

## INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1078266

### INTRODUCTION:

On 01 December 2015, Officers A and B responded to a call of a domestic disturbance at XXXX W. Pensacola Avenue. Upon arrival, Civilian 1, who was pregnant, informed the officers that her intoxicated husband, Subject 1, broke into her home and started throwing things at her, trying to force her out of the house. She requested Subject A be removed from the house, as he was not listed on her lease agreement. Subject A was wearing only his underwear when the officers arrived. Officer A and Officer B gave Subject A multiple orders to dress himself appropriately, which Subject A refused. Officer A and Officer B handcuffed Subject A and removed him from the house. At Subject A's request, Officer A and Officer B drove Subject A to the X Gas Station at XXXX W. Grand Avenue, River Grove, Illinois where they dropped him off.

### ALLEGATIONS:

On 01 December 2015, at 1957 hours, Subject A called the Independent Police Review Authority (IPRA) and registered this complaint with Intake Aide A. Subject A alleged that on 01 December 2015, between 0200 to 0400 hours, at XXXX W. Pensacola Avenue, and at XXXX W. Grand Avenue, **Officer A #XXXXXX**, and **Officer B #XXXX**, **Unit XXX**;

- 1) Handcuffed Subject A too tightly, **in violation of Rule 8, which prohibits disrespect or maltreatment of any person, while on or off duty.**
- 2) Transported Subject A to a BP Gas Station on River Road, and left him there wearing only his underwear, **in violation of Rule 8, which prohibits disrespect or maltreatment of any person, while on or off duty.**

### APPLICABLE RULES AND LAW:

Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.

### INVESTIGATION:

**In a statement with IPRA on 05 December 2015, Subject A** stated that on the date of the incident, he was suffering from depression and experiencing financial difficulty. Subject A explained that he had been drinking and became engaged in an argument with his wife, Civilian A. During the course of the argument, he threw a shoe at Civilian A. Civilian A, who was six months pregnant, felt threatened and called the police. Officers A and B, responded to the scene. Civilian A requested Subject A be removed from the house. Subject A stated that he was sitting in the closet in his underwear when the officers arrived. Officer A asked Subject A to get dressed, explaining that he had to leave the home. Subject A ignored Officer A's request and remained seated in the closet in his underwear. Officer A asked him again to get dressed, and he still did not comply. Officer A took hold of Subject A and handcuffed him. As Officers A and B were taking Subject A out of the house, Civilian A placed Subject A's clothing in a bag and gave

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it to the officers.

Subject A stated that as the officers placed him in the squad car he told Officer A that the handcuffs were too tight. Officer A ignored Subject A, drove him to a XX Gas station, and told Subject A to get out of the squad car. Officer A removed the handcuffs, gave him the bag containing his clothing and got back in the squad car without saying anything to him. Officer A then drove away and left him standing only in his underwear.

Subject A attempted to go in the XX gas station, but the cashier would not allow him inside the store because he was not dressed, so he went to the XX next to the gas station and got dressed. Subject A called his boss who picked him up and took him back home. Subject A stated that when he returned home, his wife let him into the house, and he went to sleep. Subject A stated that there was no further altercation between him and his wife. Subject A had soreness to his shoulder and numbness to his right thumb, though he did not seek medical treatment. (Att. #12 & 13)

On 09 December 2015, IPRA investigators attempted to **obtain video** from the XX Gas Station and the XX Restaurant at XXXX W. Grand Avenue. Civilian 2 of the XX gas station checked the security video and was not able to identify any footage from the date and time of the incident, indicating that the gas station has a 24-48 hour retention period, so footage for 01 December 2015 was no longer available. Furthermore, Civilian 2 stated that the gas station's outside cameras only capture the area underneath the canopy at the gas pumps and not the parking lot surrounding the establishment.

Between 09 December 2015 and 13 January 2016, IPRA investigators attempted to **obtain video** from the XX located at XXXX W. Grand Avenue. Civilian 3, manager of the XX, checked the video system for data for the date and time of the incident, but indicated that the footage had been copied over and was no longer available. (Att. #14, 16 & 17)

The **Office of Emergency Management and Communication (OEMC) Records** indicated that on 01 December 2015, at 0059 hours, Beat XXXXX responded to a call at XXXX W. Pensacola Avenue. The caller, Civilian A, stated her intoxicated husband, Subject A, broke in her door and started throwing things at her. Civilian A added that Subject A was trying to "put her out," and that she is six months pregnant. (Att. #04)

The **Attendance and Assignment Record** for the date of the incident indicated that Officers A and B, Unit XXX, were working 1<sup>st</sup> watch and assigned to vehicle #XXXX, Beat XXXXX. (Att. #08)

In a **To-From-Subject Report** dated 21 April 2016, **Officer A #XXXXX**, stated that he was assigned to investigate a domestic disturbance at XXXX W. Pensacola Avenue along with his partner, Officer B, on 01 December 2015 at approximately 0100 hours. After speaking with the female complainant, Civilian A, Officer A was shown an apartment lease which did not include Subject A. Civilian A instructed Subject A to vacate the apartment, and Subject A was compliant when given instruction by Civilian A to vacate the apartment. Officer A then departed.

