

## INTRODUCTION

This investigation concerns the Reporting Party Victim, Subject A, and off-duty Officer A. The parties had a motor vehicle accident in which Subject A rear-ended Officer A's vehicle. A verbal altercation ensued between the involved parties. Subject A was arrested and charged with Simple Assault. During the altercation, Subject A alleges Officer A referred to him with a racial slur ("nigger").

## ALLEGATIONS

Complainant Subject A alleges on April 5, 2016, at 7:35 am at XXXX N. Kennedy Expressway, **Accused Officer A, #XXXX, Unit XX:**

- 1) Directed a racial slur towards him, in that she referred to Subject A as a "Nigger," in violation of Rule 8;
- 2) Directed profanity towards him, in violation of Rule 8; and
- 3) Failed to identify herself as a police officer, in violation of Rule 37.

## APPLICABLE LAWS AND RULES

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

Rule 37 – Prohibits failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

## INVESTIGATION

In an **Initiation Report**, Sergeant A stated that she responded to a request for Supervisor call. Upon arriving at the scene of incident, Sergeant A spoke to Reporting Party Victim Subject A. Subject A informed Sergeant A that he struck the back of Officer A's vehicle with his vehicle. Thereafter, both parties curbed their vehicles. Officer A attempted to photograph Subject A's license plate after Subject A refused to exchange identification. According to Subject A, there was no damage to either vehicle so there was no need to exchange identification. Subject A called Officer A a "nigga." Officer A then called Subject A a "nigger." Subject A took offense to the context in which Officer A referred to him as a "nigger." Subject A told Officer A that he would break her jaw, and roll her ass. Officer A videotaped a portion of the incident, which shows Subject A displaying gang signs, acting aggressively, and calling Officer A a "nigga." Based on Subject A's threat to Officer A, Subject A was arrested and charged with Simple Assault. Sergeant A informed Officer A to retain the video for future reference. (Att. 4)

In an **interview with IPRA** on April 6, 2016, **Complainant Subject A** stated he was exiting the expressway when he accidentally bumped the rear end of Officer A's vehicle. Both

parties stopped and exited their vehicles to ascertain the damage. Subject A's girlfriend, Subject B, also exited the vehicle. According to Subject A, there was no damage to either vehicle. Both parties called 911. The dispatcher instructed Subject A to exchange information with Officer A and to go to the nearest police station to file a report. Officer A did not wish to follow the instructions of the dispatcher and insisted on waiting at the scene for responding officers. Both parties began taking photographs of the involved vehicles with their phones. Because Officer A would not follow the instructions of the dispatcher, Subject A sat on the rear of his vehicle to obstruct his license plate and prevent Officer A from photograph it. Officer A told Subject A to move out the way. Subject A stated to Officer A, "You got me fucked up, this is my personal vehicle, I ain't gotta do shit you tell me, this is my shit, you got the game fucked up nigga." Officer A responded, "You're the fucking nigger." Thereafter, Subject A took a step toward Officer A, and stated, "If you call me a nigger again, I'm going to break your jaw!"

Officer A made another call on her cellular telephone, and Subject A called 911 again. Subject A was given the same previous instructions by another dispatcher. At that time, officers arrived at the scene. At the request of the officers, Subject A provided the officers with his driver's license and insurance information. The officers then proceeded to speak with Officer A. Subject A felt the officers were biased against him, based on how long they spoke with Officer A, and had not spoken with him. Subject B called 911 and requested a Supervisor respond to the scene. A Sergeant arrived at the scene and obtained an account of the incident from Subject A. After the Sergeant spoke to Officer A, on-duty officers arrested Subject A and transported him to the 017<sup>th</sup> district station. Per Subject A, Officer A never identified herself as a Chicago Police Officer. Subject A learned that Officer A was an Officer at the district station when he was made aware of the charges against him. Subject A videotaped a portion of the incident on his cellular telephone.

According to Subject A, there is a difference in the word "nigga," which means "homey<sup>1</sup>," and the word "nigger," which is racist. Subject A interpreted Officer A's use of the term racist and was offended by Officer A's use of the term. Subject A is Hispanic. (Att. 11, 12)

For unknown reasons, Subject A was unable to provide IPRA with a copy of his video. (Att. 12, 13)

Attempts to contact Subject B via the telephone number provided by Subject A (XXX-XXX-XXXX) were unsuccessful. The aforementioned number was registered to an unknown individual, not Subject B. Attempts to contact Subject A to obtain additional contact information for Subject B were unsuccessful. (Att. 28)

According to Subject A's **Arrest Report, recorded under RD #XXXXXXXX**, he was charged with Simple Assault on a signed complaint from Officer A. The arresting officers

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<sup>1</sup> Non-derogatory or racist term.

