

**INTRODUCTION:**

This investigation revealed that Complainant Complainant, and his friend, Civilian 1, got into an altercation inside of Restaurant A with two unknown males and an unknown female. Once Complainant and Civilian 1 exited the restaurant to go to the parking lot, they were met by the two unknown males and the unknown female, who they alleged punched and kicked them about the head and body. Complainant and Civilian 1 believed that the unknown assailants were police officers because Complainant and Civilian 1 stated that the unknown female told them to stop fighting the two unknown males because those men were cops. Surveillance video footage captured the physical altercation and the subsequent police response. Officers A, B, and C responded to the scene when all of the above parties were present. The responding officers allowed the assailants to leave without obtaining their names, did not obtain medical care for the victims, and did not complete the required reports. Attempts to identify the assailants were unsuccessful and their identities remain unknown.

**ALLEGATIONS:**

Complainant Complainant alleged that on 07 February 2010, at approximately 0300 hours, at XXXX N. Western Avenue, **Unknown Officer(s):**

- 1) Punched him about the head and body, in violation of Rule 8 and Rule 9;
- 2) Kicked him about the head and body, in violation of Rule 8 and Rule 9;

It is further alleged that during the same incident, Victim, Civilian 1 alleged that **Unknown Officer(s):**

- 3) Punched him about the head and body, in violation of Rule 8 and Rule 9;
- 4) Kicked him about the head and body, in violation of Rule 8 and Rule 9;

It is further alleged that on the same date, at approximately 0400 hours, at XXXX N. Rockwell Street, **Sergeant A #XXXX:**

- 1) Was inattentive to duty, in that he failed to properly document the encounter, in violation Rule 5; and
- 2) Failed to take appropriate police action by registering a complaint, in violation of Rule 5.

Complainant alleged that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, **Officer C #XXXXX, Officer B #XXXXX, and Officer A #XXXXX<sup>1</sup>:**

- 1) Failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1, in violation of Rule 2, Rule 5, and Rule 6;

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<sup>1</sup> These accused officers were initially served with more general allegations. On 09 December 2016, the accused officers agreed that their previous statements were sufficiently responsive to the more specific allegations. (Atts. 463-474)

- 2) Failed to convey a sense of concern and general interest to Complainant and Civilian 1, in violation of Rule 2, Rule 5, and Rule 6;
- 3) Failed to document the altercation between Complainant, Civilian 1, and their assailants, in violation of Rule, 2, Rule 5 and Rule 6;
- 4) Failed to render aid to Complainant and Civilian 1, in violation of Rule, 2, Rule 5 and Rule 6;
- 5) Allowed the alleged assailants to leave the scene of a battery without obtaining their identities in violation of Rule 2, and Rule 5;
- 6) Failed to arrest the assailants of Complainant and Civilian 1 in violation of Rule, 2, Rule 5 and Rule 6;
- 7) Allowed visibly intoxicated assailants/witnesses to operate a motor vehicle to leave the scene of a battery in violation of Rule, 2, Rule 5 and Rule 6;
- 8) Failed to locate, identify, and interview the complainants/witnesses in violation of Rule, 2, Rule 5 and Rule 6; and
- 9) Failed to report misconduct by alleged members of the Chicago Police Department by informing a supervisor of the alleged misconduct in violation of Rule, 2, Rule 5 and Rule 6.

It is further alleged that during the same incident, **Officer C #XXXXX:**

- 10) Physically maltreated Complainant by kneeling or kicking him, in violation of Rule 8 and Rule 9.

**APPLICABLE RULES AND LAW:**

**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 5:** Failure to perform any duty.

**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.

**General Order 93-03-02B. Specific Responsibilities, II.B.1.:** When misconduct is observed or a complaint relative to misconduct is received by a non-supervisory member, such member will immediately notify a supervisory member and prepare a written report to the commanding officer containing the information received, observations made, and any action taken.

**General Order 04-03, Preliminary Investigations, Section III. B. 1-3:** Members conducting a preliminary investigation will conduct a thorough and accurate investigation, convey a sense of concern and general interest to all persons in need of police service, and complete and submit all necessary reports and notifications, unless otherwise directed by a supervisor.

**General Order 04-03, Preliminary Investigations, Section IV. A. 1, 2, 4, and 6:** Members will upon arrival use the following procedures when conducting preliminary investigations by rendering aid to the injured; determine if there is reasonable belief that a crime has been or is being committed; arrest the offender is still on or near the scene and probable cause for an arrest exists; locate, identify, and interview the complainant / witness, obtain a description of the offender(s) and, when appropriate, alert other police units by sending a flash message.

**General Order 04-08, Section IV.:** When an officer has reasonable suspicion to believe that an individual is operating or is in actual physical control of a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, the officer will safely stop the vehicle if moving; instruct the driver to shut off the motor, if running; inform the driver of the requirement to produce his/her driver's license or permit and proof of insurance upon demand; interview the driver to determine the degree of impairment; and determine whether probable cause exists to charge the driver with DUI based upon any or all of the following, observations of the person's driving, observations of the driver's condition, an interview of the driver, and/or results of Standardized Field Sobriety Tests (SFST).

**Special Order 09-05-01, Department Reports and Letters of Clearance, Section III. A. 1. :** Department Reports provide an accurate record of the official actions of Department members concerning matters of police concern.

**INVESTIGATION:**

In his first statement to IPRA on 07 February 2010, Complainant stated that, in the early morning hours of 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he and his friend, Civilian 1, were preparing to leave Restaurant A when an unknown white male, who was also leaving, bumped into Civilian 1. The unknown white male was accompanied by an unknown Hispanic male and an unknown white or Hispanic female. Civilian 1 exchanged words with the unknown white male and a verbal altercation ensued. Everyone in the restaurant acted as if a fight was going to break out and Complainant explained that he and Civilian 1 said, "Relax, everything's okay. No problem. We're not going to do anything. Everything's fine. Just relax."<sup>2</sup> The situation calmed and the two unknown males and the unknown female exited the restaurant. Complainant and Civilian 1 thought the situation was resolved and exited the restaurant approximately 10-15 seconds later.

When Complainant and Civilian 1 came outside, the two unknown males and the unknown female told them, "F- you, f- you."<sup>3</sup> Civilian 1 responded, "Relax. Let's shake hands. We don't want any problems or anything. Let's just shake hands. Let's quash it. Just relax. And shake hands and forget about it."<sup>4</sup> The verbal altercation continued outside and became physical when the Hispanic male punched Complainant in the face without provocation. Complainant fell to the ground and the Hispanic male sat on top of him repeatedly punching Complainant's face. Complainant raised his arms to try to block the punches to his face. The Hispanic female stated, "Just stop resisting. They're cops. They're going to beat your ass."<sup>5</sup>

The Hispanic male got off of Complainant and walked towards an older Pontiac Grand Am. Complainant took his phone out to dial 911 and positioned himself where he could see the rear license plate. When the Hispanic male observed Complainant, he ran towards him, tackled him to the ground and resumed striking Complainant's face. Complainant was still on the ground when two CPD squad cars arrived; he was not sure whether the Hispanic male was still striking him, or whether the male had gotten off of him when the police arrived. Complainant struggled to his feet and realized that his 911 call had not gone through.

Complainant reported that he was covered in blood, and Civilian 1 had also been beaten by the unknown white male. Complainant did not see Civilian 1 get beaten, but reported that he was bloodied and had a broken nose and a cut on his lip.

While Complainant and Civilian 1 were bleeding, three uniformed officers went to speak with their assailants. The officers then escorted both unknown assailants and the unknown female to the Pontiac, and the Pontiac drove away. Complainant questioned the officers, "What's going on here? You know, those guys just assaulted us. Look at me."<sup>6</sup> According to Complainant, two of the officers told him and Civilian 1, "Just forget about it. You're drunk. Just forget about it and, you know, we're not going to do anything."<sup>7</sup> The police officers left before Complainant could get their names or the

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<sup>2</sup> Transcript of Complainant, Att. 56, Page 5, Lines 15-17.

<sup>3</sup> *Id.* at Page 6, Line 16.

<sup>4</sup> *Id.* at Lines 18-21.

<sup>5</sup> *Id.* at Page 7, Lines 21-23.

<sup>6</sup> *Id.* at Page 9, Lines 5-6.

<sup>7</sup> *Id.* at Lines 10-13.

numbers from their squad cars.

Complainant provided a description of the first alleged assailant as a white male, 5'9", muscular build, dark brown hair, sideburns, a goatee, and tattoos on his left arm from his left arm upwards, and he was the driver of the maroon Pontiac vehicle that the assailants left in. He further described the second offender as a Hispanic male approximately 5'8"- 5'10," muscular build, having dark brown hair with a receding hairline. (Atts. 10, 12, 56)

According to investigative notes, IPRA Investigator A observed a gash with dried blood in the middle of Complainant's forehead, a bruise on the bridge of his nose, dried blood on his cut lower lip, darkness around his right eye, and numerous small scratches on Complainant's arms, wrists, and right elbow. In addition, Complainant complained of injuries to his right hip and calf muscle. Evidence Technicians responded to IPRA and photographed Complainant's injuries. (Att. 13)

**Photographs provided to IPRA by Complainant** depicted Complainant with blood covering his face and clothing. (Atts. 34-34C)

**During his second statement<sup>8</sup> with IPRA on 12 February 2011, Complainant** provided clarification and more detailed information to his previous statement to IPRA. Complainant stated that he and Civilian 1 left Complainant's house between 9 and 10pm and went to Restaurant B where Complainant consumed 3-4 beers. At approximately 2am, he and Civilian 1 left and went to Restaurant C where he consumed one drink. After a short time, they left and headed to Restaurant A because they were getting hungry. Upon their arrival, Restaurant A was crowded and they had to wait to be seated. Complainant recalled that he had a burrito. Once they finished their meal, they got up to pay their bill before leaving. As Civilian 1 stood up to put his coat on, Civilian 1 bumped an unknown white male and the unknown white male shoved Civilian 1. According to Complainant, everyone got excited as if a fight was going to break out. A female waitress described only as having a long brown ponytail came over and stood between them and touched them on the shoulder. According to Complainant, he stated, "Relax, everything is ok. We don't want any problems. Nothing is going on." Complainant was also asked if he recalled the hat that one of the unknown assailants was wearing in the surveillance video. Complainant described it as a blue baseball cap with solid white netting, bearing no insignias.

According to Complainant, after the two assailants left the restaurant along with the unknown female, he and Civilian 1 went to pay their bill and left the restaurant. Once outside of Restaurant A, the three subjects confronted him and Civilian 1. Civilian 1 tried to negotiate with them. After a brief verbal exchange, out of nowhere Complainant explained that the physical beating began when he was blindsided and struck across his forehead with a fist by the unknown male Hispanic assailant. During his second statement, Complainant stated that when the uniformed officers arrived on the scene, he observed the unknown female Hispanic go straight to the officers and he overheard her tell them that he and Civilian 1 had attacked her friends. Complainant reiterated that two of the officers told him and Civilian 1 to forget about the incident, because they were drunk. Upon clarification, Complainant described the two officers as a white male and a taller slimmer male, Hispanic officer.

According to Complainant, he felt that the unknown male assailants were "on something." He

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<sup>8</sup> This statement was typed and not audio-recorded.

believed their energy was extremely high and that they had a “toughness” about them. He related that the assailants would back up and then charge at him and Civilian 1 as if they were “bulls.” Complainant believed that the two assailants were Chicago Police Officers, based on what the unknown female had stated to them.

Three uniformed Chicago Police Officers arrived on the scene in a squad car. However, they did not attempt to question the unknown assailants or provide any medical attention to Complainant or Civilian 1. In fact, while the uniformed officers were present, the two assailants and the female were allowed to leave the scene in what Complainant described as a maroon, four-door vehicle with an unusual design on the bumper. According to Complainant, the license plate was above the rear tail light and there was body damage and markings on the vehicle. As the three subjects left the scene, Complainant tried to obtain their license plate number. In response to seeing Complainant’s attempts to discern the license plate number, one of the male Hispanic uniformed officers on the scene, described as 5’8” – 5’10”, with brown hair and wearing a CPD issued leather jacket, asked him what he was doing, as if he was trying to protect the assailants.

An unidentified male Hispanic restaurant employee, who was taking out the trash, helped Complainant find his glasses. The employee informed Complainant that his face was “messed up,” referring to Complainant’s injuries. After finding his glasses, Complainant observed a police vehicle on Armitage at a stoplight. Complainant ran out of the parking lot and into the street and waved and yelled at the police vehicle, “Help us, help us!” However, when the light turned green, the police vehicle drove off.

In his initial interview with IPRA, Complainant stated that he and Civilian 1 had taken a cab from Restaurant A to his home after the incident. However, in this second IPRA interview Complainant stated that he drove himself and Civilian 1 home. Complainant admitted that he made an inaccurate statement during his first audio interview out of fear. According to Complainant, he did not want his actions to be a focal point or distraction because he had been drinking and operating a vehicle.