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Officer A stated that at 0248 hours, he was assigned another disturbance call at XXXX W. Pensacola Avenue. Upon arrival, Civilian A informed the officers that Subject A had returned and was being disruptive; Civilian A again asked that Subject A be removed from the apartment. Officer A went to the bedroom and discovered Subject A sitting inside the closet wearing only his underwear. Officer A stated that he repeatedly instructed Subject A to get dressed and make himself decent, though Subject A remained sitting on the floor, not responding to any instructions. Officer A asked Civilian A for Subject A's clothes, which she gathered and gave to Subject A. The officers again instructed Subject A to dress himself, though Subject A made no efforts to put on his clothes. Officer A told Subject A "If you do not put on clothes and leave, then I will have to remove you as you are." Subject A made no effort to follow directions. Civilian A told Officer A, "I don't want him arrested, but he cannot stay here."

Officer A stated that he again told Subject A that, "If he did not get dressed, he would remove him as he was." Subject A continued to sit quietly, so Officer A used a Department approved wristlock and arm-bar holds to get Subject A onto his feet and handcuffed him for safety. Officers A and B escorted Subject A out of the house and placed him in the squad car. Officer A returned to the apartment and collected Subject A's clothing. Officer A informed Civilian A that Subject A was not being arrested but would be taken to a relative, a friend's home, or a hotel.

Officer A returned to the squad car and asked Subject A where he would like them to take him. Subject A responded that he had nowhere to go. Officer A asked Subject A if he would like to be taken to a hotel near Belmont Avenue and River Road and Subject A agreed. Officer A obtained permission from a supervisor and relocated Subject A to Belmont Avenue and River Road. Officer A stated that during the transit, Subject A was belligerent and irritated. Officer A stated that he dropped Subject A across the street from the hotel near a gas station, removed the handcuffs and handed him the plastic bag with his clothes. Officer A stated that he then told Subject A, "Once you get dressed, you can go to the hotel or wherever you want, but you can not return to your girlfriend's apartment." Officer A stated that as Subject A was getting dressed, he and Officer B got in the squad car and left the scene.<sup>1</sup> (Att. #34)

In a **To-From-Subject Report, dated 21 April 2016, Officer B #XXXX**, stated that she was assigned to beat XXXXX in full uniform with Officer A as her partner. Officer B stated that she received a call of a domestic disturbance at XXXX W. Pensacola Avenue. The complainant, Civilian A, stated that her intoxicated husband broke in her door and started throwing things at her. While Officer A met with Civilian A, Officer B stood outside the building with Subject A. Officer B detected a strong odor of an alcoholic beverage on Subject A's breath and Subject A was pacing back and forth stating, "This is so embarrassing, all my neighbors are seeing this." Officer B asked Subject A if there was any place he can go and stay for the evening, to which Subject A replied, "I can go to my friend's house."

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<sup>1</sup> The XX motel located at XXXX N. River Rd, River Grove IL is at the intersection of Belmont and River Road. There are two different X Gas Station's adjacent to the motel. The XX/XX located at XXXX W. Grand Ave is approximately half of a mile away. In his statement, Subject A stated that he walked to the corner of Grand and River Rd before calling his boss.

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When Officer A returned from speaking with Civilian A, he stated that Civilian A did not want Subject A to return to her residence. Subject A then stated, "Why don't you just shoot me 16, 17, 20 times and get it over with?" Officer B told Subject A that they were not there to hurt him and asked him where his friend lived so they can give him a ride there. Subject A stated that all his family live in New York and he has no relatives here. Officer B instructed Subject A to leave the area. Subject A walked away from the property and Officer B and her partner left as well.

Later, Officer B and Officer A received a second call of a domestic disturbance at same location and the caller, Civilian A, stated that Subject A was again trying to force her to leave her home. Upon their arrival, Civilian A informed Officer B and Officer A that Subject A was in the bedroom closet and he would not come out. The officers proceeded to the bedroom of the home, where Officer B stood by the bedroom door as Officer A ordered Subject A to come out of the closet. Officer A also instructed Subject A to dress himself, as he was wearing only his underwear.

