

SUMMARY OF INCIDENT

On June 28, 2016, Complainant was at XXXX East XX Street when he observed a group of young black males¹ being detained by police. Complainant began to record the officers' actions with his cellphone. Officers briefly detained Complainant along with the unknown group of black males. The officers released everyone and gave them an order to disperse the area. Everyone including the officers left the area; however, Complainant stayed in that area. According to Complainant, the officers returned moments later and arrested him.

ALLEGATIONS

It is alleged that on June 28, 2016 at XXXX East XX Street, **Officer A, #XXXXX, Officer B, # XXXX, and Officer C, #XXXXX:**

1. arrested Complainant without justification;
2. deleted information from Complainant's mobile telephone; and
3. failed to inventory and or return his black diamond earring.

Note: Complainant's complaint also included the allegation that during the incident, a white male officer handcuffed him too tightly. The investigator failed to serve an allegation of excessive force against the accused officer.

APPLICABLE RULES AND LAWS

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

INVESTIGATION

In an **interview** with IPRA on 07 July 2016, **Complainant** stated that on 28 June 2016, he was in the area of XXXX East XX Street handing out flyers. At the time of the incident, Complainant's residence was at XXXX E. XX Ave. Complainant observed an unmarked police vehicle occupied by two male Hispanic plain clothes officers, now identified as Officers B and A, and one white male plainclothes officer, now identified as Officer C. Complainant also observed a marked police vehicle occupied by unknown other officers come to a stop at the corner on XX Street and Chappel Avenue.² Officers B, A and C exited their vehicle and detained and handcuffed several young black males who were standing at that location. Complainant was standing across the street at that point and began to record the officers' actions with his mobile telephone. Officer C instructed an unknown uniformed officer to escort Complainant to where the officers were holding the group of young black males. The uniformed officer then took Complainant's mobile phone from him. Complainant asked the uniformed officer what he was doing with the telephone and was told that he was turning the telephone off. The uniformed officer then placed the mobile telephone on top of the police vehicle. Officers B, A, and C then gave Complainant and the black males an order to disperse from the area. The officers then handed Complainant his phone. The other black males left the area. Complainant said that he responded to the officers by telling them, "naw, I am getting no dispersal" and that he would not leave the area. When the officers left the area, Complainant walked to the corner of XX Street and Chappel

¹ Complainant stated that he knew some of the black males being detain, but did not provide names or personal information.

² There is no record of a marked vehicle in the area at the time of the first encounter with police.

Avenue and stood in front of Store A located on the corner of XX Street, where he called 911 and requested a police supervisor to the area.

As Complainant waited for a supervisor to respond, Officers B, A and C returned to the area. Officer C exited the vehicle and handcuffed Complainant. The officers radioed for a transport unit to the scene, and moments later Beat XXX, occupied by Officers D and E arrived on the scene. Officer C then asked Complainant to empty his pockets of items, which included his cellphone.

Officers D and Officer E transported Complainant to District XXX Police Station.

During Complainant's interview, he also alleged that his wrists were injured when he was handcuffed too tightly by one of the arresting officer. Complainant acknowledged that he never told any of the arresting or transporting officers that his handcuffs were too tight. However, Complainant claimed that he told a detention aide that his arm hurt, but he did not elaborate on the matter with the detention aide. Complainant also acknowledged that he did not seek any medical attention for the alleged injury he sustained.

When Complainant arrived at District XXX Police Station, the Officer C inventoried Complainant's personal property. Per the inventory sheets, the following items were inventories at the XXX District Station: one wallet, one black cell phone, miscellaneous paperwork, one black wrist watch, and one white wrist watch. (Att. 13, 16)

When Complainant was released from jail and retrieved his property, his black diamond earring was not there and several photos and the video he recorded of the officers detaining the black males was deleted. Complainant's cellphone was protected by a passcode so he believes that the officers must have performed a "forced reset" by turning the device on and off and deleted his images. (Atts. 8, 14)

A **canvass** of the area produced no witnesses or additional information. (Att. 18)

The **Arrest Report** of **Complainant** documents that on 28 June 2016, Officers B, A, and C worked Beat XXXX and were on patrol in a high narcotic and gang activity area. During their patrol, the officers observed several individuals including Complainant standing on and blocking the sidewalk on the corner of XX Street and Chappel Avenue. The report noted that the individuals were unable to provide a reason for being in the area. The officers gave everyone a lawful order to disperse and not to return to the area. Everyone except Complainant left the area. Complainant informed the officers that he lived in that area and saw no reason why he should move. The officers returned to their patrol. When they returned and observed Complainant at XXXX East XX Street they placed him under arrest for Gang Loitering. Officers D and E transported Complainant to District XXX Police Station. (Att. 4)