According to Complainant, after arriving at his home, he telephoned “911” for assistance. Complainant explained that he told ambulance personnel that he and Civilian 1 had been “beaten.” However, Complainant does not recall whether he told the ambulance personnel or Sergeant A, the Chicago Police Sergeant who was dispatched to Complainant’s home, that he believed his assailants were police officers. However, Complainant stated that he did tell hospital personnel that the assailants were police officers. (Att. 267)

At the conclusion of this interview session, Complainant viewed a photo array in an effort to identify the Hispanic female who was with the two assailants that night. Complainant viewed a photo array that included Officer D.<sup>9</sup> The investigation revealed that Officer D was the only female officer assigned to the Wicker Park Detail, the same assignment as the uniformed officers on scene, who was also off duty at the time of the incident. Therefore, by process of elimination, Officer D was identified as possibly being the female who was with the assailants. The photo array also included other Chicago Police Department female officers with similar characteristics as Officer D. Complainant failed to identify Officer D as the unknown female and, in fact, pointed to the photograph of Officer D and was

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<sup>9</sup> Officer D is alternatively referred to as Officer D.

positive that she was not the unknown female and made no other identifications. (Att. 269)

A revised statement of Complainant was submitted to IPRA from Law Firm A on 17 August 2011. Details specifically different that were noted from this statement and conflict with the statement taken at Law Firm A were the fact that Complainant explained that after he and Civilian 1 had finished eating, they got up to go to the cashier to pay their bill. As Civilian 1 put his coat on, an unknown white male shoved Civilian 1. (Att. 333)

During his statement with IPRA on 30 December 2010<sup>10</sup>, Civilian 1 stated that he came to Complainant's home and they left between 2200-2230 hours and went to Restaurant B. While at the tavern, he and Complainant consumed a few beers. Civilian 1 further stated that he and Complainant stayed at the tavern for approximately 3 hours before Complainant drove over to Restaurant C on Armitage, where they had a drink. Approximately 25 minutes later, Civilian 1 explained that he and Complainant went to Restaurant A because they were hungry. Civilian 1 had never been there before. Civilian 1 recalled that he and Complainant had to wait to be seated, and believed that they were seated between tables 19 and 21. Civilian 1 could not provide any descriptions or details about the patrons around them because he and Complainant were engaged in conversation and eating their food.

As Civilian 1 stood up to put on his coat, he was shoved by an unknown white male subject, whom he had never seen before or encountered at any time while at the restaurant. There was a brief verbal exchange between them and Complainant quickly interjected and stated that everything was okay. A waitress came over to see what was going on and Complainant let her know that nothing happened. According to Civilian 1, he and Complainant moved out of the aisle and let the unknown white male, along with an unknown Hispanic male and an unknown female walk past them.

Once outside in the parking lot, the same unknown white male came at Civilian 1 in an aggressive and threatening manner. According to Civilian 1, he was surprised by this confrontation because he believed that the perceived conflict had been resolved peacefully while inside the restaurant. Civilian 1 further stated that he had his hand out and wanted to shake on it and go. However, the unknown male white subject charged at him and pushed him. The unknown Hispanic male then stated, "You were not saying that inside when you were blocking the exit." The unknown white male attacked Complainant by punching him in the head and the unknown Hispanic male began fighting Complainant as well. As Civilian 1 tried to pull the white male assailant off of Complainant, the unknown white male then went at Complainant and Civilian 1 tried to wrestle his arms down. The unknown white male broke free and punched Complainant in his face a few times. The unknown white male then got on top of Civilian 1 and placed him in a chokehold. The Hispanic male who was hitting Complainant got up from the ground and walked in the direction of their vehicle. The white male got up off of Civilian 1 and walked toward their vehicle as well. Complainant got up and proceeded to walk behind them with his cell phone and attempted to get their license plates so he could dial "911." The Hispanic male charged at Complainant. Then the Hispanic male and the white male beat Complainant.

According to Civilian 1, as he went to assist Complainant, he was knocked unconscious. At some point during the altercation, a squad car arrived on the scene. Civilian 1 stated that as he began to

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<sup>10</sup> This statement was typed and not audio-recorded.

regain consciousness and looked up from the ground, he observed the lights from a police car. He believed that he observed 6-8 officers on the scene and had the impression that the incident was over. Civilian 1 however, stated that he felt someone on top of him. He also stated that he observed an officer escort the assailants and the unknown female to their vehicle. He heard no conversations between them. However, he does remember that they exited the parking lot from the back of the parking lot. He described the assailants' vehicle as a maroon, four-door American-made sedan.

Civilian 1 further remembered that Complainant pleaded and argued with the officers in uniform because he wanted to have the assailants arrested or to file a complaint against them. Civilian 1 heard Complainant question the officers asking, "We were assaulted and beaten, how can you let them go?" According to Civilian 1, one of the officers responded, "It was just a fight, go home and forget about it!" The officers left the scene of the incident without providing any further assistance to Complainant or Civilian 1. After the officers drove away, Civilian 1 and Complainant observed the officers come back around and stop at a traffic light at Armitage and Western Avenue.

While still outside in Restaurant A parking lot, Complainant dialed "911" for police assistance. However, before any officers responded, Civilian 1 and Complainant left the scene. Complainant drove them back to his residence. Upon their arrival to Complainant's house, Complainant took pictures of himself and Civilian 1, and went to the washroom to look at his face.

Civilian 1 provided a description of the first assailant as a white male, 5'6"- 5'8", with a muscular build, 170-180lbs, possibly 26-28 years of age, with dark colored "spikey" hair, sideburns, wearing a hat, and bearing a very large tattoo on his arm. He described the second assailant as a Hispanic male, 5'8"- 5'9", with a muscular build, possibly 170-180 lbs, possibly 26 -33 years of age, with a short "flat top" hairstyle, and no facial hair.

Civilian 1 stated that he could not determine if their assailants had been drinking and he did not observe any weapons or police paraphernalia.

Civilian 1 explained that he learned from Complainant that the unknown female that was with the assailants had stated to him, "These guys are cops, they're going to fucking kill you!" After the incident, Civilian 1 and Complainant relocated to Complainant's home. Complainant called 911 again and in response, Sergeant A arrived at Complainant's residence. Civilian 1 told Sergeant A that he and Complainant were assaulted at Restaurant A and that the uniformed police officers who responded to the scene did not assist them. Civilian 1 did not tell Sergeant A that their assailants were allegedly Chicago police officers and he was not sure if he informed hospital personnel of such. Civilian 1 stated that he did not receive medical treatment on the scene, but he and Complainant rode to Hospital A in the same ambulance. At the hospital, Civilian 1 was diagnosed with a fractured nose, a split lip, and multiple abrasions. He further stated that he was informed that Complainant was diagnosed with a concussion. (Att. 263)

**A revised statement of Civilian 1** was submitted to IPRA from Law Firm A on 21 March 2011. Details specifically different that were noted and in conflict with the statement taken at Law Firm A were the fact that Civilian 1 explained that they left the house earlier than was stated in his interview with IPRA. Furthermore, he gave a few additional details regarding the alleged incident, including the fact that he observed the three subjects leave without paying for their meal. (Att. 270)



At the conclusion of this interview session, **Civilian 1 viewed a photo array** in an effort to identify the assailants. Civilian 1 viewed a photo array that included Officer D along with other Chicago Police Department female officers with similar characteristics. Civilian 1 failed to identify Officer D and made no other identifications. (Att. 265)

**Log #1033713** was initially assigned to the Internal Affairs Division for investigation, but was reassigned to the Independent Police Review Authority to be addressed in the current investigation (Log #1033714) as the allegations are related to the same incident. (Att. 4)

**The Initiation Report of Sergeant A #XXXX** documented that Sergeant A responded to XXXX N. Rockwell regarding a Request for a Supervisor for No Police Service. As explained by Sergeant A, he was informed by Complainant and Civilian 1 that they had been beaten by unknown offenders and three officers arrived as they were getting beaten in the parking lot. Upon arrival, the three responding officers failed to render them any assistance, neither assistance obtaining medical treatment nor assistance with identifying and detaining their assailants. Complainant and Civilian 1 explained to Sergeant A that they suffered facial cuts and were bleeding. Both were transported to Hospital B for medical treatment by CFD Ambulance #XX. (Att. 4)

On 25 March 2010, **IPRA received a fax** from Sergeant B indicating that on 24 March 2010, he was directed by Captain A to send a To/From Report reporting information relevant to this investigation. On 24 March 2010, Sergeant B viewed a video of the alleged incident that occurred at Restaurant A, at XXXX N. Western Avenue. The To/From Report stated, "Upon seeing the video, R/Sgt. believed that the uniformed officers shown in the video may be assigned to the XXX District, possibly assigned to Bt. XXXX. At the officer's request, R/Sgt. showed the video to P.O. Officer C #XXXXXX, and P.O. Officer B #XXXXXX. Both officers acknowledged that they were the subjects whose images appeared on the video. The R/Sgt. requested no information from the officers as it was learned from Captain A, XXX, that this incident was the subject of Complaint Log #1033713." (Att. 65)

**Department Reports** indicate that Case Report #HS-XXXXXX was generated by Sergeant A #XXXX and Officer E #XXXX who responded to XXXX N. Rockwell, where they were met by Complainant and Civilian 1. According to the report, Complainant and Civilian 1 claimed that they both were victims of a battery on 07 February 2010, at 0330 hours, in the parking lot of XXXX N. Western Avenue. Complainant and Civilian 1 told the responding officers that as they were exiting Restaurant A, unknown offenders approached them and a verbal altercation ensued. After exiting the restaurant, the victims of the assault headed towards the parking lot, which is located behind the restaurant in the east alley of XXXX N. Western, in order to get to their vehicle. Upon arriving at their vehicle, Complainant and Civilian 1 observed the unknown offenders approach them and engage in another verbal altercation, at which point the unknown offenders struck Complainant and Civilian 1 multiple times about their faces with closed fists. The unknown offenders fled the scene going northbound in the east alley of XXXX N. Western Avenue and then westbound on McLean Street. Medical Assistance was given by CFD Ambulance #XX. Complainant and Civilian 1 were both transported to Hospital A. The case was suspended after the assigned Detective was unable to contact the victims. (Atts. 8, 28)

**Evidence Technician Photographs taken** of Complainant depict injuries to his face. (Atts. 33-

34)

**GPS Data** revealed that Beat XXXX / Car XXXX was stopped at the location of XXXX N. Western Avenue at approximately 03:37:12 – 03:39:34 hours and Beat XXXX / Car XXXX was stopped at the same location at approximately 03:46:28 – 03:46:38 hours. (Att. 35)

According to **Attendance and Assignment Sheets**, Officer A, Officer C, and Officer B were the only three-man car working 07 February 2010 and working in the XX District. The above officers were assigned to Beat XXXX, Car #XXXX. Car #XXXX/ Beat XXXX was assigned to Officer G and Officer F. Car #XXXX / Beat XXXXX was assigned to Officer H. (Atts. 37, 63-64, 66)

**Chicago Fire Department (CFD) Ambulance Reports** denote that Ambulance #XX responded to XXXX N. Rockwell for a battery victim. The ambulance report indicates that Complainant was found conscious and alert, in no distress, and walking toward the ambulance. Complainant informed EMS personnel that he was beat up 45 minutes ago, took a taxi home and called 911 from his home. It is further noted that Complainant related that he lost consciousness during the beating; however, he had no dyspnea, and no neck, chest or back pain. Complainant was found conscious and complained of a lip laceration / cut, nose deformity, and bleeding nose. The cause of his injuries was from a fight / beating / brawl. It is further noted that it is suspected that Complainant had alcohol, and the listed symptom was bleeding to his face. (Att. 27)

**Office of Emergency Management and Communication (OEMC) and PCAD Reports** were collected and made part of this case file. An analysis of the Chicago Police Department Event Queries and Transmission show that the following relevant 911 calls were made by Complainant:

- On February 7, 2010 at 03:40 hours, a 911 caller (later identified as Complainant) reported a battery. The conversation between the caller and the dispatcher was as follows:

Dispatcher: Chicago Emergency (inaudible).

Complainant: Hi, I was just assaulted by a few guys on the corner of Armitage and Western.

Dispatcher: Corner of Armitage and Western you say?

Complainant: Yes (inaudible). No they just beat the hell out of me with their hands.

Dispatch: No idea who they were?

Complainant: No police showed up, police are here right now but police did not try and detain the individuals that beat us.

Dispatch: Ok, so police are on the scene?

Complainant: Police are on the scene and they just left right now. They let the individuals that beat us leave.

Dispatch: Do you need paramedics?

Complainant: We need like...

Dispatch: Do you need paramedics? That's what I'm asking.

Complainant: No we need...

Dispatch: Ok, what we will do is send a sergeant, ok? What's your name?

Complainant: Thank you. Complainant.

Dispatch: Complainant, ok stay where you are, we'll send a sergeant.

Complainant: And just east of Armitage on the corner of Armitage and Western.

Dispatch: Ok, east of Armitage.

Complainant: I need to find the other people (inaudible).

Dispatch: Ok, are you going to sit in the car or are you going to be on foot?

Complainant: We'll sit in the car.

Dispatch: What kind of car?

Complainant: XXX-XXX-XXXX

Dispatch: What kind of car? What color car?

Complainant: Black, Honda Civic.

Dispatch: Ok, alright sir, we'll get the help for you.

Complainant: Alright.

- On February 7, 2010 at 03:42 hours, Complainant placed another emergency call. The conversation between Complainant and the Dispatcher was as follows:

Dispatch: Chicago Emergency Green (inaudible)

Complainant: I just got assaulted by two individuals.

Dispatch: Ok, where are you, sir?

Complainant: I was at the corner of Armitage and Western when I got assaulted and then Chicago Police showed up at the scene and the two individuals that assaulted us, they let them get in their car and leave.

Dispatch: (inaudible) supervisor request a sergeant to come over and matter of fact they are in route over there, sir. They'll be there in a short...

Complainant: We left. We got a cab back to my condo, we got a cab back to my condo. We left because we were just hanging out on the street. I had just been beat the hell up. My face is all cut up.

Dispatch: Uh...man. Because they're in route, the sergeant is in route. Uhh...the only thing I could suggest is that you call over to the district that it happened in and that's District XX, now I can place your call there.

