

INTRODUCTION

Complainant alleged that on February 10, 2015, Officer A “slammed” her on the floor and scratched her hand during a domestic argument. When asked to provide an affidavit, Complainant declined to cooperate with IPRA’s investigation. Given that there was insufficient evidence to justify a request for an affidavit override, IPRA closed the case. IPRA re-opened the investigation on April 28, 2015 after Complainant agreed to cooperate.¹

BACKGROUND

In February of 2015, Complainant had dated Officer A for approximately eight years and they had a five-year-old daughter in common. Complainant moved in with Officer A in 2014, but they had a difficult relationship. Complainant ceased living with Officer A in April 2015 and moved in with her mother. Complainant and Officer A had a second child together in December 2015.

ALLEGATIONS

Complainant alleged that on 10 February 2015, at approximately 2040 hours, inside the residence at XXXX S. Martin Luther King Jr. Drive, #XXXX, the accused, **Officer A, #XXXXX**:

1. Took Complainant’s coat and refused to return it, in violation of Rule 2;
2. Went inside her pockets without her permission, in violation of Rule 2;
3. “Slammed” Complainant to the floor, in violation of Rule 8;
4. Scratched her hand, in violation of Rule 8; and
5. Harassed Complainant in that he repeatedly called and texted her, in violation of Rule 9.

It was also alleged that on 10 February 2015, at approximately 2040 hours, at XXXX S. Martin Luther King Jr. Drive, #XXXX, that the accused, **Sergeant A, #XXXX**:

1. Received allegations of misconduct against Officer A, #XXXXX, from Complainant and failed to initiate a CR Log Number Investigation as required by G.O.8-01-02.II.B.2.a, in violation of Rule 6.

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 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect of 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.

¹ Complainant provided a statement for allegations she made against Officer A in Log #1074825; included in that statement were allegations regarding this Log #1073745 and Log #1073112, which she filed in December 2014.

G.O.8-01-02.II.B.2.a

When incidents regarding allegations of misconduct subject to the Log Number process are received, the supervisor or commanding officer who first received information of the alleged misconduct will report the information to *IPRA* by telephone within one (1) hour after the information is received. If the notification occurs during non-business Hours (2300 – 0700), members will contact the *Crime Prevention Information Center (CPIC)*.

INVESTIGATION

The **Non-Criminal Case Report**, RD #HY-147352, documented that Complainant requested police assistance after an argument with her boyfriend, Officer A. The report documented, “There were no signs of violence, nor was there any related to R/O’s.” Officer A and Complainant confirmed that the apartment was leased to Officer A. Complainant assured responding officers that she had a place to go and that that she was leaving the relationship anyway. Responding officers assisted Complainant in gathering several bags of clothing and personal items. Complainant then left the residence in her vehicle. According to the case report, Officer A stated to the responding officer that he no longer wanted to continue the relationship with Complainant because it “turned sour.” (Att. 4)

The **Event Query** documented that Complainant called 911 on 10 February 2015 at 20:42:09 hours to report that she was arguing over property with her boyfriend, off-duty Police Officer A. CPD Units XXX and XXX responded to the scene. The **911 Recording** documented that Complainant requested that police meet her in the hallway outside of XXXX S. Martin Luther King Jr. Drive, #XXXX, because Officer A would not let her take her property and wanted to “tussle and wrestle.” OEMC broadcast the job with the description that it was a domestic involving Complainant arguing over property with her boyfriend, and dispatched Units XXX and XXX. (Atts. 5, 8, 9, 10)

In an **interview² with IPRA** on April 28, 2015, **Complainant** stated that on February 10, 2015, Officer A emailed and texted her repeatedly about letting him into the apartment because he did not have his key. When Officer A arrived home, they argued about the keys to the apartment, and Complainant decided to leave the residence. As Complainant got her coat and was about to leave, Officer A took her coat away from her and would not return it. Complainant noted that Officer A purchased the coat for her as a gift on an earlier date. Prior to leaving, they engaged in a minor physical struggle where Officer A attempted to remove money and other things from her pants pockets without her permission. The physical struggle is what caused her to call 911. Complainant added that Officer A often went in her pockets and would take out her money and keys when she tried to leave, to ensure that she returned.