OEMC reports related to the incident on 28 June 2016, document that at 1406:18 hours, BT XXXX conducted a street stop in the area of XXXX East XX Street and Chappel Avenue. At 1406:38 hours BT XXX responded to a call for an assist at the location. AT 14:12 hours BT XXX radioed that they were going to District XXX Police Station with a prisoner. The OEMC transmission indicated that one of the accused officers reported gang loitering at a known 'hotspot' and provided the exact location. (Att. 12, 37)

Inventory Reports document that on 28 June 2016, Officer C recovered and inventoried Complainant's personal property, which included one black Samsung cellphone, a black wrist watch, a white wrist watch, and miscellaneous papers. (Att. 16)

The closest pod camera to the incident **POD XXXX**, which is located at XXXX East XX Street, did not capture any images of police activity or the encounter between Complainant and CPD personnel on the date in question. The POD camera in referenced does not pan the area in which Complainant was arrested. (Atts. 21, 22)

In an **interview with IPRA** on 16 November 2016, **Officer E** stated that he and his partner, Officer D, worked Beat XXX on 28 June 2016. Officer E had no recollection of his interactions with Complainant. (Att. 36)

According to **CPD records**, Officer D retired on 01 September 2016. As a result, he was not interviewed by IPRA. (Att. 38)

In an **interview with IPRA** on 18 November 2016, **Officer A** stated that on 28 June 2016, he worked with Officers B and C and they patrolled an area known for narcotic and gang activity in an unmarked police vehicle. While in the area of XXXX East XX Street and Chappel Avenue, they observed a group of black males blocking the sidewalk, which caused pedestrians to walk around them and onto the street. That group included Complainant. After stopping and talking to the group, the officers gave the group a lawful order to disperse and everyone left the area except Complainant. Officer A described Complainant's behavior toward the officers as "militant," in that Complainant threatened to sue the officers and directed profanities at them. Once the order was given, the officers left the area. Approximately fifteen minutes later, the officers returned to the area and Complainant was still there. In response, the officers arrested Complainant for failing to follow a lawful order to disperse the area. Officer A was unable to recall which one of the three officers handcuffed Complainant. Subsequent to arresting him, they called for a police transport vehicle. While at the scene, officers searched Complainant and removed his personal belongings. Those items were ultimately inventoried by one of the officers at the District XXX Police Station. Officer A has no recollection of Complainant having a black diamond earring. Complainant was transported to District XXX Police Station by Beat XXX. During his IPRA statement, Officer A was specifically asked whether or not Complainant complained to any officer that his handcuffs were too tight. Officer A could remember whether or not Complainant ever told him that his handcuffs were too tight. In his typical practice, Officer A would have loosened any arrestee's handcuffs if the complaint was that they were too tight. At no point did Officer A observe any redress or swelling to Complainant's wrists. Officer A could not remember who handcuffed Complainant. Officer A denied deleting information from Complainant's cellphone. (Att. 31)

In an **interview with IPRA** on 01 November 2016, at IPRA, **Officer B**, stated that on 28 June 2016, he worked patrol with Officers A and C. The officers were on patrol that day around XXXX East XX Street when they observed several black males loitering in the area. Officer B described the block as a 'hot spot' as a result of high narcotic trafficking and gang activity. Officer B stated that the area is designated a hot spot based on alderman complaints of gang and drug activity and the X District Commander's own designation of the area as a hot spot. Complainant and the other black males were standing on and blocking the sidewalk. The officers gave everyone a dispersal order to leave the area and not to return. The officers left and continued to patrol the area. Moments later, the officers returned to the area and observed Complainant in the same area. The officers exited the vehicle and

arrested Complainant for violating their order. Officer B had no physical or verbal contact with Complainant associated with this incident. A CPD transport unit was called and ultimately transported Complainant to the District XXX Police Station. During his IPRA statement, Officer B was specifically asked whether or not Complainant alerted any officer that his handcuffs were too tight. Officer B was never made aware by Complainant that his handcuffs were too tight and at no point did Complainant complain of any injury to his wrists. Officer B could not recall if Officer C or A handcuffed Complainant. Officer B believed that Complainant's property was inventoried at the station. (Att. 33)