Complainant: We're at my place, which is like only Rockwell and Wabansia, it's like 4 blocks away from where this occurred.

Dispatch: What's the address to where you are now?

Complainant: I'm at XXXX North Rockwell.

Dispatch: Rockwell. And what floor are you on?

Complainant: X Floor.

Dispatch: X Floor.

Complainant: What we need to keep in mind is the fact that Chicago Police showed up on scene when this occurred at like 3:30 in the morning and they let the individuals go that had beaten the hell out of us and when officers show up they will see that we have had the shit beat out of us and whoever was called on to the scene at about 3:30 in the morning just east of Restaurant A at Western and Armitage those officers let individuals go that had beaten the hell out of us. This is unreal...I'm like uhh... you know.

Dispatch: Okay, we'll send the sergeant over to XXXX North Rockwell and they'll take your statement from there okay?

Complainant: Hurry, please.

Dispatch: Alright thank you.

Complainant: Thank you.

- On February 7, 2010 at 08:41 hours, Complainant placed another emergency call. The conversation between Complainant and the Dispatcher was as follows:

Dispatch: Chicago Emergency Hall.

Complainant: Hi, I was just assaulted at 3:30 this morning and I called CPD regarding that assault and I was assaulted actually by off-duty Chicago police officer in front of an on-duty Chicago police officer so I don't want any time delayed in terms of identifying who these individuals were and you know proceeding with some kind of legal prosecution of what occurred so I need to know who was on beat. Who I need to speak to or the area at Armitage and Western, I believe it's Sergeant C.

Dispatch: One second I'll see if I could get you. I'm going to let you talk to the 15<sup>th</sup> District, there should be a desk sergeant there and he'll tell you what you need to do, ok?

Complainant: Ok, thank you ma'am.

Dispatch: This should be the new crew, ok? One second.

Complainant: Ok.

Dispatch: XX District desk (inaudible).

**IPRA obtained** a list of CPD covert vehicles from CPD that were assigned on 06-07 February 2010 that were red or burgundy in color. None of the vehicles listed matched the description of the involved vehicle that was provided by Complainant or Civilian 1, nor did any of the vehicles have characteristics similar to those of the assailant's vehicle seen in the video. (Atts. 246 – 247)

During a **Canvass of the Area**, Investigators were able to locate and obtain video footage from Restaurant A and Restaurant D. Additional information was also obtained from Civilian 2 of Restaurant A. (Atts. 7, 169)

**Civilian 2, a Supervisor of Restaurant A** detailed that "Civilian 3," was in charge of the restaurant during the early morning hours of 07 February 2010.<sup>11</sup> Civilian 2 related that during the alleged incident, Judith (LNU) and Martha (LNU) were the waitresses that were on duty. Civilian 2 provided IPRA with information regarding the guests, guest checks, and credit card receipts and provided copies of them. (Att.5, 22, 26, 138, 169)

**Civilian 4, the Security Specialist for Restaurant A** provided information for their security cameras. According to Civilian 4 around the time of the incident, he was present to assist in restoring the operation of four of the restaurant's security cameras. He indicated that four of the cameras view the interior of the restaurant where the customers are served. Civilian 4 added that this is also where the cameras are focused in the cash register area. In addition, Civilian 4 stated that there are three cameras that focus on the kitchen area of the restaurant. Civilian 4 explained that the problem was diagnosed and rectified as it was determined that a surge protector power strip had to be reset including the one that focused on the back exterior door recording of the alleged incident. (Atts. 5, 22, 24, 26, 138, 169)

**The Video Recording retrieved from Restaurant A** located at XXXX N. Western Avenue depicts a portion of a physical altercation that was captured by their private security camera which is located above the rear delivery door of the restaurant. In the video there are two unknown males struggling with Complainant and Civilian 1. An unknown female is with the unknown males. During the struggle, the two unknown males overpowered Civilian 1. One of the unknown males is seen wearing a baseball cap and can be seen possessing a very large tattoo on his inner left forearm. Upon close examination of the video, the second unknown male assailant shown on the right side of Complainant, Civilian 1, had an object tucked into the back of his trousers. The unknown female with the two unknown males appears to be wearing a long scarf and boots. (Atts. 25, 134)

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<sup>11</sup> Civilian 3, now known as Civilian 3 was the midnight shift supervisor.

**The Video Recording retrieved from Restaurant D** located at XXXX N. Western Avenue has 6 CD-R recordings. Video of the parking lot showed the altercation and subsequent police response; the footage was blurry and therefore many details were unclear. Two men, now known to be the complainant, Complainant and the alleged victim, Civilian 1 were walking to their vehicle when they are approached by three individuals.<sup>12</sup> A discussion ensues and a physical altercation erupts next to the vehicle of Complainant and Civilian 1. Complainant walks over to the vehicle that his assailants were leaving in and another fight occurs. A marked CPD vehicle arrives on the scene and all assailants are separated. Less than a minute after the officers in the CPD vehicle arrived, the assailants are seen leaving the parking lot. A late model marked CPD SUV then arrives on the scene and two additional CPD officers appear on the scene and walk towards the other marked CPD vehicle. The second set of CPD officers to arrive then return to their SUV and leave the scene. The first marked CPD vehicle leaves the scene and Complainant and Civilian 1 are seen conferring with other civilians in the parking lot. (Atts. 47-52, 55)

**All of the waitresses at Restaurant A** that were working on the date of the incident were interviewed pursuant to this investigation, however, only Civilian 5 remembered the complainant and victim involved in this investigation. (Atts. 125, 128-129, 133, 192, 195, 200, 241-243)

During an in-person interview with **Civilian 5** on 16 April 2010, a waitress at Restaurant A, Civilian 5 stated that she arrived at work at approximately 2000 hours and that she remembered two white males (believed to be Complainant and Civilian 1) that came in the restaurant and were seated at the bar because there were no available tables. According to Civilian 5, when Table 20 became available, the two white males were seated there. Table 20 was serviced by waitress Civilian 6. Civilian 5 remembered the two males because they were a bit drunk when they arrived and when she went to the cashier to obtain the check for her customers, she overheard the two males say the word "bitch" as they referred to the female who was with two other males. Civilian 5 further recalled that the two white males at Table 20 argued with two males and a female who were seated at Table 4 (who Civilian 5 described the males at Table 4 as of either Hispanic or Arab descent). Civilian 5 explained that she and Civilian 6 asked the two white males at Table 20 not to have any problems because they didn't want any problems in the restaurant. Civilian 5 stated that she then walked away and tended to her tables. Civilian 6 spoke to the two white males. Shortly thereafter, she observed the two males and female who had been seated at Table 4 leave the restaurant. Moments later, Civilian 5 saw the two white males at Table 20 leave the restaurant as well. (Atts. 167, 180)

In an effort to fully **identify and locate witnesses and possible accused individuals**, IPRA received Credit Card Receipts furnished by the merchant and guest checks.<sup>13</sup> Many of the items received were illegible. Upon receiving the information, IPRA attempted to contact the individuals from the documents. Further efforts were made to contact and interview persons listed on the guest receipts IPRA obtained to identify possible witnesses to the altercation and the assailants involved. IPRA also conducted a search of CPD records to ascertain if any of the individuals listed on the guest receipts were Chicago Police Officers or family members of the same. (Atts. 74-92, 145-146, 149-152)

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<sup>12</sup> The three individuals are the two unknown male assailants and the unknown female.

<sup>13</sup> A credit card receipt for Table 4 was processed at 02:55 hours; the card belonged to Civilian 7. There is no member of the Chicago Police Department named Civilian 7. Att. 82.

**Restaurant A Patron Civilian 8** was interviewed on 17 June 2010 and explained that he had gone to Restaurant A with two of his Best Buy co-workers, Civilian 9 and Civilian 10. Civilian 8 recalled that they were seated in a booth near the door and were in the restaurant for approximately forty-five minutes. While in the restaurant, Civilian 8 related that he did not notice any disturbance or harsh words exchanged between other customers. Civilian 8 explained that they left the restaurant at approximately 0330 hours and walked to the parking lot. According to Civilian 8, Civilian 10 had driven his vehicle to the restaurant and upon leaving the parking lot, he observed three men in the parking lot. Civilian 8 explained that all three males were white and that one of the males had a bloody face. According to Civilian 8, the bloodied male was in between two other males, who appeared to be helping and supporting the bloodied male. Civilian 8 stated that he did not recall noticing anyone in the restaurant in the company of another male and woman, who had extensive tattoos on his arm.

After his interview, Civilian 8 was shown a set of still photographs of the unknown male offenders. The still photographs were extracted from a video taken at the restaurant depicting the unknown assailants fighting Complainant and Civilian 1. Upon viewing the photographs, Civilian 8 did not recall the two unknown offenders pictured in the still photographs being present in the restaurant while he was dining there, nor in the parking lot at the time he and his friends departed. (Atts. 174, 176)

On 21 October 2010, **Restaurant A Patron Civilian 10** related that he was a member of the Civilian 8 party that included Civilian 8 and Civilian 9. Civilian 10 believed that he had been seated at Table 2. While in the restaurant, Civilian 10 stated that he did not observe any customers arguing or have any physical confrontations, no one with a full sleeve of tattoos, and no one that appeared to be armed. According to Civilian 10, Civilian 8 paid the bill and all of them stayed seated at the table for a short time afterwards. According to Civilian 10, after leaving the restaurant, he and his friends walked to the parking lot to his car. As they walked through the parking lot, Civilian 10 observed three white males walking from the north part of the lot to the Armitage Avenue entrance of the parking lot. Civilian 10 further stated that one of the white males appeared to be a victim of a beating. Civilian 10 explained that the male's face was red and swollen. There were two other males that were assisting the male who had been beaten as they were holding him up as they walked. According to Civilian 10, the injured male and one of the other males present appeared to be intoxicated as they walked and spoke to each other. When asked, Civilian 10 related that he did not observe any Chicago Police vehicles present, nor did he recall seeing anyone in the lot that he had observed in the restaurant earlier. Civilian 10 was shown still photographs of the unknown assailants retrieved from the restaurant digital security camera recordings, but could not identify the unknown assailants as having been at the restaurant at the time he and his friends were dining. (Atts. 235, 239, 248)

IPRA identified several individuals who patronized Restaurant A on the date in question. **IPRA interviewed the following individuals who did not recall** seeing any altercation in or around the restaurant at the date and time in question; restaurant patrons Civilian 11, Civilian 9, Civilian 12, Civilian 13, Civilian 14, and Civilian 15. Moreover, none of these individuals are CPD members, and each denied that other members of their party at the restaurant, if any, were CPD members. (Atts. 173, 229, 234-235, 238, 260, 266)

**In her statement with IPRA on 06 October 2010, Witness Commander A #XXX** stated that she became Commander of the 14<sup>th</sup> District on 16 March 2010. Commander A provided detailed

information to IPRA on the Wicker Park Team. She further stated that the Wicker Park Team consists of one sergeant and ten police officers and their assignment is to cover the Wicker Park entertainment area, the Wicker Park Chicago Park District and the Wicker Park Area. Commander A related that, at the time this interview was conducted, the Wicker Park Team worked 1800 - 0230 hours Tuesday through Thursday and 2000 -0430 hours on Friday and Saturday. Accordingly, she explained that the team was established 30 April 2009 and that their assignments were received and or distributed on a daily and or a weekly basis. Commander A stated that the Wicker Park Team can receive assignments via the radio, from the watch commander, respond to on-view incidents, participate in covert activities and conduct missions specifically for their directed mission and patrol. When questioned about the fax and To/From Subject Report that was sent to IPRA, identifying the accused officers, Commander A stated that she received the information from the captain or the sergeant, because once a member becomes aware that they are involved in an incident then they need to confer with the watch commander. Consequently, the sergeant was then directed to draft and submit the report.

According to Commander A, after seeing the video on TV, she stated that she spoke to a number of her supervisors to see if anyone recognized anyone in the video as a CPD member because she had not been assigned to the district very long. After Commander A viewed the video tapes from Restaurant A and Restaurant D, she acknowledged that she recognized Officer C as one of the responding uniformed officers; however, she stated that she did not recognize any of the unknown assailants that are seen in the video. Commander A related that she does know Officer D, a member of the Wicker Park Team. However, without seeing the face clearer on the video, Commander A was unable to identify the female in the videotape. Commander A did not recognize the Pontiac Automobile, and is unaware of any members of the Wicker Park Team or the XX District that have tattoos similar to those observed on the individual in the video. (Atts. 226, 244)

**In a statement with IPRA on 09 April 2010, Witness Sergeant B #XXXX** stated that he had read an article on CBS2.com about a police “beating” caught on tape. As he clicked on the video portion and watched the video, he explained that he observed an altercation in the video in which someone was thrown to the ground and held. He further explained that he then observed what appeared to be the front end of a squad car pull up. He saw the lights in front of the squad car pan across the individuals. The three subjects that appeared to be in uniform exited the squad car and approached. According to Sergeant B, when he first viewed the video he believed he recognized the three uniformed officers as members of a 3-man car on his team. Further, according to Sergeant B, on 24 March 2010, Officer C and Officer B approached him right before roll call and asked to see the video and freely identified themselves as being on the video.

According to Sergeant B, Officer C and Officer B provided him an account of what happened; however, he never asked them any questions because they had not been read their rights. The officers told Sergeant B that it was an on-view disturbance and that they were following Beat XXXX after an arrest and saw movement in the alley. According to what the officers told Sergeant B, at no time did any of assailants on the scene identify themselves as officers. According to what Officer C told Sergeant B, the officers made no arrests and filed no reports because all of the individuals, the alleged victims and the alleged assailants, were extremely intoxicated. According to what Officer C told Sergeant B, Officer C claimed that he asked the alleged victims several times if they wanted medical attention or an ambulance. According to Officer C during the interaction with the alleged victims, he



kept holding his radio to call for assistance but that the alleged victims failed to provide any information to fill out a police report. Officer C told Sergeant B that he observed blood on the alleged victims; he continued to ask them if they wanted medical attention or an ambulance and asked them their names.

