

**INTRODUCTION:**

The complainant, Complainant, was arrested on a complaint for assault. Complainant made multiple allegations against one of the officers that arrested him. Furthermore, Complainant made an allegation against an unknown Sergeant that failed to take his complaint while at the district station. This investigation has shown that evidence neither supports nor refutes that allegations made against the Officer or the Sergeant.

**ALLEGATIONS:**

On 26 May 2015, at approximately 2000 hours, IPRA Investigator A registered the complaint that was made via telephone. The reporting party/victim, Complainant, alleged that on 26 May 2015, at approximately 1900 hours, in the hallway of XXXX S. Paulina Street, Apartment XX, **Officer A #XXXXXX**, of the X District:

- 1) Called Complainant a “stupid fuck,”
- 2) kicked Complainant’s apartment door open without permission and/or a warrant,
- 3) grabbed Complainant’s arms and “threw” him to the ground,
- 4) “swung” Complainant against a wall; and,
- 5) ignored Complainant’s request to be brought slowly down the stairs and as a result aggravated his prior knee injury.

Complainant further alleged that on 27 May 2015, at approximately 0200 hours, at XXXX W. Ogden Avenue, at the front desk, an unknown male Sergeant:

- 1) Refused Complainant’s request to file a complaint and threatened to arrest Complainant if he did not leave.

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

**INVESTIGATION:**

Complainant provided a **statement to IPRA** and elaborated on the allegations he made via telephone.

Complainant admitted that he refused orders to open his residence door without a warrant; and, he used derogatory language towards the officer. Complainant stated that his injuries included a bruise to his head as a result of Officer A kicking his door open and, irritation to a prior knee injury.

Complainant stated that after Officer A gained entry into his apartment, he

grabbed Complainant by his arms and threw him to the ground. Officer A handcuffed Complainant and then picked Complainant off the floor, along with a second unknown officer, to escort him out of the apartment. As Officer A escorted Complainant out of the apartment, he “flung” Complainant into a wall, from left to right, which resulted in Complainant hitting the right side of his head against the wall.

Complainant felt irritation to his right knee as a result of Officer A walking him quickly down the steps. Complainant stated that he had notified the officers that he had an old injury to his knee and was unable to walk down the steps quickly. However, he was ignored. Complainant further stated that as a result of his door being kicked open, his lock became damaged. Complainant denied assaulting witness, Civilian 1.

Furthermore, Complainant stated that approximately 30 to 40 minutes prior to his arrest, on this same date and location, his brother, Civilian 2, was arrested<sup>1</sup>. Complainant was arrested due to an altercation between himself and Civilian 1 in which Complainant was not present for. Complainant stated that he was in his apartment on the 2<sup>nd</sup> floor when he heard commotion coming from the 1<sup>st</sup> floor. Complainant went to see what was taking place at which time he encountered unknown officers detaining his brother who was resisting arrest. Complainant stated that he attempted to speak to his brother when additional assisting officers arrived on scene. Complainant was ordered to get on the ground and he did not comply. At that time, an unknown officer grabbed Complainant by his hands and pushed him to the floor. Complainant skidded on carpet and as a result, he sustained a scrape to his left shoulder. Complainant stated that he stiffened his body and began to resist. Complainant was ordered to stop resisting at which at time an unknown officer grabbed his forearms and pulled them behind his back to handcuff him. Subsequently, Complainant was released. Complainant stated that he understood why the officers took the action that they did and this was not a part of his complaint. (Att. #6, #7)

Witness, Civilian 1, provided a **statement to IPRA** and stated that she called the police multiple times on the date of incident. The first two times were relative to the arrest of Complainant’s brother, Civilian 2. After Civilian 2 was arrested and removed from the property, Civilian 1 encountered Complainant in the building and he threatened her. As a result, Civilian 1 called the police a third time. Officer A and other unknown officers responded. Civilian 1 allowed the officers to enter the building and directed them to Complainant’s apartment. Civilian 1 did not observe the encounter between Complainant and the police but, did hear the interaction to include verbal exchange. According to Civilian 1, the officers repeatedly asked Complainant to open the door and he refused. She then heard the door “squeak” open and the officers ordered Complainant to place his hands behind his back. Civilian 1 observed the officers escort Complainant outside of the building. After Complainant was taken into custody and left the property, Civilian 1 returned to her apartment, unit XX, which is across from Complainant’s apartment. She stated that at no time did she observe any damage to his door nor was it ever reported. (Att. #25, #27)

In a **telephone conversation** with the owners of XXXX S. Paulina Street,

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<sup>1</sup> Refer to RD#XXXXXXXX

