

## INDEPDEPENDENT POLICE REVIEW AUTHORITY

### INTRODUCTION:

The complainant was arrested for trespassing at a Store A. Complainant made several allegations against the two arresting officers, to include that excessive force was used against him. Complainant also alleged that the arresting officers failed to return or inventory his property.

### ALLEGATIONS:

On 24 March 2016, at approximately 2118 hours, the complainant called the Independent Police Review Authority (IPRA) and registered a complaint with IPRA Investigator A, #XXX. Complainant alleged that on 16 Mary 2012, at approximately 2345 hours, at XXX W. North Ave, **Officer A, #XXXXX, and Officer B, #XXXX, Unit XXX:**

- 1) Told him that his money was not wanted at Store A and instructed Complainant to leave;
- 2) grabbed him by the back of his neck and arm and shoved him out of the Store A;
- 3) made homophobic comments to him about pictures in his cell phone; and
- 4) failed to properly inventory or return his cell phone.

### APPLICABLE LAWS:

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

### INVESTIGATION:

In a statement to IPRA on 20 May 2016, **Complainant** related that while at Store A, Officers A and B arrived at told him that he had to leave. Complainant explained that he had trouble with his credit card and believed that an employee of the Store A called the police. Complainant denied acting unruly or disruptive inside the Store A. According to Complainant, Officers A and B grabbed him by the back of his neck and arm and escorted him out of the Store A. The officers then transported Complainant to the XXX District police station. Complainant did not sustain any injuries. Complainant stated that Officers A and B looked through his cell phone and made homophobic statements about the pictures stored in the phone. Complainant said that after his release, the officers

failed to return his cell phone or provide him with an inventory receipt for the cell phone. (Atts. #15, 18-19).<sup>1</sup>

The **Arrest and Case Incident Reports** for Complainant indicate that on 16 May 2012, at XXX W. North Ave (Store A), Complainant was arrested on signed complaints for Criminal Trespass. Complainant remained inside the Store A after the store manager told him several times to leave after arguing about their service. (Atts. #4-5)

The **court disposition** of Complainant indicates that on 17 December 2012, he was found guilty for trespassing.

In a statement to IPRA on 24 August 2016, **accused Officer A** related that he and Officer B responded to a call of a disturbance at Store A located at XXX W. North Ave. Upon arrival, the officers encountered Complainant and informed him that had to leave because his presence was not wanted there. Complainant initially refused to leave but eventually cooperated. Officer A and Officer B handcuffed Complainant and escorted him out of the Store A and to the police vehicle. During a search of Complainant, Officer A placed Complainant's cell phone on top of the police vehicle. Officers A and B then transported Complainant to the XXX District Station for processing.

According to Officer A, the following day, 17 May 2016, Commander A called him and Officer B to her office to ask about Complainant's cell phone. Officer A told Commander A that during his tour of duty that same day, he found Complainant's cell phone on top of the police vehicle. Officer A explained that he had forgotten that he had placed the cell phone on top of the police vehicle during Complainant's arrest. Officer A then had the cell phone inventoried. Officer A does not recall who inventoried Complainant's cell phone or does not recall the inventory receipt number. Officer A said that he mailed Complainant a copy of the inventory receipt to Complainant's residence. Officer A said that at no time did he tell Complainant that his money was not wanted at the Store A, grab Complainant by the back of his neck, or make homophobic comments about pictures in Complainant's cell phone. (Att. #27)

In a statement to IPRA on 24 August 2016, **accused Officer B** essentially reiterated the same account of his contact with Complainant as Officer A stated in his statement to IPRA. Officer B stated that at no time did he tell Complainant that his money was not wanted at the Store A, grab Complainant by the back of his neck, or make homophobic comments about pictures in Complainant's cell phone. (Att. #30)

## **CONCLUSION:**

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<sup>1</sup> It should be noted that throughout the statement, Complainant constantly interrupted the investigators conducting the statement and would not clarify the details of the events that occurred the incident.

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The reporting investigator recommends a finding of **Not Sustained** for **Allegations #1-#4** against **Officer A and Officer B**. There is no available evidence or witnesses that substantiate Complainant's account of the incident. Complainant denied be unruly or disruptive inside the Store A. However, the Store A store manager signed a complaint against him and Complainant was found guilty for trespassing. Officers A and B denied the allegations against them and explained that they found Complainant's cell phone the following day after his release and mailed the inventory receipt to his home. In evaluating the investigation based on a preponderance of the evidence standard, the available information does not meet the burden of proof required to definitively substantiate, nor definitively refute, the allegation. The reporting investigator therefore recommends a finding of Not Sustained.