According to Sergeant B, Officer B claimed that they made no arrests and filed no reports because he could not determine who, if any, of the involved parties were at fault. Officer B explained that members of both sides of the altercation had facial injuries that were indicative of a battery. When Officer B inquired of any identifiers, one of the alleged victims on the ground continued to ask, "Why do you need my info, why don't you get their info?" According to Officer B, neither the alleged victims nor the alleged assailants were willing to sign complaints against the other party. Officer B did not recollect that there was a female on the scene until he saw the video.

After the above information was related to Sergeant B, he informed Capt. A who directed him to document the information in a To/From Subject Report. When asked why Beat 1481 D did not show up on GPS, Sergeant B related that their cars are not equipped with cameras and the PDT has to be logged on for the GPS to register. Sergeant B identified Officer C as the officer who appeared to be on top of the complainant and Officer B as the officer who stood at the head of the complainant. (Att. 124)

**In her Statement with IPRA on 05 August 2011, Witness Officer D #XXXX<sup>14</sup>** was listed as an accused initially because she was listed as a Plainclothes Defendant Officer in the Second Amended Complaint in a civil law suit filed by Complainant, in the United States District Court, Northern District of Illinois under case number XX CV XXXX. She related that that she was not at Restaurant A on the morning of the alleged incident, she does not know who the unknown assailants are, no one has told her if they knew the unknown assailants, and she has no new or additional information to add to this investigation. Officer D was accused in error by IPRA Supervisor. (Atts. 321, 332)

**In his Statement with IPRA on 27 April 2010, Witness Officer E #XXXX** stated that he received a call from OEMC regarding being the "paper officer" responsible for submitting reports related to the incident he and Sergeant A responded to at XXXX N. Rockwell. When he arrived, he met with Sergeant A and one of the victims. Officer E and Sergeant A proceeded upstairs where he met with the second victim. The victims told Officer E that they were eating at Restaurant A and when they decided to leave they became engaged in an argument with three individuals inside of the restaurant. Neither victim could specify the reason for the argument. The victims decided to leave and walked to the parking lot in the back and were met by the same three individuals from inside of the restaurant. When they exited Restaurant A, both males began striking the victims about the face and body without provocation. Officers stopped on the scene and when they exited the vehicle the individuals fled in an unknown vehicle. The officers on the scene did not try to stop them and did not offer the victims any assistance.

According to Officer E, the victims were intoxicated and one of the victims had blood around his nose and the other victim had blood about his forehead, in which the blood dripped down to his shirt. According to Officer E, at no time did either Complainant or Civilian 1 claim that they had been physically mistreated by the responding officers, that the responding officers said just go home and

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<sup>14</sup> Officer D is also known as Officer D.

forget about it, that the alleged offenders were Chicago police officers, that they were told by the female on the scene that they needed to stop resisting because they were officers, and neither made any mention of any guns, weapons or handcuffs observed on the assailants. (Att. 155)

**In her Statement with IPRA on 19 April 2010, Witness Officer F #XXXXXX** stated that she was working with her partner, Officer G, when they observed lights from a police vehicle near the rear of XXXX N. Western. Officer G pulled over and both officers exited the vehicle. According to Officer F, she walked over and stood between the two squad cars, just in case anything happened. She spoke to one of the officers and then left. Officer F explained that she and her partner were only on the scene for a minute or less. Once they knew that the officers were safe and did not ask for any help, they left. Officer F stated that she observed all of the parties on the scene to be drunk except for the officers; she remembered the officers trying to handle the situation because everyone was yelling, but she did not recall observing any injuries on any parties. (Att. 147)

**In his Statement with IPRA on 19 April 2010, Witness Officer G #XXXXXX** stated that he was working with his partner Officer F, when he observed a squad car parked halfway in and halfway out of the alley with their blue lights on. Although they were not assigned the call and he did not radio into the OEMC Dispatcher, Officer G related that he pulled over to the parking lot and parked the car. He and his partner exited the vehicle and he went to make sure that no one was fighting and there were no guns out. Officer F stood behind him and he watched what the officers on the scene were doing. He stood around and then received a hand wave of okay by Officer B. Officer G stated that he observed two males that were intoxicated talking with the officers. He explained that he and Officer F were only on the scene for approximately 30 seconds to 2 minutes. (Att. 148)

**In his statement at IPRA on 15 April 2010, Accused Officer A #XXXXXX** stated that he was the driver of the marked squad that he and his partners were assigned to on the date of the incident. He further stated that he observed three individuals lying in the alley behind XXXX N. Western Avenue. He described the individuals as lying flat with their feet towards the building and their heads toward the alley. According to Officer A he observed four white males in total; however, the fourth male was leaning against the utility pole. Once they pulled into the alley, he and his partners exited the squad car; later he observed a female on the scene. Upon exiting the vehicle, he heard the males yelling profanities and directing obscenities at each other. Officer A related that he acted as the security officer<sup>15</sup> while Officer B and Officer C gave verbal commands. All parties were given verbal commands to disengage, and he stated that he observed Officer C physically separate two of the individuals. Officer A further stated that he and his partners all tried to get information from the parties; however, none of the parties were cooperating and all parties were intoxicated.

According to Officer A, he observed injuries that consisted of cuts and scratches on the faces of four of the parties; however, he was ignored when he asked the parties what happened and if they needed medical attention. Furthermore, Officer A admitted that he never asked to see identification from all of the individuals, and he did not have enough information to determine if a crime had been committed. Officer A stated that they were only on the scene for approximately 5 minutes. Officer A

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<sup>15</sup> The security officer is the officer that stands and watches and protects the scene.

further stated that the incident was a situation that needed peace to be restored. Officer A observed the parties leave the scene, but reported that he did not observe any of the parties get into a vehicle. He stated that he had no knowledge and was not informed or made aware of at any time that the parties that left the scene were police officers.

Officer A denied stating or hearing any of the officer's state, "Let it go...you guys are drunk, just let it go." He further denied observing Civilian 1 being kicked or kneed by Officer C or any officer hold him down and strike him in the process; and denied hearing or observing Complainant or Civilian 1 begging Officer B and Officer C to do something because they had been attacked without provocation or justification and were seriously injured. Officer A denied that he or any officer on the scene stated, "We are not going to do a thing to those guys," and "Go home and forget the incident ever happened."

After reviewing the video that was shown to him, Officer A explained that the video refreshed his memory and that upon their arrival three individuals were lying flat on the ground with their feet towards the building and heads towards the alley, and two other individuals were on the ground next to where he was standing. Officer A admitted that he was the officer that kicked the complainant's coat while on the ground; however, he does not recall why he did so. He denied that the video depicts him with his foot on the leg of one of the complainants. Accordingly, Officer A explained that he is the officer in the video who shined his light on their faces. However, he contended that the pictures shown to him during his interview did not depict the injuries that he observed while on the scene; he stood by his initial description of the injuries on Complainant and Civilian 1 that he observed while on the scene with them. (Att. 144)

In addition to the above, **Accused Officer A**, was present at the offices of IPRA on 29 December 2011, and provided a **second statement**. According to Officer A, he was adamant that the unknown female who departed the scene with the two unknown males was not Officer D. Officer A explained that Officer D looks nothing like the unknown female who departed the scene; he does not know the identity of the unknown female and could not recall what type of vehicle the three individuals left in. (Atts. 380, 419)

**In his statement at IPRA on 14 April 2010, Accused Officer B #XXXXX** stated that on 07 February 2010, Officer A appeared to see something in the alley of XXXX N. Western Avenue. Officer A pulled into the alley to ascertain what was happening. Officer B further stated that he was not looking at the direction Officer A was driving and therefore did not observe what may have been occurring before their arrival. Upon arrival to the location, Officer B related that he observed figures in the shadow as they pulled up. Officer A shined the spotlight from the squad car in the direction of the four males who appeared to be arguing in the alley. According to Officer B, he didn't realize that a physical altercation had taken place until they had exited their vehicle. His responsibility was to break up the parties and separate them into neutral positions because one party was standing and the other party was either standing or sitting just north of the point of their initial entry. Officer B described the contact that he had with the four individuals on the scene was specific to giving them verbal direction in an attempt to separate the parties, who were uncooperative and attempting to gather information from them.

Officer B stated that one of the males he attempted to gather information from was highly

intoxicated; however, he remembered asking the male what happened, if he needed any help, if he needed an ambulance, and if he had an ID. According to Officer B, at one point he was speaking with two of the individuals; however, one of the individuals began to walk away, reached in his pocket, grabbed his phone and walked away. Officer B recalled that Officer C was holding one of the individuals down on the ground and blocking his shoulders because the individual was shouting obscenities and struggling with Officer C, because the individual was trying to get up and lunge at one of the other individuals.

Officer B explained that all five individuals on the scene were intoxicated; four white males and one white female. Officer B recalled that four of the individuals had minor cuts and scrapes and one individual had blood coming from his nose; however, the pictures shown to him that were taken of the complainant and the victim did not accurately depict what he observed while on the scene, because he believed their injuries were not as severe while on the scene. Officer B, further recalled Officer C asking one of the individuals for his name and he responded by saying something to the effect of, "Why do you want my name, why don't you get their names?" After watching the videos in regards to this investigation, Officer B admitted that Officer C was the officer on top of the complainant in the video and Officer A was the officer who kicked the complainant's coat and threw the coat to the complainant. Officer B estimated that they were on scene for less than five minutes. Officer B further reported that he did not speak with his partners about what information they gathered before leaving the scene.

According to Officer B, he was contacted by Sergeant B about this incident. When he returned the telephone call to Sergeant B, he informed Sergeant B that he was willing to cooperate in the investigation; however, he had not yet seen the video. Before roll call, Sergeant B showed him and Officer C the contents of the video and he and Officer C admitted that they were indeed the officers that were in the video. Officer B stated that Sergeant B suggested that they submit a To/From Report. A short time later, he and Officer C were taken out of roll call and re-entered the Sergeant's Room where Captain A informed him and Officer C that Sergeant B was going to write a To/From Subject Report indicating that they were the officers shown in the video. (Att. 141)

In addition to the above, **Accused Officer B #XXXXX**, was present at the offices of the IPRA on 27 October 2011 and provided a **second statement**. According to Officer B he has known Officer D since 2005 and he was adamant that she was not the unknown female that departed the scene with two unknown males. (Atts. 354, 362)

**In his statement at IPRA on 13 April 2010, Accused Officer C # XXXXX** stated that once Officer A placed the vehicle in park, he exited the vehicle and observed two individuals yelling and screaming at each other. According to Officer C, he did not observe any of the disturbance before the vehicle entered the parking lot of Restaurant A. Officer C explained that he observed one male holding another male on the ground and tried to separate the individuals. One unknown male did follow the instructions, but Civilian 1, who was on the ground, tried to lunge at the other male, while yelling obscenities, and he took control of the unknown male by holding him down on the ground. Officer C further explained that Civilian 1 was not fully cooperative. However, at that point he was no longer aggressive. Furthermore, Officer C stated that Civilian 1's resisting was not criminal and based on the information that he had, he was not able to determine if any crime had occurred regarding a battery.

Officer C related that all four males were intoxicated and had minor scrapes and cuts. He further related that the pictures do not accurately depict the injuries as they appeared to him the last time he saw them, which was on the scene. Officer C stated that he and his partners asked Civilian 1 and Complainant for identification, but they refused and asked why they should give their information if the other two males did not provide their information and because they felt that they did not start the fight. Officer C explained that he asked the parties if they needed medical attention and they declined. He further explained that Officer B and Officer A attempted to assist the parties as well, by asking for their names and identifying information, if they wanted a report, and if they required medical assistance, but the parties refused. (Att. 137)

In addition to the above, **Accused Officer C, #XXXXX**, was present in the offices of IPRA on 27 October 2011 and provided a **second statement**. According to Officer C, he has worked with Officer D on and off for about two years. He described her as a white female, 5'2" - 5'3", blonde hair, blue eyes and weighing approximately 125lbs. Officer C stated that he does not know and has never seen the unknown female that was with the two alleged assailants in the parking lot of Restaurant A. He further stated that the unknown female is not the same as Officer D and the unknown female was taller than Officer D and had dark hair, which Officer D does not. (Atts. 361, 418)

**In his statement at IPRA on 05 May 2010, Accused Sergeant A #XXXX** stated that he received a radio assignment to XXXX N. Western; however, prior to this arrival the dispatcher told him that the complainant was no longer at the above address but that he was to respond to XXXX N. Rockwell. Upon his arrival at this location, he was met by a male who had blood on his face and shirt. He was taken upstairs to the apartment where he met another male who also had blood on him. According to Sergeant A, he asked both males if they needed medical attention and called for an ambulance; however, he does not think he asked them if they had any injuries. He further stated that he did not request that Evidence Technician Photographs be taken of both males who were later identified as Complainant and Civilian 1, because this involved a Simple Battery Case and that at no time was there an indication or suggestion that CPD members were involved as the battery offenders. Sergeant A related that the two males told him that they were beaten in a parking lot, but they did not know who the offenders were and he did not ask who the offenders were that beat them up because it was inferred in the questions that the offenders were unknown. When asked about what attempts he made in obtaining the identification of the persons that battered Complainant and Civilian 1, Sergeant A stated that his job at this call was to investigate the complaint of the complainants and the failure of the police officers to provide police service to the complainants.

