the passenger side of Subject 1's vehicle, began to run towards him and discharged his Taser, striking Subject 1 and causing Subject 1 to fall face first into the street. Officers B and A approached Subject 1 and attempted to handcuff him. Subject 1 began pulling away and then he flipped over on to his back and began kicking the officers.

Officer B related Subject 1 was pushing Officer A's arm away from him, as Officer A was attempting to drive stun him with his Taser. Additional officers arrived to assist in placing Subject 1 in to custody. Officer B ordered Subject 1 to place his hands behind his back and to stop resisting multiple times. Officer B related he could not tell how many times Officer A drive stunned Subject 1. Subject 1 was finally placed under arrest, at which time he spit several small bags of suspected narcotics out of his mouth. An ambulance was ordered to the scene, but Subject 1 refused medical treatment. Officer B related he never took his firearm out of his holster and denied pointing his weapon at Subject 1 without justification. Officer B further denied all the allegations against Officer A, except that Officer A Tasered Subject 1 during this incident. (Atts. #58, 59)

CONCLUSION:

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #1** against **Officer A, #XXXXXX**, that he stated words to the effect of, "Open up the motherfucking door." Subject 1 was not able to describe the officer that allegedly made this remark. Officer A contends that he did not state words to this effect.

⁵ Officer B, Attachment 59 , Page 12, Lines 17-18

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** against **Officer A, #XXXXX**, that he failed to identify himself as a police officer. Subject 1 makes this allegation, while Officer A contends that Officer B was wearing his protective vest with his star displayed when he approached Subject 1's vehicle and identified himself. Officer A further stated that he was wearing his protective vest and had his star displayed.

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 Report Investigator recommends a finding of **Exonerated** for **Allegation #3** against **Officer A, #XXXXX**, that he Tasered Subject 1 several times about his body. The investigation found that Subject 1 was an active resister and Officer A deployed his Taser in an attempt to stop him from fleeing arrest. Subject 1 continued to defeat arrest after being Tasered, leading Officer A to attempt to drive stun him several times until assisting officers were able to place him into custody. Though the Taser download shows that Officer A depressed the trigger of his Taser multiple times, Officer A clarified that during the course of the arrest he was confused on the operation of the Taser and continually pressed the trigger in order to engage the arc, which had no effect.

CPD Uniform and Property Order 04-02-04 allows a department member to use the Taser when confronted with a subject who is classified as an assailant or active resister. In this particular instance, Subject 1 actions were consistent with that of an active resistor who is attempting to escape through flight. CPD General Order 03-03-02 defines an active resistor as one whose actions create distance between that person and the member's reach, with the intent to avoid physical control and/or defeat arrest. The same general order defines an assailant as a person who is using or threatening the imminent use of force against another person. Given the provisions of U04-02-04 and the definitions outlined in GO 03-03-02, Officer A's use of the Taser was appropriate and within the policy of the Chicago Police Department.

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #4** against **Officer A, #XXXXX**, that he kicked Subject 1 about his body while he was lying on the ground. The investigation shows that it was Officer C who delivered the strikes to Subject 1, not Officer A. In his TRR, Officer C reports that he delivered "knee strikes" and "kicks" to Subject 1, as Subject 1 was an assailant. CPD General Order 03-03-02 allows a department member to

use direct mechanical strikes⁶ when confronted with a subject who is classified as an assailant. The same general order defines an assailant as a person who is using or threatening the imminent use of force against another person. Given the provisions and the definitions outlined in GO 03-03-02, Officer C's use of force was appropriate and within the policy of the Chicago Police Department.

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #5** against **Officer A, #XXXXXX**, that he falsified several traffic citations. Officer A contends that he observed Subject 1 conduct several traffic violations before conducting the traffic stop of his vehicle, which was documented in the arrest report. Subject 1 was cited for failure to stop at a stop sign, failure to wear a seat belt, operating a vehicle without insurance, and parking in a handicapped space without a proper permit. Officer B corroborated Officer A's account, as do the Department reports. Subject 1 asserts that he did not commit any of the infractions listed above.

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** against **Officer A, #XXXXXX**, that he planted drugs on him. It was documented in the arrest report that Subject 1 placed "multiple colored zip lock bags, each containing a white powder substance, into his mouth." The reports further document that Subject 1 spit out the zip lock bags once he was placed into custody. Officer A relayed this same information in his statement which was corroborated by his partner, Officer B. Further, Officer A documented the recovery of narcotics in the Inventory Sheets. Subject 1 asserts that he did not possess any narcotics, and that the arresting officers "planted" them on 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 #7** against **Officer A, #XXXXXX**, that he failed to properly inventory all of Subject 1's belongings. Subject 1 alleged that a pair of gym shoes were stolen out of his vehicle. Subject 1 stated that he had a pair of gym shoes in his vehicle on the date of the incident. When he went to retrieve his

⁶ Direct mechanical techniques are hard, concentrating, striking movements such as punching and kicking, or powerful locks and pressures. These techniques can be combined with take-downs or pins against the ground or other objects.

vehicle from the impound yard, the gym shoes were no longer there. Subject 1 did not observe an officer take the shoes out of his vehicle and does not allege that any specific officer took them. Officer A denied the allegation, asserting that he documented all of Subject 1's property on the inventory sheets. The property documented as inventoried includes US Currency, jewelry, and a cell phone belonging to Subject 1.

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 #1** against **Officer B #XXXXX**, that he pointed his weapon at Subject 1 without justification. Officer B related he never took his weapon out of its holster and denied ever pointing his weapon at Subject 1. Subject 1 contends that this this occurred as he alleged.

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 **Allegations #1-6** against **Unknown Officers**. Subject 1's allegations were duplicative in comparison to the allegations already made and addressed in this investigation, against Officer A and Officer B. Subject 1 did not provide specific identifying information regarding these additional officers. There is insufficient evidence to support or refute that additional misconduct occurred beyond what has already been alleged and investigated. The Reporting Investigator therefore recommends a finding of Not Sustained.

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #7** against **Unknown Officers**, that Subject 1's request for medical attention was denied. Though Subject 1 claims that he was denied medical attention, this investigation has shown that a Chicago Fire Department Ambulance was called to the scene and documented two small abrasions on Subject 1's arms. Subject 1 refused transportation to the emergency room. Additionally, Subject 1's arrest report documented that Subject 1 answered "No" when asked if he was in obvious pain or injury. The Reporting Investigator therefore recommends a finding of Unfounded.

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #8** against **Unknown Officers**, that Subject 1's request to make a phone call was denied. Subject 1 did not provide specific identifying information regarding the officers to whom he would have made this request. Subject 1 was not specific as to how, or to whom, or when his request was made. 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. Without further information, the officers cannot be identified. The reporting investigator therefore recommends a finding of Not Sustained.