

## INDEPENDENT POLICE REVIEW AUTHORITY

Log #1074768

### INTRODUCTION

On April 18, 2015 at 7:45 p.m., Chicago Police Department conducted a traffic stop of a vehicle, reporting that the driver was not wearing a seatbelt. Complainant, a passenger in the vehicle, had a gun on his person and was subsequently arrested for Unlawful Use of a Weapon.

### ALLEGATIONS

As a result of the incident that took place on April 18, 2015, **Officer A, #XXXXX, Officer B, #XXXX, and Officer C, #XXXX**, received the following allegations:

- 1) racially profiled Complainant and his companions, *in violation of Rule 2*,
- 2) pointed a gun at Complainant without justification, *in violation of Rule 38*,
- 3) pressed their knee into Complainant's lap, *in violation of Rule 8*,
- 4) pressed their forearm against Complainant's neck, *in violation of Rule 8*,
- 5) forcefully pulled Complainant out of a vehicle, *in violation of Rule 8*,
- 6) stated words to the effect of, "Get your fucking hands in the air before I blow your fucking head off," *in violation of Rule 8*,
- 7) stated words to the effect of, "One out of three black people are dirty, so I knew one of you had something on you," *in violation of Rule 2*,
- 8) directed profanities at Complainant, *in violation of Rule 8*,
- 9) falsely arrested him, *in violation of Rule 2*.

### APPLICABLE RULES AND LAW

Rules and Regulations of the Chicago Police Department:

**Rule 2:** Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

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

**Rule 38:** Prohibits unlawful or unnecessary use or display of a weapon.

### INVESTIGATION

The complainant **initiated this complaint** with IPRA on April 20, 2015. This case was initially closed on May 12, 2015 because IPRA was unable to secure a sworn affidavit from Complainant or anyone with the appropriate knowledge of the incident. On July 26, 2016, Complainant contacted IPRA via telephone and requested that the case be re-opened. The case was subsequently reopened on August 11, 2016. (Att. 1, 7, 59)

In a statement to IPRA on 01 August 2016, **Complainant** stated that he, his cousin Civilian 1, and Civilian 1's friends who, Complainant knows only as "Civilian 2" and "Civilian 3," were riding in Complainant's vehicle<sup>1</sup> when they were pulled over by four white male officers in an unmarked SUV. The officers approached the vehicle with

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<sup>1</sup> Civilian 1 was driving at the time of the stop.

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their guns drawn and shouted profanities at Complainant and his companions as they ordered them not to move.

Complainant informed the officers that he had a firearm on his person and a concealed carry permit from Iowa, which is his state of residency. One of the officers yelled “gun,” and all the officers pointed their guns at Complainant. The officers ordered everyone except Complainant out of the vehicle. Once the other three males were seated on the curb, the officers leaned inside the vehicle and pressed their knees into Complainant’s lap and their forearms against Complainant’s neck. The officers told Complainant not to move and one of the officers stated words to the effect of, “get your fucking hands in the air before I blow your fucking head off.” The officers took Complainant’s gun, pulled him out of the vehicle and placed him under arrest.

Complainant alleged that the officers falsely arrested him. When Complainant asked the officers why they pulled him over, an officer replied, “one out of three black people are dirty, so I knew one of you had something on you.”

Complainant provided Civilian 1’s phone number but could not provide Civilian 1’s address. Complainant stated that Civilian 2 and Civilian 3 could be reached through Civilian 1. (Att. 12)

The **Arrest and Case Reports** document that Complainant was arrested and charged with Unlawful Use of a Weapon (UW). It is reported that Officers A, B, and C were on routine patrol when Officer B observed a motorist driving without a seatbelt. The officers initiated a traffic stop of the vehicle. Officers A and B reportedly observed the rear passenger of the vehicle, Complainant, make furtive movements with his left hand and reach down toward the front of his body. When Officer A asked Complainant if he had anything on him, Complainant replied that he had a firearm. Officer A immediately handcuffed Complainant and retrieved a Glock model semi-automatic handgun equipped with nine live rounds from the front of Complainant’s waistband. The reports indicate that Complainant had a valid Illinois Firearm Owner Identification (FOID) Card but did not have a Concealed Carry License from the state of Illinois<sup>2</sup>. (Att. 4, 6)

**Contact Information Cards** document that Officer A and B pulled over Civilian 1 for driving without wearing a seatbelt. A name check revealed that Civilian 1 had a valid driver’s license and did not have any warrants. One of the passengers, Complainant, was arrested for UW. Civilian 3 and Civilian 4 were also passengers in the vehicle. (Att. 44-46)

**Attempts to contact** Civilian 1, Civilian 3, and Civilian 4 were unsuccessful. (Att. 43, 47-55, 58-59)

A **canvass** of the vicinity of the alleged incident produced no additional information. (Att. 40)

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<sup>2</sup> The vehicle bore Illinois plates.