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responded to call to assist an off-duty officer (Officer A). Officer A informed responding officers that she was involved in a traffic accident with Subject A. When Officer A attempted to photograph Subject A's license plate, Subject A and a passenger (Subject B) prevented Officer A from doing so. Subject A became verbally aggressive, and used abusive language toward Officer A by calling her a "nigga," and stating "If you say that again, I will break your fucking jaw and roll your fucking ass!" (Att. 5).

A **CLEAR Data Warehouse Service Call Search** revealed that Subject A, Subject B, and Officer A all called 911 during the incident. Subject A informed the dispatcher that there was no damage to the involved parties' vehicles and that Officer A refused to allow him to leave the scene. The dispatcher instructed Subject A to exchange information with Officer A and to proceed to the nearest police district station. Subject B made a 911 call requesting a Supervisor responded to the scene. Officer A's 911 calls were in reference to Subject A and Subject B being aggressive toward her and referring to her in racial slurs. One of Officer A's 911 calls was transferred to the Illinois State Police. (Att. 23)

In a **statement to IPRA** on November 23, 2016, **Witness Officer B** reported that, according to Officer A, she wanted to exchange identification with Subject A but Subject A refused. Subject A was very aggressive and verbally abusive toward Officer A. While on the scene of the accident, Officer B viewed a video recording on Officer A's cellular telephone that showed Officer A attempting to record the rear license plate of Subject A's vehicle. Subject A and Subject B obstructed Officer A's view of the license plate by standing in front of it. Subject A and Subject B "were giving the finger to the telephone" as Officer A recorded.

Subject A told Officer B that he requested a supervisor to the scene because Officer A had called him a racial slur ("nigger"). Subject A admitted to the responding supervisor that he stated to Officer A, "If you call me that again, I'm going to roll your fucking ass and break your jaw." Subject A also told the supervisor that he called Officer A a "nigga," and not a "nigger." Subject A took offense to Officer A's use of the word "nigger" towards him, and at that point, he verbally threatened Officer A by stating the aforementioned. Officers arrested Subject A for Assault. Subject A explained to Officer B that he refers to his friends as a "nigga," in a brotherly way, and that the term "nigger" has a totally different meaning. Officer B described Officer A's demeanor as startled, and Subject A's demeanor as upset.

Officer B confirmed that he authored the narrative of Subject A's Arrest Report, which contained the following: "Offender (Subject A) began to get verbally aggressive and use abusive language towards Officer A #XXXXXX (victim) and called her a "nigga." At this point, Offender said, "If you say that again, I will break your fucking jaw and roll your fucking ass!" When Officer B was asked what Officer A stated to Subject A to provoke the aforementioned response from Subject A, Officer B stated he did not know. According to Officer B, Officer A denied referring to Subject A as a "nigger." Based on his interaction with Subject A during the course

of his arrest, Officer B believed Subject A to be truthful in his account of the incident. (Atts. 24, 25)

In a **statement to IPRA** on May 6, 2016, **Accused Officer A** reported that she was off-duty and alone in her personal vehicle at the time of this incident. As Officer A exited the expressway and came to a stop, she was rear ended by Subject A. The involved parties exited their vehicle. Officer A observed her vehicle for damage. Subject A and Subject B stated, "There's nothing wrong with your car." Subject A told Officer A to hurry up, because he had to go to work. Subject A became hostile and belligerent toward Officer A. Subject A moved within an inch of Officer A, and stated, "Move the fucking car or I'm going to beat the fuck out of you, and bust your fucking jaw!" Officer A told Subject A to back up, as she stepped away from him.

Officer A did not observe a license plate on the front of Subject A's vehicle, so she walked to the rear of Subject A's vehicle. After observing a Tennessee license plate on Subject A's vehicle, Officer A called 911 and requested assistance. The 911 dispatcher transferred Officer A to the Illinois State Police (ISP). As Officer A attempted to provide ISP with Subject A's license plate, Subject A and Subject B obstructed Officer A's view of the license plate by sitting on the rear of his vehicle. Officer A recorded the actions of Subject A and Subject B on her cellular telephone. Officer A terminated her call with ISP before speaking to anyone because she wanted to keep her focus on Subject A and Subject B.

Officer A walked to her vehicle and called 911 again, to request Chicago Police assistance. While waiting for officers to arrive to the scene, Subject A and Subject B directed insults toward Officer A by saying that Officer A was "nothing but a Mexican looking for a check," and "nothing but a racist bitch nigger." Officer A responded that she wasn't a racist bitch or a nigger. She also identified herself as Guatemalan, which Subject B stated was also her own ethnicity. Officer A called her Supervisor, Sergeant B, and informed him of the matter. Sergeant B stated he would take care of it. Moments later, several officers arrived at the scene.

