

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1078511

INTRODUCTION

Officers A and B responded to a person-with-a-gun call and arrested the complainant after he reportedly struck Civilian 1 on his head with a baseball bat and threatened to kill his ex-girlfriend.

ALLEGATIONS

On 18 December 2015, at approximately 1:52 p.m. hours, the complainant contacted the Independent Police Review Authority (IPRA) and registered a complaint with Supervisor IPRA Investigator A. It is alleged that on 15 December 2015, at approximately 1:14 p.m., at or about XXXX W. Chicago Avenue, **Officer A, #XXXX:**

- 1) handcuffed Complainant too tightly, in violation of Rule 8: "Disrespect to or maltreatment of any person, while on or off duty,"
- 2) "ransacked" Complainant's vehicle while performing a search subsequent to his arrest, in violation of Rule 8: "Disrespect to or maltreatment of any person, while on or off duty,"
- 3) made obscene gestures by repeatedly grabbing his crotch while saying, "on this," in violation of Rule 8: "Disrespect to or maltreatment of any person, while on or off duty," and
- 4) failed to inventory or return miscellaneous property belonging to Complainant, in violation of Rule 6: "Disobedience of an order or directive, whether written or oral."

APPLICABLE RULES AND LAW

Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

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

INVESTIGATION:

In a statement to IPRA on 18 December 2015, **Complainant** stated that a few days prior to this incident, he filed a police report for telephone harassment against a man who repeatedly called Complainant's phone and came to Complainant's house. On the date of this incident, Complainant was involved in an altercation on the street with the same individual. When the police arrived, Complainant was raising a bat to the man. The responding officers told Complainant to drop the bat, and he complied. The accused officer, who Complainant described as male, approximately 48 years old, 5'6" to 5'7" tall, medium build, the passenger officer, whose last name was possibly "Officer C," handcuffed Complainant too tightly. Complainant told the accused officer the handcuffs were too tight and to use caution in handcuffing him because he is on dialysis. The accused officer laughed, grabbed his own crotch, and said "on this."

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The accused officer opened Complainant's car door and saw a knife in the car. The officer asked him what he was doing with the knife. The accused officer then left Complainant with the driver officer, who according to Complainant was younger than the accused officer, and his name was "Officer B." The accused officer drove Complainant's vehicle around the block and parked it on another street. The arresting officers transported Complainant to the police station.

Complainant said that while at the station he told an officer that he was wearing a pacemaker, he had dialysis treatment earlier, the accused officer applied the handcuffs too tightly and he felt dizzy and weak. In response, an officer asked Complainant if he wanted to go to the hospital. Complainant refused medical attention because he thought the hospital staff would keep him.

Complainant's cell phone rang while he was in the lockup. The "turnkey" officer answered Complainant's phone at his request. Complainant informed his cousin, Civilian 2, that he was in the lockup and that Civilian 2 should tell Complainant's brother to come to the station to get Complainant's car keys. The officers later turned over Complainant's car keys to Civilian 2.

Complainant said once he was released from custody and received his jacket back from the lockup, several miscellaneous items were missing from his pocket including ink pens, a chain (necklace), candy, cigarette lighters, and paperwork. Complainant also said the accused officer did not return his eyeglasses, and told him he did not know where they were. Complainant stated that once he reached his vehicle, he discovered that the accused officer had ransacked his vehicle at the time of his arrest. Complainant said his glove compartment was left open, CDs and paperwork were strewn about the vehicle, and three unopened packs of Newport 100 cigarettes were missing. Complainant stated that although Civilian 2 came to the station to pick up Complainant's car keys prior to his release, neither Civilian 2 nor any member of Complainant's family ransacked or removed any items from the vehicle.

Complainant said that his wrist turned blue when he was handcuffed. Complainant did not have any apparent discoloration to his wrists or arms at the time of his interview with IPRA. Complainant stated that he had no complaint against Officer "B." (Att. 9)

The **Arrest and Case Reports** document that Officers A and B responded to a person with a gun call. Upon arrival, the officers observed Complainant standing in the street holding an aluminum baseball bat. Civilian 1, who was standing on the sidewalk with Complainant's ex-girlfriend, Civilian 3, yelled to the officers that Complainant just hit him, while motioning to the left side of his head. Officer A observed redness and swelling on Civilian 1's left ear and on the left side of his neck. Officers A and B ordered Complainant to drop the bat and he complied. Complainant was handcuffed and placed in the rear of the squadrol. Civilian 3 told the officers that Complainant looked in her direction and said, "I'll kill you," while holding the baseball bat. Civilian 3 and

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Civilian 1 signed complaints against Complainant. Complainant was charged with Aggravated Assault against Civilian 3 and Battery against Civilian 1. (Atts. 13, 14)