Complainant was in the hallway outside of the apartment when responding officers, now known as Officers B and C, knocked on the door. Complainant recognized one of the officers from responding to an earlier incident.³ A sergeant, now known as Sergeant A, also responded. All of the responding officers helped pack up and carry Complainant’s belongings to her car. As this was taking place, Officer A refused to give Complainant some of the items for their daughter that Officer A had bought. Sergeant A advised her to take what she could. Complainant denied that she was injured during the February 10,

² Though Complainant provided information during her interview about incidents related to IPRA complaint log numbers 1074825 and 1073112, this summarization only encompasses the 10 February 2015 incident.

³ A check of Attendance and Assignment Sheets and other Event Inquiries indicated that neither Officer B nor Officer C had previously responded to any calls made by Complainant at XXXX S. Martin Luther King Jr. Drive #XXXX between 26 December 2014 and 10 February 2015.

2015 incident. When asked whether Officer A slammed her to the floor, Complainant initially answered, "No."⁴ Upon further inquiry, Complainant said that she did not remember being slammed to floor. Complainant also could not recall whether she told responding officers that Officer A slammed her to the floor. She stated, "If I said that, that's probably what happened. But, I don't, I don't, I don't remember."⁵

After packing her things on February 10, 2015, Complainant left and called IPRA that same evening as she drove around crying. Officer A repeatedly phoned Complainant after she left, but she did not answer. When Complainant returned one of his calls, Officer A told her that Sergeant A told him that Complainant was trying to get Officer A fired. Officer A also told Complainant that she only had to respond to his calls and texts and provide him with her whereabouts. Complainant believes that the entire incident stemmed from Officer A's frustration at his inability to completely control Complainant.

Complainant reported that there were other instances when Officer A physically abused her, but that she returned to living with Officer A after the February 10, 2015 incident because she would have had to stay with her mother and she did not want to be a burden to her. Complainant reported that she and Officer A came to an agreement regarding their living arrangement. In that agreement, Complainant's primary rule that she gave to Officer Beard was, "Don't touch me, if I don't touch you."

Complainant continued to reside with Officer A until another incident occurred on April 23, 2015. Following that incident, Complainant went to live with her mother. (Atts. 13, 15)

Attendance and Assignment Sheets for 10 February 2015 documented that Officers B, #XXXXXX, and C, #XXXX, were assigned to Beat XXX, and Sergeant A, #XXXX, was assigned to Unit XXX. (Atts. 16, 18)

In an **interview with IPRA** on February 8, 2016, **Officer C** stated that he had no independent recollection of the February 10, 2015 incident other than the associated CPD Event Query and Case Report that he reviewed in advance of speaking with IPRA. Officer C did not recall any specifics of his conversation with Complainant. Officer C recalled that he and Officer B took turns keeping Officer A and Complainant separated because they were verbally taunting each other. Officer C did not recall any specific words exchanged between Complainant and Officer A. Officer C noted that Complainant appeared to want to get Office A in trouble with his job by verbally provoking him to do something.

Officer C recalled Complainant's desire to remove items from the residence that evening. Officers C and B assisted Complainant in carrying items to her car. After making multiple trips to Complainant's car, Sergeant A directed Officer C to complete a case report. Sergeant A also spoke with Complainant and Officer A separately. Complainant did not complain about being injured nor did she allege misconduct against Officer A. Complainant did not complain that Officer A prevented her from taking her coat. Officer C stated that if Complainant had made any allegations of physical abuse that evening, the allegations would have been documented by Officer C in the case report and a complaint log number would have been requested. (Atts. 28, 37)

In an **interview with IPRA** on February 8, 2016, **Officer B** stated that February 10, 2015 was the first time he responded to a domestic incident involving a Department member. When he and his partner, Officer C, arrived and knocked on the door, Officer A did not immediately open it. Officer A only

⁴ Statement of Complainant, Att. 15, P. 103, Lines 4-6.

⁵ *Id.* at Lines 20-21

opened it after Sergeant A arrived and knocked on the door. Sergeant A responded to the scene in his capacity as the Sector Sergeant, but his presence was not requested by Officers B or C. When Officer A opened the door, there was no indication that he and Complainant had been in any sort of physical altercation with each other prior to the officers' arrival.