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In a report, **Officer A** stated that he did not recall directing profanities at Complainant. Officer A denied committing any of the other allegations attributed to him in the allegations section of this report. He stated that he has no knowledge of any other Department member committing any of the alleged acts. Officer A added that per an Assistant States Attorney in the Felony Review unit, Complainant's Concealed Carry Permit from Iowa is not recognized by the State of Illinois. (Att. 28)

In a report, **Officer B** stated that he had his weapon drawn during the incident, but did not recall pointing his weapon at Complainant. Officer B also stated that he did not recall directing profanities at Complainant. Officer B denied committing the other acts attributed to him. Additionally, according to Officer B none of the other Department members on scene committed any of the acts listed in the allegations section. (Att. 33)

In a report, **Officer C** denied committing any of the acts attributed to him in the allegations section of this report. He stated that he had no knowledge of the other Department members committing the alleged acts. (Att. 38)

**Court records** document that at the preliminary hearing on June 30, 2015, the Unlawful Use of a Weapon charge against Complainant was dismissed based on a finding of no probable cause. A direct indictment was sought and the felony case commenced on September 21, 2015. The matter was eventually dismissed on July 18, 2016. (Att. 41-42)

Court transcripts from the **preliminary hearing** document that the court ruled that there was no probable cause for Complainant's arrest. The judge determined that at the time of arrest, Complainant was a resident of Iowa and in possession of a valid Iowa concealed carry license. The judge cited that the Illinois state statute does not prohibit a non-resident from transporting a concealed firearm within his or her vehicle in Illinois if the concealed firearm remains within his or her vehicle and the non-resident is eligible to carry a firearm in public under the laws of his or her state of residence as evidenced by the possession of a concealed carry license issued by his or her state of residence. (Att. 56)

## CONCLUSION

The Independent Police Review Authority (IPRA) recommends a finding of **Not Sustained** for **Allegations #1-8** against **Officers A, B, and C**, that they racially profiled Complainant and his companions, pointed a gun at Complainant without justification, pressed their knee into Complainant's lap, pressed their forearm against Complainant's neck, forcefully pulled Complainant out of a vehicle, stated words to the effect of, "get your fucking hands in the air before I blow your fucking head off," stated words to the effect of, "one out of three black people are dirty, so I knew one of you had something on you," and directed profanities at Complainant. Complainant initiated this complaint on April 20, 2015, but there was no cooperation on Complainant's part until he contacted IPRA on August 11, 2016 and agreed to provide a sworn statement and sign an affidavit.

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Complainant failed to provide complete contact information for the witnesses. When IPRA later contacted Complainant and requested additional contact information, Complainant stated that he would touch base with Civilian 1 and re-contact IPRA; Complainant failed to do so. IPRA also sought to contact Civilian 1 through additional means, to no avail. A canvass of the vicinity of the alleged incident produced no additional information. At this time, there is insufficient evidence to corroborate Complainant's allegations by any other means.

IPRA recommends a finding of **Unfounded** for **Allegation #9** against **Officers A, B, and C**, that they falsely arrested Complainant. Pursuant to statute, an Illinois resident commits the offense of unlawful use of weapons when he knowingly possesses in any vehicle or concealed on or about his person a firearm and he is not a person who has been issued a currently valid license under the Firearm Concealed Carry Act. 720 ILCS 5/24-1 (2015). At the time of Complainant's arrest, he was carrying a concealed weapon on his waistband. Complainant's vehicle bore an Illinois license plate; he gave officers an Illinois address, and produced an Illinois FOID card. Thus, based on the available information to the officers, Complainant was an Illinois resident. Therefore, because Complainant was in a vehicle and had concealed a firearm in his waistband, he was required to have a concealed carry license. Complainant was not in accordance with the Firearm Concealed Carry Act because he was not a person who had been issued a currently valid license concealed carry license. Therefore, Complainant's arrest was valid.