The **Office of Emergency Management and Communications (OEMC) Event Query** documents that on 15 December 2015, at approximately 1311 hours, Civilian 3 dialed 911 and reported that her ex-boyfriend had a gun and was following her and her current boyfriend. (Att. 16)

A search for **Police Observation Devices (PODs)** met with negative results. (Att. 17)

Inventory Records document that a baseball bat, cell phone, phone charger, and a watch were inventoried incident to Complainant's arrest. There was no gun recovered. (Att. 22)

Court records document that Complainant was found not guilty of the charges. However, the judge issued an order of protection against Complainant. (Att. 23)

Attempts to obtain statements from **Civilian 3 and Civilian 1** were unsuccessful. (Att. 18, 21, 42)

In a **report** dated 24 May 2016, Officer A provided an account consistent with the Case Report. Officer A added that he brandished his weapon and ordered Complainant to drop the baseball bat. Officer A stated that he and Officer B transported Complainant to the station and processed him without any unusual incident. (Att. 31)

In a statement to IPRA on 06 December 2016, **Officer A** stated that on the date of this incident, he was working as a Field Training Officer with Probationary Police Officer B. During their shift, Officers A and B responded to a radio assignment for a battery in progress. Upon arrival at the scene, Officer A observed Complainant in the street and next to his car holding a baseball bat. Officer A stated that he and Officer B exited their vehicle, displayed their handguns, and ordered Complainant to drop the bat. Complainant complied and was handcuffed. Officer A stated that he did not remember who handcuffed Complainant, and that he did not recall Complainant complain that the handcuffs were too tight. Officer A said that had Complainant complained that the handcuffs were too tight, he would have checked the handcuffs for comfort. Officer A denied committing any of the acts attributed to him in the allegations section of this report. Additionally, Officer A stated that he did not recall searching Complainant's vehicle. (Att. 36)

In a statement to IPRA on 06 December 2016, **Officer B** stated that he and Officer A responded to a person-with-a-gun call. Upon arrival at the scene, Officer B observed Complainant standing outside of his car and carrying a baseball bat and looking in the direction of two victims, Civilian 3 and Civilian 1. Officer B ordered Complainant to drop the bat and Complainant tossed the bat in the street. Officer B then handcuffed Complainant. Officer A escorted Complainant to the squadrol while Civilian 3 and

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Civilian 1 signed complaints with Officer B. Officer B stated that he believes Complainant's vehicle was double-parked and Complainant requested to have the vehicle properly parked. Officer B stated that he did not recall whether Officer A actually entered or moved the vehicle. Officer B denied observing Officer A commit any of the acts attributed to him in the allegations section of this report. Additionally, Officer B said that Complainant did not complain that the handcuffs were too tight. (Att. 38)

CONCLUSION

The Independent Police Review Authority (IPRA) recommends a finding of **Not Sustained** for **Allegation #1** against **Officer A**, that he handcuffed Complainant too tightly. Complainant alleged that he told Officer A that the handcuffs were too tight. Officer A took no action, and instead laughed and made an obscene gesture. Complainant said that his wrist turned blue as a result of the handcuffs being applied so tightly. Complainant complained that he did not feel well in the lockup and was provided an opportunity to go to the hospital. Complainant declined medical attention. Complainant did not sustain any broken bones or skin lacerations, and failed to present any evidence to suggest that he was handcuffed too tightly. As there are no independent witnesses or other available information to corroborate or refute the allegations, there is insufficient evidence to meet the preponderance standard required in this administrative investigation.

IPRA recommends a finding of **Not Sustained** for **Allegations #2-4** against **Officer A**, that he "ransacked" Complainant's vehicle while performing a search subsequent to his arrest, made obscene gestures by repeatedly grabbing his crotch while saying, "on this," and failed to inventory or return miscellaneous property belonging to Complainant. Officers A and B responded to a radio assignment for a person with a gun reported by the victim, Civilian 3. Officers A and B found Complainant standing next to his car holding a bat. While Officers A and B did not recall whether Officer A searched Complainant's vehicle, the nature of the call would have provided reasonable grounds for the officers to search the vehicle. While it is possible that Officer A could have had access to Complainant's vehicle, Complainant also gave his relative, Civilian 2, instructions for someone to pick up his car keys from the station. There is no evidence to determine who "ransacked" or removed Complainant's property from his vehicle, including his cigarettes. Department records document that several property items belonging to Complainant were inventoried. Officer A denied committing any of the aforementioned acts. As there are no independent witnesses or other available information to corroborate or refute the allegations, there is insufficient evidence to meet the preponderance standard required in this administrative investigation.