Civilian 3 and his wife, name not provided, stated that at no time did Complainant, report any damage to his apartment door. Furthermore, they had no knowledge of the incident. (Att. #29)

**Attempts for additional witnesses** Civilian 4 and Civilian 5, made via telephone and mail, proved unsuccessful. (Att. #30, #31, #32, #33)

The **Event Query #1514615949** documents that Civilian 1 called 911 to report that she was being threatened by the brother of a tenant who was just arrested. Beat XXXX was assigned the job. (Att. #13)

**Evidence Technician Photographs** taken of Complainant on 29 May 2015, depict what appear to be small abrasions near his right and left elbow, as well as his left shoulder area<sup>2</sup>. Photographs were taken of Complainant's face and forehead. The photographs do not clearly depict any visible injury to his face and/or forehead. (Att #23)

In a **statement to IPRA, Officer A** stated that on the date of incident, he was on-duty, in uniform, assigned to Beat XXXX and partnered with Officer B. Officer A and his partner responded twice to the location of incident, XXXX S. Paulina Street. The first response was to assist other officers placing an offender in custody. They responded the second time due to the victim, Civilian 1, being threatened by Complainant. Civilian 1 reported the threats and requested that Officer A and his partner arrest Complainant.

According to Officer A, Civilian 1 directed the officers to Complainant's apartment on the 2<sup>nd</sup> floor. As the officers were approaching a stairwell that lead to the 2<sup>nd</sup> floor, Officer A heard footsteps. Officer A began to jog up the stairs and as he approached the 2<sup>nd</sup> floor landing, he heard the sound of a door closing. Officer A used his hand and knee in an attempt to keep the door open and felt resistance. Officer A ordered Complainant to "stop fucking around." Complainant denied the officers entry, began to yell profanities and told them they needed a warrant. Officer A then "lunged" forward and completely opened the door. It is unknown if Complainant may have fallen back or, if the door may have struck Complainant when it was pushed open. There were no injuries observed and Complainant did not complain of any injuries at that time. However, Complainant did later complain to Officer A that the door struck him, to which Officer A explained he needed to gain entry.

Furthermore, according to Officer A, it was appropriate for them to enter Complainant's apartment without a warrant because he was named as an offender and Officer A considered this as a "hot pursuit" after her heard the rapid footsteps coming from the area of Complainant's residence.

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<sup>2</sup> Complainant stated that he had sustained a rug burn to his left shoulder due to a prior incident on this same date and location, in which unknown officers, who responded to the arrest of his brother under RD#XXXXXXXX, took Complainant down to the ground after he failed to comply with officer's orders. Complainant stated that he was not making a complaint against these officers as he understood why they took the action they did.

Once the door was open, Officer A ordered Complainant to lay on the floor in which he complied. Officer A detained Complainant while his partner, Officer B, was focused on three unknown individuals in the apartment. After Officer A handcuffed Complainant, he picked him up to his feet. As Officer A began to escort Complainant out of the apartment, he felt Complainant moving his shoulders and it appeared as if he was attempting to get away from the control of Officer A. At that time, Officer A pushed Complainant against the wall to gain control.

Officer A began to escort Complainant down the stairs, which he described as narrow. Complainant was in front and a few steps ahead of Officer A as they were going down the stairs. Officer A stated that on a few occasions, he tripped on the steps and leaned forward onto Complainant to gain his footing. Complainant responded by complaining about the pain in his knee each time Officer A leaned on him and alleged that he was pushing him. Officer A explained to Complainant that the steps were steep and that also he could not let him go as they were going down the stairs.

Complainant was taken to the XXX district station where he was processed. While at the station, Complainant requested medical treatment for his knee and he was transported to Hospital A.

Officer A does not recall calling Complainant a “stupid fuck” or any other derogatory names. Officer A denied all further allegations made against him by Complainant.

In a **statement to IPRA, Officer B** provided an account of the events that was similar to that provided by Officer A.

In addition, Officer B stated that as the officers arrived to the landing of the 2<sup>nd</sup> floor, Complainant’s door was partially open and he attempted to close it on the officers. At that time, Officer A attempted to keep the door open by pushing it with his shoulder. Officer A and Complainant ensued in a struggle to keep the door open and at no time was the door completely closed. During the struggle, Officer A and Complainant began to yell at each other. However, Officer B did not recall the specific language used. Officer B stated that he did not recall hearing Complainant call Officer A a “stupid fuck” and at no time did Officer A call Complainant a “stupid fuck.” At no time did Officer A kick the door.