Furthermore, Sergeant A stated that he did not ask the complainants how many offenders there were or for a description of them because that would be asked by the officer that he called to the scene to do the case report. Sergeant A explained that Complainant and Civilian 1 informed him that the responding officers failed to give them a report or render any medical aid. Furthermore, Sergeant A stated that he did not ask Complainant or Civilian 1 if they knew the responding officers names, but he did ask them for a description. He further stated that when he asked for a description, he would have expected Complainant and Civilian 1 to provide the officers names, star numbers, car numbers, beat numbers, and a description. Sergeant A stated that he did not remember if Complainant and Civilian 1 told him that they had spoken to the officers upon the officer's arrival at the scene. Accordingly, Sergeant A stated that he did not recall Complainant and Civilian 1 telling him what they told the

officers who had responded to the scene. Sergeant A explained that Complainant and Civilian 1 informed him that they first saw the offenders in Restaurant A where they had a confrontation or an argument, that the officers did not do anything as far as preventing the offenders from fleeing the scene, and that Complainant and Civilian 1 did not make any references as to the identification of the persons that battered them being Chicago Police Officers. According to Sergeant A, Officer E responded to the scene and he told Officer E to follow Complainant and Civilian 1 to the hospital to complete the report. He then left and returned to the station to complete his Initiation Report. (Att. 164)

**Civil Suit #XX-CVXXXXXX** was filed in the Northern District of Illinois, which listed the Plaintiffs as Complainant and Civilian 1 and the Defendants as the City of Chicago, Unknown Plainclothes Chicago Police Officers and Unknown Uniformed Chicago Police Officers. Among the allegations contained in the complaint was that Plainclothes Chicago Police Officers brutally beat Plaintiffs without any justification or provocation. Fracturing Plaintiff's noses and rendering them unconscious. Plainclothes Officer Defendants and Uniformed Chicago Police Officers who responded to the scene, left the Plaintiffs in a parking lot without providing any medical assistance despite their obvious need for assistance.<sup>16</sup> According to the complaint, at least two nearby surveillance cameras captured this violent and unprovoked beating on video.

It is further alleged that the Plaintiffs, who are friends, met at the University of Chicago and went out on the night of 06 February 2010. On their way home, Plaintiffs stopped at Restaurant A, XXXX N. Western Avenue, Chicago, IL XXXXX for a bite to eat. At approximately 0300 hours on 07 February 2010, Plaintiffs finished their meal and decided to go home. "While standing up to leave, Civilian 1 encountered two male Plainclothes Officer Defendants and one female Plainclothes Officer Defendant, who had been dining at Restaurant A. One of the male Plainclothes Officer Defendants shoved Civilian 1 and glared at him because Civilian 1 had unintentionally obstructed the Plainclothes Officer Defendants' path to the cashier or exit. Civilian 1 told the Plainclothes Officer Defendant that he was putting on his coat and would get out of his way shortly. The Plainclothes Officer Defendants then exited Restaurant A. Plaintiffs walked out to their car, which was parked in the parking lot behind Restaurant A. Once in the parking lot, Plaintiffs again encountered the Plainclothes Officer Defendants, who were waiting in the parking lot near their parked car. The Plainclothes Officer Defendants approached the Plaintiffs and began to yell at them in an aggressive manner. Plaintiffs attempted to calm the Plainclothes Officer Defendants by offering to shake hands, make peace, and suggesting that everyone go home since nothing had happened. Without warning, the male Plainclothes Officer Defendants punched Complainant and began to repeatedly strike him, throwing him to the ground. The Plainclothes Officer Defendants proceeded to hold Complainant down and brutally beat him, until he lost consciousness."

"Complainant did not fight back once during the beating, but tried to protect himself as best he could. When Complainant raised his arms to try to protect his face from the punches, the female Plainclothes Officer Defendant, who was with the two male Plainclothes Officer Defendants, stood over Complainant while he was being beaten and shouted, "They're cops – They're going to beat your ass," or words to that effect. Witnessing the unprovoked brutality of the two male Plainclothes Officer Defendants, Civilian 1 attempted to prevent them from continuing to beat Complainant. The two male

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<sup>16</sup> Plaintiff's expert witness opined that the responding officers abandoned the injured parties without arranging for medical assistance, and failed to report the incident correctly. (Att. 436, page 310).

Plainclothes Officer Defendants responded by beating Civilian 1. These Defendants threw Civilian 1 to the ground, hitting his head against the concrete and knocking him unconscious. After some minutes during which the Plainclothes Officer Defendants continued to use force against Plaintiffs, at least three Uniformed Officer Defendants arrived on the scene in marked squad cars. The Uniformed Officer Defendants proceeded to join in the unreasonable seizure of Plaintiffs. The Uniformed Officer Defendants saw that one of the Plainclothes Officer Defendants was hitting Civilian 1 without justification as Civilian 1 was lying face – down on the ground.”

One of the Uniformed Officer Defendants switched places with the Plainclothes Officer Defendant who was on top of Civilian 1, holding him down and striking him in the process. Another one of the Uniformed Officer Defendants kicked and kneed Civilian 1. The Uniformed Officer Defendants found Complainant sitting on the ground, barely conscious, in shock and in pain. Complainant was bleeding profusely from the wounds on his head. (Att.57)

In the **First Amended Complaint of Civil Suit #XX CV XXXX**, it is further alleged that Officers C, B, A, E, F, G, Donald Schroeder, were named as the Uniformed Officer Defendants. (Att. 172)

In the **Second Amended Complaint of Civil Suit #XX CV XXXX**, it is further alleged that Officer D was the unknown female that assisted the two unknown assailants, who are believed to be Chicago Police Officers. Officer D was added as a Defendant to the complaint as the female Plainclothes Officer Defendant. Officers E and Donald Schroeder were removed from the complaint as Uniformed Officer Defendants. (Att. 321)

In the **Third Amended Complaint of Civil Suit #XX CV XXXX**, it is further alleged that Officer Michael Mannott was one of the unknown Plainclothes Officer Defendants and was added to the complaint as a Defendant.<sup>17</sup> Officers F and G were removed from the complaint as Uniformed Officer Defendants. It is alleged that after Complainant and Civilian 1 went outside after finishing their meal at Restaurant A, they were yelled at in an aggressive manner by Officer I, Officer D and an unknown plainclothes officer. As Complainant and Civilian 1 tried to make peace, Officer I and an unknown plainclothes officer brutally beat Complainant and Civilian 1. The Third Amended Complaint alleges that they did not fight back and Officer D stood over Complainant and Civilian 1 and stated, “They’re cops, they’re going to beat your ass,” or words to that effect. Officers A, B and C arrived on the scene and it is alleged that Officer C switched places with the unknown plainclothes officer and kneed or kicked Civilian 1. The complaint further alleged that Officers A, B and C found Complainant and Civilian 1 barely conscious, in shock, in pain and bleeding profusely. After repeated requests for assistance none of the officers provided assistance or medical attention, but allowed their attackers Officer I, Officer D and an unknown plainclothes to leave the scene without questioning them or documenting the attack. (Att. 423)

A review of the **Deposition Transcript of Complainant** revealed no information that would assist in the identification of the unknown accused. (Att. 422)

A review of the **Deposition Transcript of Civilian 1** revealed no new information that would

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<sup>17</sup> Officer I was dismissed as a defendant on 13 June 2013; IPRA did not bring allegations against him.

assist in the identification of the unknown accused. (Att. 421)

A review of the **Deposition Transcript, reflecting the testimony of Accused Officer C**, revealed that Officer C did not deviate from the statements that he provided to IPRA. (Atts. 363-364)

A review of the **Deposition Transcript, reflecting the testimony of Accused Officer B**, revealed that Officer B did not deviate from the statements that he provided to IPRA. (Att. 338)

A review of the **Deposition Transcript, reflecting the testimony of Accused Officer A**, revealed that he did not deviate from the statements that he provided at IPRA. (Att. 344)

**Medical Records of Complainant** obtained from Resurrection Saints Mary and Elizabeth Medical Center indicated that Complainant received treatment on 07 February 2010, at 0620 hours in the Emergency Room. Complainant informed hospital personnel that he had been a victim of an assault and that he was punched in the face and thrown to the ground. He complained of pain to his face, right calf, right arm and hand. Medical Records denoted that Complainant had loss of consciousness when he was punched in the face; however, he had no back or neck pain. The final diagnosis was a lip laceration, clinical nasal bone fracture, and a superficial laceration on the forehead. Complainant added that he called for a taxi for him and a friend to get home after he was assaulted. (Atts. 16, 170)

**Medical Records of Civilian 1** obtained from Resurrection Saints Mary and Elizabeth Medical Center indicates that Civilian 1 received treatment on 07 February 2010. Civilian 1 informed hospital personnel that he was in a fight, but denies losing consciousness. Civilian 1 complained of abrasions to his face and upper extremities. Medical Records denote that X rays were taken of Civilian 1 which was negative and that he received sutures to his lips, a bandage to his nose and was prescribed Motrin as needed. The final diagnosis for Civilian 1 was a nasal contusion, lower lip laceration and multiple abrasions. It is reported that there were no obvious angulation of the nasal contusion. (Atts. 16, 171)

**Telephone Records** of Officers A and C and B revealed information that had no substantial value of this investigation, except for Officer B. Cell Phone Records of Officer B revealed that on the early morning of 07 February 2010, there were conversations between him and Officer D. Later in the day, there were telephone calls between Officer B and Officers C and A. (Atts. 231, 255, 258)

**The E-Learning Module** is an Intranet Training Division tool that was used to inform the CPD Command Staff of Area 5 of the surveillance video which captured an incident that occurred in the rear of Restaurant A. The Module was constructed to ascertain if anyone in the Command Staff of Area 5 had any knowledge of subordinate personnel assigned to Area 5 that could possibly identify the unknown assailants and determine if they are in fact CPD members. (Atts. 272-281)

**The E-Learning Module Respondents** were able to participate in the E-Learning Module by logging on and providing their responses on the computer, providing formal statements at IPRA, and others submitted To/From Subject Reports in regards to this investigation. It was revealed to all of the Lieutenants and Captains that this was mandatory and tracked all of their responses.

All were asked if they could identify any of the subjects from the video and if so, to provide their names. Furthermore, each was asked if they were aware of anyone who they believed might be



any of the subjects from the video, and if they had any information concerning this matter. Some participated in the E-Learning Module and others came in to give formal statements. No one was able to identify the unknown assailants from the video. No additional information was gained from this process. (Atts. 271-316, 371-372, 391-416)

**Additional Information** was provided by Attorney A of Law Firm A on 23 February 2012. Attorney A wanted to provide their recently discovered information related to the Restaurant A Investigation and provided it to IRPA Supervisor. According to Attorney A, as Civilian 1 was recently getting a new tattoo, he engaged in conversation with tattoo artist Civilian 16 who informed Civilian 1 that he knew of a CPD officer with a tattoo of a dragon on his inner left forearm.<sup>18</sup> (Att. 381)

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<sup>18</sup> The officer was identified as Officer J #XXXXXX, XXX District

**CONCLUSION:****A. OVERVIEW OF FINDINGS**

The allegations by the complainant and victim in this case raise the following questions and the evidence adduced pursuant to this investigation lead us to find the following:

Can the assailants of Complainant and Civilian 1 be identified? And, if so, is either of them a member of the Chicago Police Department?

- No, there was insufficient evidence to identify the assailants, and the evidence supporting that the assailants were Chicago Police Department members was limited at best.
  - Did Officer C physically maltreat Complainant or Civilian 1? There is insufficient evidence to prove or disprove that Officer C physically maltreated Civilian 1 when he held Civilian 1 down by placing his knee and foot on Civilian 1's leg.
1. Did the officers who observed the melee have a duty to render assistance to Complainant and Civilian 1 that they failed to meet?
    - Yes, Officers C, B, and A failed to: (1) express a sense of concern and general interest to Complainant and Civilian 1 when they were in need of police service, and (2) render aid to Complainant and Civilian 1.
  2. Did any of the involved officers have a duty to take any action or document the incident that they failed to fulfill?
    - Yes, Officers C, B, and A failed to:
      - failed to conduct a thorough and accurate investigation into the battery;
      - failed to document the altercation;
      - allowed the assailants to leave without ascertaining their identities;
      - allowed visibly intoxicated persons to operate a motor vehicle to leave the scene of a battery;
      - failed to arrest the assailants of Complainant and Civilian 1; and
      - failed to attempt to locate, identify and interview the complainants and witnesses about the incident.
  3. Did the Sergeant who responded to Complainant's 911 call fail to fulfill his responsibilities in his investigation of the incident?
    - No, there was insufficient evidence to determine whether Complainant and Civilian 1 alleged to Sergeant A that their assailants were Chicago Police Officers.