Complainant told the officers that she needed an escort to get her things out of Officer A's apartment because their relationship was ending, and they had been arguing. Officer B never heard Complainant say that she and Officer A had engaged in any sort of physical altercation or that Officer A slammed her to the floor or scratched her hand earlier that evening. Officer B did not observe a scratch on Complainant's hand nor did he witness any other evidence of injury or trauma to Complainant. Officer B walked in and out of the residence as he carried Complainant's possessions to her car. Officer B is not aware of what Complainant said to Sergeant A during a conversation that took place between the two of them in a hallway outside the apartment.

Complainant made no allegations of misconduct against Officer A to Officer B. Officer B noted that when Complainant placed her cellphone down that evening, Officer B noticed that IPRA was listed in her phone contacts, which made him think that there had been past incidents between Officer A and Complainant.

Sergeant A instructed Officer C to complete a case report to document that they were at the location helping Complainant carry items to her vehicle, and to explain why a complaint log was not initiated. (Atts. 27, 38)

In an interview with IPRA on February 10, 2016, **Sergeant A** stated that on February 10, 2015, OEMC dispatched him to a domestic disturbance at XXXX S. Martin Luther King Jr. Drive, #XXXX. Upon arrival, Sergeant A observed Complainant out in the hallway with Officers B and C. Complainant told the officers that she needed her apron for work that was inside Officer A's apartment.

Sergeant A did not have to knock to gain entrance to the apartment because the apartment door was open. After Sergeant A entered the apartment, Officer A told him that Officer A and Complainant argued earlier that day and that he told Complainant to remove her things from Officer A's apartment before he returned home, but she failed to do so. Officer A's demeanor was calm. Sergeant A added that he kept Complainant and Officer A separated as he and Officers B and C retrieved specific items from within the apartment for Complainant.

Sergeant A did not speak privately with Complainant, but he noted that she told Officers B and C that she wanted to get her things out of the apartment. Sergeant A described Complainant as angry and intent on getting her belongings. Complainant did not tell Sergeant A that Officer A would not allow her to take her coat. Complainant did not tell Sergeant A or the other officers that Officer A had physically abused her in anyway. Complainant did not tell Sergeant A that Officer A had scratched her hand, and he did not observe any injury on Complainant.

Sergeant A stated that he would have obtained a complaint log number and initiated an investigation against Officer A if Complainant had made any allegations of misconduct or physical abuse against Officer A. Sergeant A had a case report completed because no complaint log number was required based on the situation presented by Complainant. Sergeant A also completed the report to document why and how long the officers remained at that location, because it took them a while to assist Complainant in retrieving her clothes, toiletries, and household items. Sergeant A estimated that

Complainant took approximately four large black garbage bags of items out of Officer A's apartment. Complainant left after retrieving those items. (Atts. 29, 32)

In an **interview with IPRA** on October 7, 2016, **Officer A** stated that he and Complainant ended their dating relationship in the fall of 2014 but continued to engage in a sexual relationship until approximately April of 2015 when she permanently moved out. They continued living together even as their relationship deteriorated into daily arguments because Complainant had no place else to live, and he did not want Complainant and their five-year-old daughter to live in a shelter.

By February of 2015, Complainant no longer had a key to Officer A's apartment. She was only able to enter when Officer A buzzed her in or gave her his key. Their relationship was extremely strained due to Complainant calling the police on him for incidents in December of 2014.⁶

Officer A was unable to specifically recall what occurred on February 10, 2015, but he did not engage in a physical altercation with Complainant. He recalled that they verbally argued, and Complainant left. Officer A does not know why Complainant called the police on February 10, 2015, but they were inside his apartment prior to her calling them. Officer A believes that Complainant made allegations of wrongdoing against him because she is "upset over something" and harbored ill-will toward him. Officer A denied taking her coat, going inside her coat pockets without her permission, slamming her to the ground, or scratching her hand.

Officer A stated that when the police officers arrived, Officer A let them in. Complainant spoke with the officers, but he did not hear their conversation. Officer A did not recall if Sergeant A spoke with Complainant. All of the responding officers helped Complainant take her belongings from Officer A's apartment to her car, and then Complainant left in her car alone. Officer A did not recall speaking with Sergeant A.

After reviewing the case report, Officer A stated that he did not know what assistance Complainant needed besides carrying her items out. Officer A recalled gathering her items and giving them to the officers. Officer A claimed that Complainant did not ask him for her items prior to calling the police. Officer A did not forbid Complainant from taking any items except clothes that he purchased for their daughter, explaining that he needed that clothing when their daughter stayed with him. Officer A estimated that the officers were at his apartment for approximately one hour. He remained inside the apartment the entire time, while Complainant stayed in the hallway.