After the door was opened, Officer A ordered Complainant to lay on the ground in which he complied. Officer B observed two unknown males and one unknown female sitting on a couch at which time he focused on them. Officer A began to place Complainant into custody as Complainant was laid on the ground. Officer B described Complainant’s demeanor as belligerent and non-compliant.

After Complainant was handcuffed, he was escorted out of the apartment. Officer A escorted Complainant down the stairwell. Officer B did not observe Officer A swing Complainant against a wall at any time. Officer B does not recall any struggle between

Officer A and Complainant as they were going down the stairs. Officer B does not recall their pace as they were going down the stairs nor does he recall a request by Complainant to be brought slowly down the stairs.

Complainant was taken to the X District station where he was charged with Assault. Officer B was unaware of any injuries sustained by Complainant. Officer B does not recall Complainant complaining of any injuries at any time.

### **CONCLUSION:**

The R/I recommends a finding of **Not Sustained** for **Allegation #1 – 5** against **Officer A #XXXXX**.

As to Allegation #1, Complainant stated that Officer A called him a “stupid fuck” and Complainant responded by also calling Officer A a “stupid fuck.” Officer A stated that he did not recall calling Complainant a “stupid fuck” but, did admit that he told Complainant to “stop fucking around.”

As to Allegation #2, Complainant stated that Officer A kicked open the door, without a warrant, and as a result the door struck Complainant in the head. Officer A stated that he was allowed to enter without a warrant because Complainant was named as an offender and Officer A considered this as a “hot pursuit” after her heard the rapid footsteps coming from the area of Complainant’s residence.

Officer A further stated that he attempted to keep the door open with his foot and knee as Complainant attempted to close it and he refused to comply with police orders. Both Officer A and Officer B stated that at no time did Officer A kick the door. Officer A stated that upon pushing the door open, the door may have struck Complainant. It is reasonable to believe that due to the struggle and level of resistance that ensued between Complainant and Officer A to keep the door open, the level of force used by Officer A when the door was pushed open, could have struck Complainant as Complainant was against the other side of the door attempting to keep it closed. It is reasonable to believe that it was not the intent of Officer A to strike Complainant with the door, if in fact he did, but rather to open the door.

In addition, Civilian 1 stated that at no time did she observe any damage to Complainant’s door immediately following the incident nor was it ever reported. The owners of the building, Mr. and Mrs. Civilian 3, corroborated this information and stated that at no time did Complainant ever report damage to his apartment door.

As to Allegation #3, Complainant alleged that Officer A grabbed him by his arms and threw him to the ground. Officer A stated that upon entry into the apartment, Complainant was standing a few feet away from the entrance. Officer A ordered Complainant to the ground in which he complied. Officer B corroborated this information. Officer A stated that at no time did he grab or throw Complainant to the ground.

As to Allegations #4&5, Complainant alleged that Officer A swung him into a wall and brought him down the stairs quickly which caused irritation to a prior injury in his knee. Officer A admitted to pushing Complainant into a wall to gain control after Complainant began moving his shoulders to escape control.

Complainant's allegations are not supported by substantial evidence as there are no independent witnesses to corroborate them

The statements of Officer A and his partner, Officer B, as well as the statement of witness Civilian 1, refute the allegations made by Complainant. Furthermore, Officer A, Officer B and Civilian 1 corroborate that Complainant was non-compliant and Complainant admitted his refusal to obey police orders.

With that said, it is important to note that Complainant admitted to his resistance and failure to obey orders during specific events in both his arrest as well as during the arrest of his brother, Civilian 2, earlier on this date.

In regards to the injuries sustained by Complainant, ET photographs depict small scrapes around Complainant's right and left elbow, as well as a scrape on Complainant's left shoulder. Complainant stated that the scrape to his left shoulder was from a prior incident earlier on this date. Although Complainant stated that he sustained bruising to his forehead, the evidence does not depict clearly visible bruising on or near his forehead. Complainant alleges that he sustained injury to his forehead on multiple occasions. It would be more likely than not that if his forehead was subject to injury more than once, it would be clearly visible.

Nonetheless, there is insufficient evidence to support or refute the allegations made by Complainant. Therefore, the R/I recommends that the allegations are found to be **Not Sustained**.

The R/I recommends a finding of **Not Sustained** for **Allegation #1** against an **Unknown Officer**.

The allegation that a male Hispanic Sergeant refused to file a complaint is not supported by evidence as Complainant failed to provide additional information to identify the Sergeant. Therefore, the R/I recommends that this allegation is **Not Sustained**.