Subject A did not comply with any instructions given to him. Officer A went inside the closet and grabbed Subject A out of the closet. As the officers attempted to place handcuffs on Subject A, Subject A stiffened his arms in an apparent attempt to avoid being handcuffed. After placing the handcuffs on Subject A and placing him in the squad car, Officer B remained with Subject A in the squad car as Officer A went back inside to speak with Civilian A. While Officer B waited for Officer A to return, Subject A was moving around inside the squad car stating, "Let me out of here."

Officer B indicated that as Subject A moved, he complained that his handcuffs were too tight. Officer B instructed Subject A to stop moving, as his actions were causing the handcuffs to shift, though he did not comply with her instructions.

Officer A returned to the squad car a few minutes later with Subject A's personal belongings in a bag. Officer B stated that when Officer A got inside the squad car, Subject A asked Officer A to let him go. Officer A requested approval for a change of location from a supervisor. Once the approval was received, the officers drove Subject A to the location of XXXX W. Grand Avenue. When they arrived at the location, Officer A exited the squad car and opened the door for Subject A to come out. Officer B remained in the squad car. Officer B did not see or hear the conversation Officer A had with Subject A. After several minutes, Officer A returned to the squad car and the officers left the scene. Officer B added that Subject A was given two direct orders to dress himself decently and he failed to comply. (Att. #37)

### CONCLUSION:

The Reporting Investigator recommends that **Allegation #1**, that Officer A handcuffed Subject A too tightly, be **Not Sustained**. While an IPRA investigator observed a bruise on Subject A's right wrist on 05 December 2015, the specific cause of the injury cannot be determined. Although Subject A contends the handcuffs were too tight, Officer B explained that

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Subject A was shifting his position erratically while seated in the rear of their squad car, while handcuffed. If Subject A's bruising was caused by the handcuffs, there is insufficient evidence to determine if the injury was caused by the manner the handcuffs were applied, or Subject A's subsequent physical movement while handcuffed.

The Reporting Investigator recommends that **Allegation #2**, that Officer A transported Subject A to a XX Gas Station on River Road, and left him there wearing only his underwear, be **Exonerated**. The core facts at issue here are not in dispute. Officer A and Officer B gave Subject A multiple opportunities to dress himself appropriately, which he continuously refused. When he would not dress himself, the officers collected clothing for Subject A, with the assistance of Civilian A. The officers then offered to drive Subject A to the location of his choosing. Subject A agreed to be taken to a motel in the area of XXXX W. Grand Avenue. Upon arrival, Subject A was given the clothing that had been collected for him.

Chicago Police Department General Order GO4-04 provides that "whenever a department member responds to a domestic incident, the responding member will immediately use all reasonable means to prevent further abuse, neglect, or exploitation..." The order further establishes that one such remedy is to arrest the offender, when probable cause exists that would warrant an arrest. The order also establishes that when a "bona fide allegation of domestic violence" has been made, than a report will be authored.

The actions taken by the officers in this particular incident are not expressly prohibited by any existing General Order. The procedures for officers responding to an incident such as this are also not clearly defined, and ultimately the officers are required to rely upon their discretion in handling such as occurrence. In this instance, the officers were not able to make an arrest; as independent probable cause to do so was absent. Their decision to remove Subject A and transport him to a safe location was, by all measures, reasonable, not in violation of policy, and made in good faith.

Based on his own description of the events, coupled with the statements provided by Officer A and Officer B, this investigation shows no action or inaction on the part of Officer A that amounts to misconduct, impedes the Department's efforts to achieve its policy and goals or brings credit upon the Department. Subject A was argumentative and refused to comply with any orders given to him, to include multiple orders to dress himself. The officers made efforts to collect clothing for Subject A and transported him to a secondary location, after receiving approval to do so from a supervisor.

The Reporting Investigator recommends that **Allegation #1**, that Officer B handcuffed Subject A too tightly, be **Unfounded**. Officer B did not place the handcuffs on Subject A; the handcuffs were applied by Officer A.

The Reporting Investigator recommends that **Allegation #2**, that Officer B transported Subject A to a XX Gas Station on River Road, and left him there wearing only his underwear, be **Exonerated**. Officer A and Officer B explained that Subject A was given multiple opportunities to dress himself appropriately, which he continuously refused. When he would not dress himself, the officers collected clothing for Subject A, with the assistance of Civilian A. The officers then

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Based on his own description of the events, coupled with the statements provided by Officer A and Officer B, this investigation shows no action or inaction on the part of Officer B that amounts to misconduct. Subject A was argumentative and refused to comply with any orders given to him, to include the order to dress himself. The officers made efforts to collect clothing for Subject A and transported him to a secondary location, after receiving approval to do so from a supervisor.