**B. FINDINGS BY ACCUSED OFFICER**

## 1. Unknown Officers (Assailants)

There is insufficient evidence to identify the attackers of the alleged assault of Complainant and Civilian 1. Throughout this investigation, IPRA has sought to ascertain the identities of the unknown assailants who were involved in the altercation with Complainant and Civilian 1. The investigation included an initial canvas of the area, obtaining the credit card information of patrons from Restaurant A on the night in question, and conducting numerous witness interviews in an attempt to identify the two male assailants and/or the female that was with them. Of the nine civilian witnesses interviewed, only one recalled seeing the group that Complainant and Civilian 1 had the altercation with and none of the witnesses had any information as to the identities of those individuals. Additional steps were also taken in an effort to identify these individuals through the Chicago Police Department, based on Complainant's allegation that the unknown assailants were police officers. CPD used the surveillance video of the incident to create an online module where various department members were required to view the footage and report whether they recognized any of the individuals. Participation was mandatory and the results were reported. However, no identifications were made through this process. IPRA investigators also utilized information obtained during the civil litigation, in order to try and identify these individuals. A female police officer was initially identified as possibly being the unknown female on the scene. However, further investigation revealed that she did not fit the physical description of the unknown woman on the scene, she denied being present at the scene, and Complainant and Civilian 1 were unable to identify her in a photo array. IPRA investigators also examined whether the assailants' vehicle could be used to identify them, but that line of inquiry was also unsuccessful. Despite the considerable amount of investigative steps undertaken, the identities of these individuals remain unknown. Furthermore, there was no evidence to substantiate Complainant's allegation that the unknown assailants were police officers, let alone members of the Chicago Police Department. In fact, the only evidence of this allegation was that Complainant was told by the unknown female that the assailants were "cops." Civilian 1 did not report hearing this and the investigation found no corroboration for this allegation. Accordingly, there was insufficient evidence to identify the assailants or prove by a preponderance of the evidence that they were members of the Chicago Police Department. Therefore, Allegations #1-4 against, **Unknown Officers**, that they punched and kicked Complainant and Civilian 1 about the head and body, are **Not Sustained**.

## 2. Sergeant A (#XXXX)

IPRA recommends a finding of **Not Sustained** for **Allegation #1** against, **Sergeant A #XXXX**, that he was inattentive to duty, in violation of Rule 5, in that he failed to properly document the encounter. Pursuant to General Order G04-03, Section III(B)(3), Department members conducting a preliminary investigation must complete and submit all necessary reports and notifications, unless otherwise directed by a supervisor. As outlined in Special Order S09-05-01, Department reports must provide an accurate record of the official actions of Department members concerning matters of police concern. As a supervising officer, Sergeant A had a duty to ensure that reports on the incident were completed and in this case a General Offense Case Report was completed. The report includes a brief summary of the incident and documents the date, time and location of the occurrence. The report also states that both Sergeant A and Officer E responded to XXXX N. Rockwell to interview the victims and

afterwards the victims were transported to St. Mary's Hospital for medical treatment. However, the report does not include any notation regarding the allegation that the assailants were Chicago Police Officers, or that either Complainant or Civilian 1 were physically mistreated by the responding officers. In his statement to IPRA, Sergeant A maintained that Complainant and Civilian 1 only informed him that the responding officers failed to give them a report or render any medical aid, for which Sergeant A properly registered a complaint. According to Sergeant A, at no time did either Complainant or Civilian 1 claim that they had been physically mistreated by the responding officers or that the alleged offenders were Chicago police officers. Sergeant A's account of the preliminary investigation was supported by Officer E. Additionally, the content of Complainant's phone calls to 911 at and around the time he spoke with Sergeant A support Sergeant A's version of the events. Specifically, Complainant failed to mention being physically mistreated by the officers who responded to the scene while he was talking with the 911 dispatcher. Complainant also failed to inform the 911 dispatcher that he believed his assailants were also members of the Chicago Police Department. Information of this nature would clearly have been important to communicate when seeking help by calling 911. However, over the course of two separate phone calls to 911, which occurred at 03:40 and 03:42, Complainant failed to make any mention of these allegations. It was not until his third phone call to 911, which occurred at 08:41, over four hours after his conversation with Sergeant A, that Complainant finally informed the dispatcher that he believed his assailants to be CPD members. Complainant never informed 911 dispatch that he or Civilian 1 were physically mistreated by the responding officers. While this evidence is not dispositive of the issue, it certainly tends to support the fact that Complainant may have failed to mention these allegations to Sergeant A during their conversation. In response to his investigation, Sergeant A ensured that a General Offense Case Report was completed, which documented the information he maintains was given by Complainant and Civilian 1.<sup>19</sup> However, there remains insufficient evidence to prove or disprove whether Complainant further alleged to Sergeant A that the assailants were Chicago Police Officers. Therefore, the allegation is NOT SUSTAINED.

IPRA recommends a finding of **Not Sustained** for **Allegation #2** against **Sergeant A #XXXX**, that he failed to take appropriate police action by failing to register a complaint against unknown members of the Chicago Police Department for physically attacking Complainant and Civilian 1. Sergeant A did properly register a complaint against the three responding officers, based on their failure to properly investigate the incident or seek medical attention for Complainant and Civilian 1. As analyzed in Allegation #1, there is insufficient evidence to prove or disprove whether Complainant alleged to Sergeant A that the assailants were Chicago Police Officers. Accordingly, IPRA recommends a finding of **Not Sustained** for **Allegation #2** against, **Sergeant A #XXXX**.

### 3. Officer C (#XXXXXX)

IPRA recommends a finding of **Sustained** for **Allegation #1** against, **Officer C #XXXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1 in violation of G.O. 04-03(III)(B)(1), "Members conducting a preliminary investigation will conduct a thorough and accurate investigation," and Rule 5. Officer C approximated that he was on the scene for five minutes. Although the responding officers reported that they asked for identification, according to

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<sup>19</sup> See General Offense Case Report #HSXXXXXX (Attachment 8)

Complainant's calls to 911, and both Complainant and Civilian 1's statements to IPRA and depositions, none of the officers attempted to ascertain the identities of any of the parties on scene. The video captured additional people on scene, but none of the officers appeared to engage these potential witnesses. Similarly, even though there were security cameras which captured much of the incident, the officers did not enter the restaurants to attempt to view the video footage. The evidence clearly established that Officer C and the responding officers did not conduct a thorough and accurate investigation. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #2** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to convey a sense of concern and general interest to Complainant and Civilian 1 in violation of G.O. 04-03(III)(B)(2), "Members conducting a preliminary investigation will convey a sense of concern and general interest to all persons in need of police service." Officer C admitted that all of the men were intoxicated and displayed cuts and scrapes on their faces and one was bleeding from his nose. Complainant reported that officers were dismissive of his complaints against his assailants; an officer instructed him to forget about the incident and informed him that the officers were not going to do anything about the incident. Although officers denied making or hearing these comments, Complainant's narrative is consistent with the lack of investigation and paperwork completed by the responding officers. Additionally, in his call to 911 Complainant reported that the police were leaving the scene and complained that the officers did not try to detain the assailants. The evidence established that Officer C and the responding officers did not convey a sense of concern and general interest to Complainant and Civilian 1. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #3** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to document the altercation between Complainant, Civilian 1 and their assailants. According to Department Rules and Regulations G.04-01(III)(B)(3), "Members conducting a preliminary investigation will complete and submit all necessary reports and notifications, unless otherwise directed by a supervisor." The evidence conclusively established that the responding officers, including Officer C, did not complete any reports to document the battery. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #4** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to render aid to Complainant and Civilian 1. According to Department Rules and Regulations G.04-01(IV)(A)(1), "Upon arrival, preliminary investigators will render aid to the injured." The photographs, medical records and statements of Complainant and Civilian 1 established that they were visibly injured. Officer C reported that medical attention was not necessary, an ambulance was not requested, and that the parties declined medical attention. Complainant and Civilian 1 maintain that they asked for medical attention but the officers ignored their requests. Even assuming that Officer C's

recollection of the events is accurate, his response was not reasonable in light of the circumstances. There is conclusive evidence that Complainant and Civilian 1 were both visibly injured when they spoke to the officers. Officer C also observed them to be intoxicated and uncooperative. Based on these observations, Complainant and Civilian 1 were not in a position to properly assess their need for medical care. A reasonable officer on scene would have called for an ambulance so that a medical professional could evaluate Complainant and Civilian 1's need for medical attention. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #5** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he allowed the alleged assailants to leave the scene of a battery without ascertaining their identities. The responding officers reported that they unsuccessfully requested the identification from the parties, but still allowed the alleged assailants to leave the scene without learning their identities. Although responding officers asserted their inability to determine whether a crime occurred; this explanation is contrary to their own observations. All of the officers reported that the four men displayed facial injuries, including one man with a bloody nose. The officers also reported that at least some of the men were down on the ground when they arrived on scene, and that Officer C had to physically separate them. Officer C further reported that Complainant and Civilian 1 alleged that the other parties started the fight. Given that it was clear that an incident had occurred which resulted in injury to several citizens, the responding officers were derelict in their duties when they allowed the alleged assailants to leave the scene without, at minimum, obtaining their identities to further their investigation. Officer C reports that he asked the parties their names and they refused to provide them. However, his inquiry should not have stopped there as further investigation was necessary. Officer C made no further attempts to identify any of the parties involved and he allowed the alleged assailants to leave the scene. Officer C's actions are a violation of Rule 2, because they brought discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty.

IPRA recommends a finding of **Sustained** for **Allegation #6** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he allowed visibly intoxicated assailants/witnesses to operate a motor vehicle to leave the scene of a battery. According to G.04-08(IV)(A), "When a Department member has reasonable suspicion to believe that an individual is operating or is in actual physical control of a motor vehicle while under the influence of alcohol...the member will determine whether probable cause exists to charge the driver with DUI based upon any or all of the following..." Officer C believed that the parties were intoxicated, but reported that they walked away and were not operating a vehicle. Similarly, none of the responding officers reported that the alleged assailants drove away. However, the video footage of the incident clearly shows the unknown assailants leaving the scene in a vehicle. The video also demonstrates that the assailant's car was parked close to the location where the officers were speaking with the parties. Officer C himself maintained that he watched all the individuals leave, to ensure that they were leaving in opposite directions. Officer C also denied seeing the unknown assailants leave in a car. However, based on the video evidence, the assailant's vehicle was parked close enough that Officer C could have easily observed the assailants entering the car. The evidence established that Officer C either knew, or should have known, that the intoxicated assailants departed by operating a motor vehicle, but he failed to

prohibit them from continuing to drive while under the influence of alcohol. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #7** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to arrest the assailants of Complainant and Civilian 1. According to G.04-01(IV)(A)(4), "Upon arrival, preliminary investigators will arrest the offender if still on or near the scene and probable cause for an arrest exists." The evidence in this case demonstrates there was probable cause sufficient to make arrests. "Probable cause exists where the police have knowledge of the facts which would lead a reasonable person to believe that a crime has occurred and that it has been committed by defendant."<sup>20</sup> Furthermore, the determination of whether probable cause exists "concerns the probability of criminal activity, which does not even demand a showing that the belief that the suspect has committed a crime be more likely true than false."<sup>21</sup> The threshold for establishing probable cause for an arrest is intentionally low because an arrest not only serves the function of producing persons for prosecution but also serves an investigative function.<sup>22</sup> In the present case, Officer C described physically separating the parties, observing visible injuries, and Complainant and Civilian 1 both indicating that the two unknown assailants had started the fight. Based on this information, there was probable cause to arrest. Moreover, Officer C needed to effectuate an arrest of the assailants in order to ascertain the identities of all involved and continue to investigate the occurrence. Additionally, even though the officers described all of the individuals as uncooperative and intoxicated, in Complainant's 03:40 call to 911 from the scene, he calmly and clearly explained that he had been beaten, and complained that the responding officers just drove away and had not tried to detain his assailants. Complainant and Civilian 1 reported that Complainant informed the responding officers that he wanted his assailants arrested. Given the totality of the circumstances, probable cause existed to arrest the assailants of Complainant and Civilian 1. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #8** against, **Officer C #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to locate, identify and interview the complainants/witnesses to the incident. According to G.04-01(IV)(A)(6), "Upon arrival, preliminary investigators will locate, identify, and interview the complainant/witness..." Although Officer C reported that officers requested identification, they did not obtain the identities or license plates of any of the involved parties. Nor did the officers approach potential witnesses on the scene. As described above, the responding officers, including Officer C, did not document the incident and therefore did not identify the complainants or witnesses to the incident. Officer C's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

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<sup>20</sup> *People v. Myrick*, 274 Ill. App. 3d 983, 651 N.E.2d 637, 643 (1995)

<sup>21</sup> *People v. Hopkins*, 235 Ill. 2d 453, 477, 337 Ill. Dec. 465, 922 N.E. 2d 1042 (2009)

<sup>22</sup> *People v. Sims*, 192 Ill 2d 592, 614-15, 249 Ill. Dec. 610, 736 N.E.2d 1048 (2000)

IPRA recommends a finding of **Not Sustained** for **Allegation #9** against, **Officer C #XXXXX**, that he failed to report misconduct against alleged Chicago Police Officers by informing a supervisor of the alleged misconduct by the police in violation of G.O. 93-03-02B (II)(B)(1) and Rules, 2, 5, and 6. Although Complainant later alleged that his unknown assailants were Chicago Police Officers, he did not inform the responding officers of this allegation. However, in subsequent statements and the deposition in his civil case, Complainant has speculated that the responding officers recognized his assailants as Chicago Police Officers. Complainant appears to base this belief solely on the comment made by the unknown female at the scene who stated that the assailants were “cops.” This theory was thoroughly investigated by IPRA, as set forth in the analysis of Allegations 1-4 against “Unknown Officers,” but there was never an identification made of these individuals, or any evidence that they were police officers. Neither Complainant nor Civilian 1 report informing Officer C that their assailants were “cops.” There is insufficient evidence to prove or disprove the allegation that Officer C had reason to believe that the unknown assailants were Chicago Police Officers. Therefore, this allegation should be Not Sustained.