Officer A noted that it is not unusual for police officers to assist in the removal of personal items from the home of estranged couples. Officer A has done so in the past for civilians who called the police for assistance during an argument or breakup.

After Complainant left, Officer A tried phoning her regarding their daughter. He wanted to know where their daughter would be staying since he provided Complainant most of their daughter's essential items. Complainant alluded that she would take their daughter to a homeless shelter. Officer A was concerned about how that would impact their daughter. Officer A repeatedly attempted to contact Complainant by text message and through phoning her, but denied that his actions constituted harassment. He was unable to recall how many times he called and texted, or if he actually made contact with Complainant on February 10, 2015.

⁶ Investigated under log number 1073112.

Officer A does not know where Complainant ended up staying on February 10, 2015. Complainant eventually returned to live with him at his residence, but he was unable to recall how many days after the incident she was gone. Complainant moved out permanently in April 2015. Their second child was born in December of 2015. Officer A went to court to obtain visitation rights for their two children. Currently they only communicate about their children through Talking Parents website. (Atts. 35, 39)

CONCLUSION

IPRA recommends a finding of **Not Sustained** for **Allegation #1** that on February 10, 2015, Officer A took Complainant's coat and refused to return it to her. Officer A denied this allegation, stating that he only prohibited Complainant from taking clothes that he purchased for his daughter. Though Complainant made this allegation to IPRA, she did not report this to Sergeant A or the other responding officers that day, and there are no independent witnesses. As such, there is insufficient evidence available to determine if this occurred as alleged.

IPRA recommends a finding of **Not Sustained** for **Allegation #2** that on February 10, 2015, Officer A went inside the pockets of Complainant's coat without her permission. Officer A denied this allegation. Though Complainant made this allegation to IPRA, she did not report this to Sergeant A or the other responding officers that day, and there are no independent witnesses. As such, there is insufficient evidence available to determine if this occurred as alleged.

IPRA recommends a finding of **Unfounded** for **Allegation #3** that on February 10, 2015, Officer A "slammed" Complainant to the floor. Officer A denied this allegation. When Complainant called for police assistance on the date of the incident, she did not report this or any other allegation of physical mistreatment. When the officers arrived, there is no evidence to suggest that Complainant reported this allegation to them. Though Complainant initially made this allegation to IPRA in her February 10, 2015 call to IPRA, in her subsequent formal interview with IPRA she was unable to recall being injured or that Officer A committed the action that she alleged. As such, there is no evidence that this occurred as alleged.

IPRA recommends a finding of **Unfounded** for **Allegation #4** that on February 10, 2015, Officer A scratched Complainant's hand. Officer A denied this allegation, and Complainant did not report this or any other allegation of physical mistreatment in her call to 911. None of the reporting officers reported hearing about or seeing any injuries to Complainant. In addition, Complainant did not seek medical treatment and did not provide any photos or other evidence in support of this allegation. As such, there is no evidence that this occurred as alleged.

IPRA recommends a finding of **Unfounded** for **Allegation #5** that on February 10, 2015 at various times Officer A harassed Complainant when he repeatedly called and texted her. There is no evidence to support a contention that Complainant specifically told Officer A not to contact her or that she had a basis for doing so. Officer A denied the allegation and stated that he attempted to reach Complainant by phone because they share a child together, and he was concerned for the child's wellbeing. Complainant admitted that she responded to one of Officer A's messages that day, and she did not provide IPRA with any of the texts to corroborate her allegation that Officer A's attempts to contact her were tantamount to harassment. As such, there is no evidence that this occurred as alleged.

IPRA recommends a finding of **Unfounded** for **Allegation #1** against **Sergeant A** that on February 10, 2015 he received allegations of misconduct against Officer A from Complainant and failed to initiate a complaint log number. The information provided to Sergeant A by OEMC identified the need for police service as a dispute over property and did not allege misconduct by the subject. Sergeant A and the responding officers denied that Complainant displayed any injuries or made allegations of misconduct against Officer A. Complainant did not report to IPRA that she informed Sergeant A or the other responding officers of any physical misconduct by Officer A. As such, there is no evidence that this occurred as alleged.