In an **interview with IPRA** on 01 November 2016 **Officer C**, stated on 28 June 2016, he worked with Officers A and B. The officers were on patrol in the area of XXXX East XX Street when Officer C observed several black males including Complainant loitering in the area. The area was identified as a high gang and narcotic area. Officer C was able to identify most of the men congregating on the sidewalk as known "GDs (Gangster Disciples)." The officers gave everyone on the street an order to disperse the area. Everyone except Complainant left the area. As the black males were leaving, Complainant stated that he was going to call IPRA and instructed the other black males to do the same. The officers returned to the area about ten to twenty minutes later. Officer C exited the vehicle, approached Complainant, and stated words to the effect, "didn't I tell you to leave the area." Ultimately, the officers arrested Complainant. While on the street, Officer C asked Complainant to remove all the items from his pockets. In response, Complainant removed a cellphone. Officer C took the phone to the station, turned the telephone off, and inventoried it along with Complainant's other property. All of Complainant's belongings were placed in an evidence bag and sealed. All the evidence was documented and Complainant was given a receipt. During his IPRA statement, Officer C was specifically asked whether or not Complainant alerted any officer that his handcuffs were too tight. Officer C was never made aware by Complainant that his handcuffs were too tight and at no point did Complainant complain of any injury.

CONCLUSION

As a preliminary matter, IPRA notes that one of the allegations made by Complainant during his July 7, 2016 was not formally and properly present as an allegation to the three accused officers. During that interview, Complainant alleged that his wrists were injured as the result of being handcuffed too tightly by one of the arresting officers. Though the allegation was not formally and properly presented to the accused officer, the matter was raised and discussed during all of their interviews. As the result of their responses and Complainant's acknowledgement that he: failed to notify the arresting and transporting officers of the issue, did not seek medical treatment, and offered no additional evidence that this matter happened as alleged, IPRA would have unfounded this allegation.

IPRA recommends that **Allegation #1** that **Officer A, Officer B and Officer C** arrested Complainant without justification be **Exonerated**. Pursuant to Special Order 10-02-02, the officers gave Complainant a lawful order to disperse from the area and Complainant failed to comply. Under Special Order 10-02-03, if a department member determines that 1) individuals are identified as being associated with a criminal street gang and 2) those individuals are in an area in which gang loitering is prohibited, that department member must verbally inform all of the persons engaged in gang loitering that they are doing so in an area where loitering by criminal street gangs is prohibited. The order requires that the department members notify the involved individuals that they are subject to arrest if they do not comply with the dispersal order. The officer who has given the dispersal order must notify

OEMC of the gang-loitering dispersal order and site the exact location. If anyone who received the original dispersal order does not comply, the officer may arrest the individual for gang loitering.

In this instance, the accused officers were on patrol in an area that was identified as a high gang and narcotic area. While on patrol on a block that was designated as a 'hot spot', the accused officers observed a group of roughly ten individuals congregating on a sidewalk outside of a business. The accused officers were able to identify most of the individuals as known gangster disciple members. After giving the order to disperse, Complainant acknowledged that he refused to leave the area. The officers then notified OEMC of the gang loitering in a hot spot area and gave the specific address. After returning to the block a second time, the officer observed Complainant in the same area. Because the officers' decision to arrest Complainant for gang loitering was within the purview of the Special Order 10-02-03, Allegation #1 is exonerated.

IPRA recommends that **Allegations #2-3** that **Officer A and Officer B** deleted information from Complainant's mobile telephone and failed to inventory or return a black diamond earring be **Unfounded**. Officer C stated that he dealt with Complainant, and Department records document that Officer C recovered Complainant's property and inventoried it.

IPRA recommends that **Allegations #2-3** that **Officer C** deleted information from Complainant's cellphone and failed to inventory or return a black diamond earring be **Unfounded**. Department records document that Officer C recovered and inventoried Complainant's property. Officer C stated that before officers escorted Complainant to the lockup, he was given a receipt for his personal property and made no complaints of missing items. Officer C denied that he had anything to do with a black diamond earring that Complainant claimed he was wearing at the time of his arrest. In terms of the cellphone, Officer C stated that it is protocol to turn off mobile telephones before they are inventoried, but that he did not delete any information from Complainant's cellphone.