Sergeant A spoke to both parties about the incident. Sergeant A asked Officer A if Subject A threatened to "bust [her] jaw." Officer A said that he did. Sergeant A then asked if Officer A called Subject A the "n" word, because Subject A claimed she had. Officer A denied calling Subject A the "n" word. Sergeant A asked Officer A if she wanted to press charges against Subject A for the threats he made toward her, and Officer A replied yes.

Officer A denied making any racial slur or directing profanity toward Subject A or Subject B. Officer A did not identify herself as a Chicago Police Officer during this incident. Per Officer A, the video she captured shows Subject A and Subject B stating she has no credibility for what she is attempting to do (sue them), Subject A displaying gang signs, and possibly Subject A referring to her as a "nigger." Officer A recalled speaking to responding Officer B. Officer A read the narrative of Subject A's Arrest Report, which was authored by

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Officer B. There is sentence in the narrative of the report which Subject A is quoted as saying, “If you say that again, I will break your fucking jaw and roll your fucking ass!” Officer A denied making any statement that would have provoked Subject A to say this. Officer A confirmed that Officer B’s report was an accurate account of the incident. (Atts. 21, 22)

Attempts to retrieve video from Officer A’s cellular telephone via IPRA email and IPRA IT were unsuccessful. The R/I viewed the video on Officer A’s cellular telephone. The thirteen-second video shows Subject A and Subject B standing at the rear of Subject A’s vehicle. Subject A and Subject B are positioned in front of the vehicle’s rear license plate. Subject B states words to the effect, “at the end of the day what she gonna prove.” Subject A states words to the effect, “peace, take pictures, put it on the internet bitch.” As Subject A is speaking, he displays a peace sign with his fingers, and then raises his middle finger. Officer A is not heard or seen in the video. The video does not capture anything further. (Att. 27)

## CONCLUSION

IPRA recommends a finding of **Sustained** for **Allegation #1**, that Officer A directed a racial slur towards Subject A. Officer A denied that she directed any racial slurs toward Subject A. However, the evidence shows that Officer A used the word in her response Subject A calling her a “racist bitch nigger.” Officer A confirmed that Subject A’s Arrest Report was an accurate account of their encounter. When Officer A was asked what prompted Subject A to respond with the following statement, “If you say that again, I will break your fucking jaw and roll your fucking ass,” Officer A denied making any statement to Subject A that would make him respond in that manner.

Subject A was forthcoming in his statements to Officer B, Sergeant B, and IPRA. Subject A admitted that he referred to Officer A as a “nigga,” and stated that he would “break her jaw, and roll her ass.” According to Subject A, he responded in the aforementioned manner after Officer A referred to him as a “nigger.” Subject A’s Arrest Report states that “The offender began to get verbally aggressive and use abusive language towards Officer A, and called her a “nigga. At that point, offender said, “If you say that again, I will break your fucking jaw and roll your fucking ass!” Neither Officer A nor Officer B could explain why Mr. A would begin his sentence by stating “If you say that again,” if Officer A had not said anything to him.

Officer B’s statement that he believed Subject A to be “truthful” gives credence to Subject A’s account of the incident. The fact that neither Officer A nor Officer B could provide a reasonable explanation for Subject A’s response gives further credence to Subject A’s account of the incident. Based on a preponderance of the evidence, there is sufficient evidence to sustain this allegation.

IPRA recommends a finding of **Unfounded** for **Allegation #2**, that Officer A directed profanity toward Subject A. Officer A denied directing any profanity toward Subject A. In his statements to Officer B, Sergeant A, and IPRA, Subject A made no mention of Officer A directing profanity toward him.

IPRA recommends a finding of **Exonerated** for **Allegation #3**, that Officer A failed to identify herself as a police officer. In his statement to IPRA, Subject A did not allege that either he or Subject B requested Officer A’s name or star number. Likewise, the related Department reports do not state that Subject A or Subject B asked Officer A for her name or star number. Officer A acknowledged that she did not identify herself as a police officer during the incident, but CPD rules do not require that she do so. Therefore, Officer A did not fail to identify herself, since she was never asked to identify herself.

**FINDINGS**

**Accused**

**Officer A, #XXXXX, Unit 167**

**Allegation #1**

**Sustained** – Violation of Rule 8, “Disrespect or Maltreatment of any person, while on or off duty,” in that on April 5, 2016, at approximately 7:35 am hours, at XXXXX N. Kennedy Expressway, Officer A, #XXXXX, Unit 167, directed a racial slur towards Subject A, in that she referred to him as a “Nigger.”

**Allegation #2**

**Unfounded**

**Allegation #3**

**Exonerated**