IPRA recommends a finding of **Not Sustained** for **Allegation #10** against, **Officer C #XXXXX**, that he physically maltreated Civilian 1 by kneeling or kicking him, in violation of Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty, and Rule 9, engaging in any unjustified verbal or physical altercation with any person, while on or off duty. The video evidence shows that Officer C held Civilian 1 down by placing his knee and foot on Civilian 1’s leg. The video also shows Officer C kick a jacket that was on the ground. According to Officer C, he held Civilian 1 down because Civilian 1 was uncooperative, yelling obscenities and attempted to lunge at one of the other men. Officer C also stated that Civilian 1 was resisting and refused to follow verbal commands. However, he does not remember why he kicked the jacket. Neither Civilian 1 nor Complainant were able to independently recall Civilian 1 being either kneed or kicked by Officer C. It was not until they reviewed the video of the incident that they disclosed any physical maltreatment by Officer C. In their prior statement to IPRA, this allegation was never raised. On August 31, 2011 in his deposition for the civil suit, Complainant stated that the video depicts Officer C kneeling Civilian 1, but that he had no independent memory of this occurring.<sup>23</sup> On September 1, 2011 in his deposition for the civil suit, Civilian 1 stated that the video depicts Officer C kneeling him and punching him in the face. Civilian 1 also had no independent memory of this occurring.<sup>24</sup> The quality of the video makes it difficult to see precisely what actions take place between Officer C and Civilian 1. However, the video evidence does not support Civilian 1’s claim that Officer C punched him in the face. Therefore, the analysis of Officer C’s use of force is limited to either kneeling or kicking Civilian 1, as the video does depict some contact between Officer C’s leg and Civilian 1’s body. Under the CPD Use of Force Model, Civilian 1’s actions would likely be characterized as “active resistance” in that he was using movement to avoid Officer C’s physical control. Civilian 1 himself states that he recalls Officer C giving him verbal commands to “stay down” as he kept trying to stand up, which is similar to the actions Officer C described.<sup>25</sup> In response to Civilian 1’s active resistance, Officer C’s use of pressure and holding techniques to gain control over Civilian 1 may well have been reasonable. However, given the conflicting accounts of this encounter, there is not enough evidence to prove or disprove whether

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<sup>23</sup> Deposition of Complainant, Att. 422 at pages 186-192.

<sup>24</sup> Deposition of Civilian 1, Att. 421 at pages 233-238.

<sup>25</sup> *Id.* at page 238.



Officer C's use of force was reasonable under the circumstances. Therefore, this allegation should be Not Sustained.

IPRA recommends a finding of **Sustained** for **Allegation #1** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1 in violation of G.O. 04-03(III)(B)(1), "Members conducting a preliminary investigation will conduct a thorough and accurate investigation." Officer B approximated that he was on the scene for less five minutes. Although the responding officers reported that they asked for identification, according to Complainant's calls to 911, and both Complainant and Civilian 1's statements to IPRA and depositions, none of the officers attempted to ascertain the identities of any of the parties on scene. The video captured additional people on scene, but none of the officers appeared to engage these potential witnesses. Similarly, even though there were security cameras which captured much of the incident, the officers did not enter the restaurants to attempt to view the video footage. Officer B further reported that he did not speak with his partners about what information they gathered before leaving the scene. The evidence clearly established that Officer B and the responding officers did not conduct a thorough and accurate investigation. Officer B' failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #2** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to conduct a sense of concern and general interest to Complainant and Civilian 1 in violation of G.O. 04-03(III)(B)(2), "Members conducting a preliminary investigation will convey a sense of concern and general interest to all persons in need of police service." Officer B admitted that all of the men were intoxicated and displayed cuts and scrapes on their faces and one was bleeding from his nose. Complainant reported that officers were dismissive of his complaints against his assailants; an officer instructed him to forget about the incident and informed him that the officers were not going to do anything about the incident. Although officers denied making or hearing these comments, Complainant's narrative is consistent with the lack of investigation and paperwork completed by the responding officers. Additionally, in his call to 911 Complainant reported that the police were leaving the scene and complained that the officers did not try to detain the assailants. The evidence established that Officer B and the responding officers did not convey a sense of concern and general interest to Complainant and Civilian 1. Officer B' failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #3** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to document the altercation between Complainant, Civilian 1 and their assailants. According to Department Rules and Regulations G.04-01(III)(B)(3), "Members conducting a preliminary investigation will complete and submit all necessary reports and notifications, unless otherwise directed by a supervisor." The evidence conclusively established that the responding officers, including Officer B, did not complete any reports to document the battery. Officer B' failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of

Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #4** against, **Officer B, #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to render aid to Complainant and Civilian 1. According to Department Rules and Regulations G.04-01(IV)(A)(1), "Upon arrival, preliminary investigators will render aid to the injured." The photographs, medical records and statements of Complainant and Civilian 1 established that they were visibly injured. Although Officer B reported asking one man if he needed an ambulance, he did not know with which man he spoke. He reported that he asked the parties if they wanted medical assistance but they refused. The officers did not request an ambulance, which substantiates the allegation made by Complainant and Civilian 1. Complainant and Civilian 1 maintain that they asked for medical attention but the officers ignored their requests. Even assuming that Officer B's recollection of the events is accurate, his response was not reasonable in light of the circumstances. There is conclusive evidence that Complainant and Civilian 1 were both visibly injured when they spoke to the officers. Officer B also observed them to be intoxicated and uncooperative. Based on these observations, Complainant and Civilian 1 were not in a position to properly assess their need for medical care. A reasonable officer on scene would have called for an ambulance so that a medical professional could evaluate Complainant and Civilian 1's need for medical attention. Officer B' failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #5** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he allowed the alleged assailants to leave the scene of a battery without ascertaining their identities. The responding officers reported that they unsuccessfully requested identification from the parties, but still allowed the alleged assailants to leave the scene without learning their identities. Although responding officers asserted their inability to determine whether a crime occurred; this explanation is contrary to their own observations. All of the officers reported that the four men displayed facial injuries, including one man with a bloody nose. The officers also reported that at least some of the men were down on the ground when they arrived on scene, and that Officer C had to physically separate them. Officer C reported that Complainant and Civilian 1 alleged that the other parties started the fight. Given that it was clear that an incident had occurred which resulted in injury to several citizens, the responding officers were derelict in their duties when they allowed the alleged assailants to leave the scene without, at minimum, ascertaining their identities to further their investigation. Officer B reported that he overheard Officer C ask the parties their names and they refused to provide them. However, his inquiry should not have stopped there as further investigation was necessary. Officer B made no further attempts to identify any of the parties involved and he allowed the alleged assailants to leave the scene. Officer B' actions are a violation of Rule 2, because they brought discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty.

IPRA recommends a finding of **Sustained** for **Allegation #6** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he allowed visibly intoxicated assailants/witnesses to operate a motor vehicle to leave the scene of a battery. According to G.04-08(IV)(A) , "When a Department member has reasonable suspicion to believe that an individual is

operating or is in actual physical control of a motor vehicle while under the influence of alcohol...the member will determine whether probable cause exists to charge the driver with DUI based upon any or all of the following...” Officer B described all five of the individuals as intoxicated, and admitted that he and the responding officers allowed them to leave the scene intoxicated. All of the responding officers report they observed the assailants walk away, however, the video footage of the incident clearly shows the unknown assailants leaving the scene in a vehicle. The video also demonstrates that the assailant’s car was parked close to the location where the officers were speaking with the parties. Officer B himself maintained that he watched the two groups of individuals walk away in different directions. However, based on the video evidence, the assailant’s vehicle was parked close enough that Officer B could have easily observed the assailants entering the car. The evidence established that Officer B knew, or should have known, based on the proximity of the assailants’ vehicle, that the intoxicated assailants departed by operating a motor vehicle, but he failed to prohibit them from continuing to drive under the influence of alcohol. Officer B’ failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #7** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to arrest the assailants of Complainant and Civilian 1. According to G.04-01(IV)(A)(4), “Upon arrival, preliminary investigators will arrest the offender if still on or near the scene and probable cause for an arrest exists.” By Officer B’ own description of the incident, there was probable cause sufficient to make arrests. “Probable cause exists where the police have knowledge of the facts which would lead a reasonable person to believe that a crime has occurred and that it has been committed by defendant.”<sup>26</sup> Furthermore, the determination of whether probable cause exists “concerns the probability of criminal activity, which does not even demand a showing that the belief that the suspect has committed a crime be more likely true than false.”<sup>27</sup> The threshold for establishing probable cause for an arrest is intentionally low because an arrest not only serves the function of producing persons for prosecution but also serves an investigative function.<sup>28</sup> In the present case, Officer B observed that one man’s nose was bleeding and that all of the men had cuts and scrapes on their faces; Officer C had to physically separate two of the individuals. Although Officer B described all of the individuals as uncooperative and intoxicated, in Complainant’s 03:40 call to 911 from the scene, he calmly and clearly explained that he had been beaten, and complained that the responding officers just drove away and had not tried to detain his assailants. Complainant and Civilian 1 reported that Complainant informed the responding officers that he wanted his assailants arrested. Given the totality of the circumstances, probable cause existed to arrest the assailants of Complainant and Civilian 1. Officer B’ failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #8** against, **Officer B #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to locate,

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<sup>26</sup> *People v. Myrick*, 274 Ill. App. 3d 983, 651 N.E.2d 637, 643 (1995)

<sup>27</sup> *People v. Hopkins*, 235 Ill. 2d 453, 477, 337 Ill. Dec. 465, 922 N.E. 2d 1042 (2009)

<sup>28</sup> *People v. Sims*, 192 Ill 2d 592, 614-15, 249 Ill. Dec. 610, 736 N.E.2d 1048 (2000)

identify and interview the complainants/witnesses to the incident. According to G.04-01(IV)(A)(6), “Upon arrival, preliminary investigators will locate, identify, and interview the complainant/witness...” Although Officer B reported that officers requested identification, they did not obtain the identities or license plates of any of the involved parties. As described above, the responding officers, including Officer B, did not document the incident and therefore did not identify the complainants or witnesses to the incident. Officer B’ failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Not Sustained** for **Allegation #9** against, **Officer B #XXXXX**, that he failed to report misconduct against alleged Chicago Police Officers by informing a supervisor of the alleged misconduct by the police in violation of G.O. 93-03-02B (II)(B)(1) and Rules, 2, 5, and 6. Although Complainant later alleged that his unknown assailants were Chicago Police Officers, he did not inform the responding officers of this allegation on scene. However, in subsequent statements and the deposition in his civil case, Complainant has speculated that the responding officers recognized his assailants as Chicago Police Officers. Complainant appears to base this belief solely on the comment made by the unknown female at the scene who stated that the assailants were “cops.” This theory was thoroughly investigated by IPRA, as set forth in the analysis of Allegations 1-4 against “Unknown Officers,” but there was never an identification made of these individuals, or any evidence that they were police officers. Neither Complainant nor Civilian 1 report informing Officer B that their assailants were “cops.” There is insufficient evidence to prove or disprove the allegation that Officer B had reason to believe that the unknown assailants were Chicago Police Officers. Therefore, this allegation should be Not Sustained.

IPRA recommends a finding of **Sustained** for **Allegation #1** against, **Officer A #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1 in violation of G.O. 04-03(III)(B)(1), “Members conducting a preliminary investigation will conduct a thorough and accurate investigation.” Officer A approximated that he was on the scene for five minutes. During this time, Officer A did not ask for identification from the unknown assailants he spoke with. Although the responding officers reported that they asked for identification, according to Complainant’s calls to 911, and both Complainant and Civilian 1’s statements to IPRA and depositions, none of the officers attempted to ascertain the identities of any of the parties on scene. The video captured additional people on scene, but none of the officers appeared to engage these potential witnesses. Similarly, even though there were security cameras which captured much of the incident, the officers did not enter the restaurants to attempt to view the video footage. The evidence clearly established that Officer A and the responding officers did not conduct a thorough and accurate investigation. Officer A’s failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #2** against, **Officer A #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to conduct a sense of concern and general interest to Complainant and Civilian 1 in violation of G.O. 04-03(III)(B)(2), “Members conducting a preliminary investigation will convey a sense of concern and

general interest to all persons in need of police service.” Officer A admitted that all of the men displayed cuts and scratches on their faces and were lying down in the alley when the officers first observed them. Complainant reported that officers were dismissive of his complaints against his assailants; an officer instructed him to forget about the incident and informed him that the officers were not going to do anything about the incident. Although officers denied making or hearing these comments, Complainant’s narrative is consistent with the lack of investigation and paperwork completed by the responding officers. Additionally, in his call to 911 Complainant reported that the police were leaving the scene and complained that the officers did not try to detain the assailants. The evidence established that Officer A and the responding officers did not convey a sense of concern and general interest to Complainant and Civilian 1. Officer A’s failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #3** against, **Officer A #XXXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to document the altercation between Complainant, Civilian 1 and their assailants. According to Department Rules and Regulations G.04-01(III)(B)(3), “Members conducting a preliminary investigation will complete and submit all necessary reports and notifications, unless otherwise directed by a supervisor.” The evidence conclusively established that the responding officers, including Officer A, did not complete any reports to document the battery. Officer A’s failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #4** against, **Officer A #XXXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to render aid to Complainant and Civilian 1. According to Department Rules and Regulations G.04-01(IV)(A)(1), “Upon arrival, preliminary investigators will render aid to the injured.” The photographs, medical records and statements of Complainant and Civilian 1 established that they were visibly injured. Officer A stated that he asked the parties multiple times if they wanted medical attention, but that he was ignored. Complainant and Civilian 1 maintain that they asked for medical attention but the officers ignored their requests. Even assuming that Officer A’s recollection of the events is accurate, his response was not reasonable in light of the circumstances. There is conclusive evidence that Complainant and Civilian 1 were both visibly injured when they spoke to the officers. Officer A also observed them to be intoxicated and uncooperative. Based on these observations, Complainant and Civilian 1 were not in a position to properly assess their need for medical care. A reasonable officer on scene would have called for an ambulance so that a medical professional could evaluate Complainant and Civilian 1’s need for medical attention. Officer A’s failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #5** against, **Officer A #XXXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he allowed alleged assailants to leave the scene of a battery without obtaining their identities. The responding officers reported that they unsuccessfully requested identification from the parties, but still allowed the alleged assailants to leave the scene without learning their identities. Although responding officers asserted

their inability to determine whether a crime occurred; this explanation is contrary to their own observations. All of the officers reported that the four men displayed facial injuries, including one man with a bloody nose. The officers also reported that at least some of the men were down on the ground when they arrived on scene, and that Officer C had to physically separate them. Officer C further reported that Complainant and Civilian 1 alleged that the other parties started the fight. Given that it was clear that an incident had occurred which resulted in injury to several citizens, the responding officers were derelict in their duties when they allowed the alleged assailants to leave the scene without, at minimum, ascertaining their identities to further their investigation. Despite this information, Officer A admitted that he never even asked the parties for identification. Officer A made no further attempts to identify any of the parties involved and he allowed the alleged assailants to leave the scene. Officer A's actions are a violation of Rule 2, in that they brought discredit upon the Department. Such failure is also in violation of Rule 5 in that he failed to perform any duty.

IPRA recommends a finding of **Sustained** for **Allegation #6** against, **Officer A #XXXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he allowed visibly intoxicated assailants/witnesses to operate a motor vehicle to leave the scene of a battery. According to G.04-08(IV)(A), "When a Department member has reasonable suspicion to believe that an individual is operating or is in actual physical control of a motor vehicle while under the influence of alcohol...the member will determine whether probable cause exists to charge the driver with DUI based upon any or all of the following..." Officer A admitted that all of the men were intoxicated. Officer B described all five of the individuals as intoxicated. Although Officer A denied that he saw the unknown assailants enter a vehicle, he admitted that he allowed all of the parties to leave the scene intoxicated. Similarly, although Officer A denied observing the unknown assailants enter a vehicle, the incident occurred in a parking lot. However, the video footage of the incident clearly shows the unknown assailants leaving the scene in a vehicle. The video also demonstrates that the assailant's car was parked close to the location where the officers were speaking with the parties. Officer A himself maintained that he watched the two groups of individuals walk away in different directions. However, based on the video evidence, the assailant's vehicle was parked close enough that Officer A could have easily observed the assailants entering the car. The evidence established that Officer A knew, or should have known, that the intoxicated assailants departed by operating a motor vehicle, but he failed to prohibit them from continuing to drive under the influence of alcohol. Officer A's failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #7** against, **Officer A #XXXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to arrest the assailants of Complainant and Civilian 1. According to G.04-01(IV)(A)(4), "Upon arrival, preliminary investigators will arrest the offender if still on or near the scene and probable cause for an arrest exists." By Officer A's own description of the incident, there was probable cause for an arrest. "Probable cause exists where the police have knowledge of the facts which would lead a reasonable person to believe that a crime has occurred and that it has been committed by defendant."<sup>29</sup> Furthermore, the determination of whether probable cause exists "concerns the probability of criminal activity, which does not even demand a showing that the belief that the suspect has committed a crime

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<sup>29</sup> *People v. Myrick*, 274 Ill. App. 3d 983, 651 N.E.2d 637, 643 (1995)

be more likely true than false.”<sup>30</sup> The threshold for establishing probable cause for an arrest is intentionally low because an arrest not only serves the function of producing persons for prosecution but also serves an investigative function.<sup>31</sup> Although Officer A attempted to explain that he was unable to determine whether a crime had been committed, his own description of the incident indicates that a battery occurred. Officer A observed that all of the men had cuts and scratches on their faces, and that Officer C had to physically separate two of the individuals. Although Officer A described all of the individuals as uncooperative, and incoherent, in Complainant’s 03:40 call to 911 from the scene, he calmly and clearly explained that he had been beaten, and complained that the responding officers just drove away and had not tried to detain his assailants. Complainant and Civilian 1 reported that Complainant informed the responding officers that he wanted his assailants arrested. Given the totality of the circumstances, probable cause existed to arrest the assailants of Complainant and Civilian 1. Officer A’s failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Sustained** for **Allegation #8** against, **Officer A #XXXXX**, that on 07 February 2010, at approximately 0315 hours, at XXXX N. Western Avenue, he failed to locate, identify and interview the complainants/witnesses to the incident. According to G.04-01(IV)(A)(6), “Upon arrival, preliminary investigators will locate, identify, and interview the complainant/witness...” As described above, the responding officers, including Officer A, did not document the incident and therefore did not identify the complainants or witnesses to the incident. Officer A’s failure to do so represents a violation of Rule 2, because it brings discredit upon the Department. Such failure is also in violation of Rule 5, failure to perform any duty, and Rule 6, disobedience of an order or directive.

IPRA recommends a finding of **Not Sustained** for **Allegation #9** against, **Officer A #XXXXX**, that he failed to report misconduct against alleged Chicago Police Officers by informing a supervisor of the alleged misconduct by the police in violation of G.O. 93-03-02B (II)(B)(1) and Rules, 2, 5, and 6. Although Complainant later alleged that his unknown assailants were Chicago Police Officers, he did not inform the responding officers of this allegation on the scene. However, in subsequent statements and the deposition in his civil case, Complainant has speculated that the responding officers recognized his assailants as Chicago Police Officers. Complainant appears to base this belief solely on the comment made by the unknown female at the scene who stated that the assailants were “cops.” This theory was thoroughly investigated by IPRA, as set forth in the analysis of Allegations 1-4 against “Unknown Officers,” but there was never an identification made of these individuals, or any evidence that they were police officers. Neither Complainant nor Civilian 1 report informing Officer A that their assailants were “cops.” There is insufficient evidence to prove or disprove the allegation that Officer A had reason to believe that the unknown assailants were Chicago Police Officers. Therefore, this allegation should be Not Sustained.

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<sup>30</sup> *People v. Hopkins*, 235 Ill. 2d 453, 477, 337 Ill. Dec. 465, 922 N.E. 2d 1042 (2009)

<sup>31</sup> *People v. Sims*, 192 Ill 2d 592, 614-15, 249 Ill. Dec. 610, 736 N.E.2d 1048 (2000)

**FINDINGS:**

**ACCUSED #1: Unknown Officers**

**Allegations #1 - 4 Not Sustained**

**ACCUSED #2: Sergeant A #XXXX**

**Allegation #1 Not Sustained**

**Allegation #2 Not Sustained**

**ACCUSED #3: Officer C #XXXXX**

**Allegation #1 Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to conduct a thorough and accurate investigation into the battery of Complainant.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXX**, failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1, and disobeyed Department General Order 04-03, Preliminary Investigations, Section III-B-1.

**Allegation #2 Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to convey a sense of concern and general interest to Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07



February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, violated the Department's Rules and Regulations in that he failed to perform any duty when he neglected to convey a sense of concern and general interest to Complainant and Civilian 1.

**Sustained – Violation of Rule 6**, “Disobedience of an order or directive” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, failed to convey a sense of concern and general interest to Complainant and Civilian 1, and disobeyed Department General Order 04-03, Preliminary Investigations, Section III-B-2.

**Allegation #3**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to document the altercation between Complainant, Civilian 1 and their assailants.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, violated the Department's Rules and Regulations in that he failed to perform any duty when he neglected to document the altercation between Complainant, Civilian 1 and their assailants.

**Sustained – Violation of Rule 6**, “Disobedience of an order or directive” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX** failed to document the altercation between Complainant, Civilian 1 and their assailants, and disobeyed Department General Order 04-03, Preliminary Investigations, Section III-B-3.

**Allegation #4**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to render aid to Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, violated the Department's Rules and Regulations in that he failed to perform any duty when he neglected to render aid to Complainant and Civilian 1.

**Sustained – Violation of Rule 6**, “Disobedience of an order or directive” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of

XXXX N. Western Avenue, **Officer C #XXXXXX** failed to render aid to Complainant and Civilian 1, and disobeyed Department General Order 04-03, Preliminary Investigations, Section IV-A-1.

**Allegation #5**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he allowed the alleged assailants to leave the scene of a battery without obtaining their identities.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, failed to obtain the identities of the alleged assailants and allowed them to leave the scene of a battery.

**Allegation #6**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, violated the Department’s Rules and Regulations in that he allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery, thereby disobeying Department General Order 04-08, Driving While Under the Influence - Implied Consent, Section IV-A.

**Allegation #7**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to arrest the assailants of Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to arrest the assailants of Complainant and Civilian 1.

**Sustained – Violation of Rule 6**, “Disobedience of an order or directive” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, failed to arrest the assailants of Complainant and Civilian 1, and disobeyed Department General Order 04-03, Preliminary Investigations, Section IV-A-4.

**Allegation #8**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to locate, identify, and interview the complainants / witnesses.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to locate, identify, and interview the complainants / witnesses.

**Sustained – Violation of Rule 6**, “Disobedience of an order or directive” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer C #XXXXXX**, failed to locate, identify, and interview the complainants / witnesses, and disobeyed Department General Order 04-03, Preliminary Investigations, Section IV-A- 6.

**Allegation #9**

**Not Sustained**

**Allegation #10**

**Not Sustained**

**ACCUSED #3: Officer B #XXXXX****Allegation #1**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to conduct a thorough and accurate investigation into the battery of Complainant.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section III-B-1.

**Allegation #2**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to convey a sense of concern and general interest to Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to convey a sense of concern and general interest to Complainant and Civilian 1.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, failed to convey a sense of concern and general interest to Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section III-B-2.

**Allegation #3**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to document the altercation between Complainant, Civilian 1 and their assailants.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to document the altercation between Complainant, Civilian 1 and their assailants.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, failed to document the altercation between Complainant, Civilian 1 and their assailants, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section III-B-3.

#### **Allegation #4**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to render aid to Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to render aid to Complainant and Civilian 1.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, failed to render aid to Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section IV-A-1.

#### **Allegation #5**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he allowed the alleged assailants to leave the scene of a battery without obtaining their identities.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07

February 2010, at approximately 0315 hours, while in the vicinity of XXX N. Western Avenue, **Officer B #XXXXX**, violated the Department's Rules and Regulations in that he allowed the alleged assailants to leave the scene of a battery without obtaining their identities.

**Allegation #6**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXX**, engaged in conduct that brought discredit upon the Department in that he allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery.

**Sustained - Violation of Rule 5**, "Failure to Perform Any Duty" in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXX**, violated the Department's Rules and Regulations in that he allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery.

**Sustained - Violation of Rule 6**, "Disobedience of an order or directive, whether written or oral," in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXX**, allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery, thereby disobeying Department General Order 04-08, Driving While Under the Influence - Implied Consent, Section IV-A.

**Allegation #7**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to arrest the assailants of Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, "Failure to Perform Any Duty" in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXX**, violated the Department's Rules and Regulations in that he failed to arrest the assailants of Complainant and Civilian 1.

**Sustained - Violation of Rule 6**, "Disobedience of an order or directive, whether written or oral," in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXX**, failed to arrest the assailants of Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section IV-A-4.

**Allegation #8**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to locate, identify, and interview the complainants / witnesses.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to locate, identify, and interview the complainants / witnesses.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer B #XXXXXX**, failed to locate, identify, and interview the complainants / witnesses, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section IV-A- 6.

**Allegation #9**

**Not Sustained**

**ACCUSED #5: Officer A #XXXXX****Allegation #1**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to conduct a thorough and accurate investigation into the battery of Complainant.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXX**, failed to conduct a thorough and accurate investigation into the battery of Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section III-B-1 .

**Allegation #2**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to convey a sense of concern and general interest to Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to convey a sense of concern and general interest to Complainant and Civilian 1.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXX**, failed to convey a sense of concern and general interest to Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section III-B-2.

**Allegation #3**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to document the altercation between Complainant, Civilian 1 and their assailants.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to document the altercation between Complainant, Civilian 1 and their assailants.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, failed to document the altercation between Complainant, Civilian 1 and their assailants, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section III-B-3.

#### **Allegation #4**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to render aid to Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to perform any duty when he neglected to render aid to Complainant and Civilian 1.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, failed to render aid to Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section IV.A.1.

#### **Allegation #5**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he allowed the alleged assailants to leave the scene of a battery without obtaining their identities.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, in that he allowed the alleged assailants to leave the scene of a battery without obtaining their identities.

**Allegation #6**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, violated the Department’s Rules and Regulations in that he allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, allowed visibly intoxicated assailants / witnesses to operate a motor vehicle to leave the scene of a battery, thereby disobeying Department General Order 04-08, Driving While Under the Influence - Implied Consent, Section IV.A.

**Allegation #7**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to arrest the assailants of Complainant and Civilian 1.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to arrest the assailants of Complainant and Civilian 1.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, failed to arrest the assailants of Complainant and Civilian 1, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section IV-A-4.

**Allegation #8**

**Sustained - 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 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, engaged in conduct that brought discredit upon the Department in that he failed to locate, identify, and interview the complainants / witnesses.

**Sustained - Violation of Rule 5**, “Failure to Perform Any Duty” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, violated the Department’s Rules and Regulations in that he failed to locate, identify, and interview the complainants / witnesses.

**Sustained - Violation of Rule 6**, “Disobedience of an order or directive, whether written or oral,” in that on 07 February 2010, at approximately 0315 hours, while in the vicinity of XXXX N. Western Avenue, **Officer A #XXXXXX**, failed to locate, identify, and interview the complainants / witnesses, thereby disobeying Department General Order 04-03, Preliminary Investigations, Section IV-A- 6.

**Allegation #9**

**Not Sustained**