

## SUMMARY OF INCIDENT

On August 18, 2016 at approximately 6:00 p.m., Officer A initiated a traffic stop of Subject 1 at XXXX E. 91<sup>st</sup> Street for disobedience of traffic codes, failure to stop at a stop sign, and using an alley as a through street. Subject 1's girlfriend, Subject 2, was seated in the front passenger side of Subject 1's vehicle and was present throughout the traffic stop.

Upon pulling Subject 1 over, Officer A immediately exited his marked police vehicle with his gun drawn and pointed at or in the direction of Subject 1 and Subject 2, who remained seated in their vehicle. Officer A followed that action by ordering Subject 1 to show his hands and exits the vehicle. Subject 1 complied. After Subject 1 exited the vehicle, Officer A immediately placed him in handcuffs, a state he remained in for approximately 25 minutes. Officers B and Officer C, who happened upon the traffic stop as it occurred, guarded Subject while Officer A wrote the traffic citations he issued to Subject 1.

During the incident, Subject 1 continually asked why he was in handcuffs and if he was under arrest. He also asked to be released from the handcuffs several times. Officer A released Subject 1 from the handcuffs after he presented the traffic citations to Subject 1 to sign.

Activity associated with this incident was captured on in-car and body-worn cameras.

## ALLEGATIONS

It is alleged that on 18 August 2016, at approximately 6:00 p.m., at XXXX E. 91<sup>st</sup> Street: **Officer A, #XXXXXX:**

1. Violated Subject 1's 4<sup>th</sup> Amendment rights in that he stopped, detained, and handcuffed him for an extended period of time without justification during a traffic stop, in violation of Rules 2 and 8.
2. Unnecessarily displayed and pointed his weapon at Subject 1 during a traffic stop, in violation of Rules 8 and 38.
3. Unnecessarily displayed and pointed his weapon at Subject 2 during a traffic stop, in violation of Rules 8 and 38.
4. Failed to appear to traffic court on 12 October 2016 regarding the traffic stop and issued citations against Subject 1, in violation of General Order 08-02, Special Order 08-02, and Special Order-SO4-14-06.

It is alleged that on 18 August 2016, at approximately 6:00 p.m., at XXXX E. 90 Street: **Officer A, #XXXXXX:**

1. Informed Subject 1 that he was under arrest for traffic violations and not free to leave, in violation of Rule 2.

## **APPLICABLE RULES AND LAWS**

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

**Rule 8:** Disrespect or maltreatment of a person while on duty.

**Rule 38:** Unlawful or unnecessary display of a weapon.

## **U.S. Constitution — Fourth Amendment**

**Special Order- S08-02:** Court Attendance and Responsibilities

**Special Order- SO4-14-06:** Traffic Notifications and Attendance

**General Order-G08-02:** Court Attendance and Responsibilities

## **INVESTIGATION**

In an **interview with IPRA** on August 20, 2016, **Complainant Subject 1** reported that on August 18, 2016, he and his girlfriend, Subject 2, were driving to Subject 2's residence located at XXXX E. 91<sup>st</sup> Street, Chicago, IL. After stopping at a traffic light and driving westbound on 91<sup>st</sup> Street through the intersection of 91<sup>st</sup> and Commercial Blvd., Subject 1 observed a police vehicle parked and facing east on 91<sup>st</sup> Street in front of a Dunkin' Donuts. After Subject 1 drove past the police vehicle, he saw it make a U-turn and proceed in Subject 1's direction. After Subject 1 turned north on the next street, through the alley, and around the block, the officer who followed behind Subject 1 initiated his emergency lights and sirens. Shortly thereafter, Subject 1 pulled his vehicle to the curb. As Officer A exited his police vehicle, he had his gun drawn and pointed at Subject 1 and Subject 2. Officer A approached Subject 1's vehicle with his gun continuously pointed at Subject 1 and Subject 2. Subject 1 described Officer A as having the gun pointed through the open window. Officer A ordered Subject 1 to keep his hands up and to get out of the vehicle. After Subject 1 complied and exited his vehicle, Officer A holstered his weapon and handcuffed Subject 1. He then escorted Subject 1 to the front of his police vehicle. Subject 1 asked Officer A why he was in handcuffs and what was going on. Officer A told Subject 1 it was because of the way Subject 1 was driving.

Several officers, who arrived after Subject 1 was handcuffed, guarded Subject 1 while he was positioned at the front of Officer A's vehicle and in handcuffs. Other officers arrived, including Officer A's partner, who Officer A left at the nearby Dunkin' Donuts. Subject 1 was upset about being detained and placed in handcuffs. Subject 1 made multiple requests to have the handcuffs removed, but was ultimately told by another officer that he was under arrest for traffic violations.

After waiting around for a while, Officer A told Subject 1 he would receive three tickets. Subject 1 again asked Officer A to remove the cuffs and stated, "...if you giving me tickets, I don't need cuffs on." Subject 1 questioned Officer A about the tickets and told Officer A that he wanted to read them before signing them. According to Subject 1, Officer A got increasingly agitated that Subject 1 refused to sign the tickets until he had an opportunity to read the citations. Ultimately, Subject 1 was released from his handcuffs, signed the tickets, and was then released by Officer A. (Att. 7, 55) After signing the tickets, Subject 1 stated the officers "let me go" without further incident.

Subject 1 did not think he did anything wrong and that believed that he should not have been stopped, handcuffed, detained, or arrested. He also did not think that it was appropriate for Officer A to point his gun at Subject 1 and Subject 2. Subject 1 allowed IPRA to make copies of the three original traffic tickets he received during that incident. (Att. 10)

**In an interview with IPRA** on August 20, 2016, **Witness and Complainant Subject 2** reported that on August 18, 2016 she and her boyfriend, Subject 1, were rushing to her residence located at XXXX E. 91<sup>st</sup> Street, Chicago, IL to prepare for a social engagement. As Subject 1 drove westbound on 91<sup>st</sup> Street, she observed a police vehicle parked and facing eastbound on 91<sup>st</sup> Street. Shortly thereafter, she saw the police vehicle conduct a U-turn and proceed to follow them. After Subject 1 drove around the block and through an alley, she noticed the police vehicle had continued to follow them back onto 91<sup>st</sup> Street. At this time, Subject 1 curbed his vehicle and the officer, now known as Officer A, exited his vehicle and approached them with his weapon drawn and pointed. Subject 2 stated that Officer A's weapon was pointed at the driver's side window and was close enough for her to make out specific details of the gun.<sup>1</sup>

Subject 1 was removed from the vehicle, handcuffed, and searched. Shortly afterwards, several other officers arrived to the scene and escorted Subject 1 to Officer A's vehicle while he stayed behind to speak with her. While speaking with her, Officer A observed a hammer in the car. Officer A moved the hammer to floor of the car and went back to his police vehicle.

As Subject 1 stood positioned at the front Officer A's police vehicle, he remained handcuffed for the duration of the traffic stop. She heard Subject 1 make several requests for the handcuffs to be removed. She also heard an officer tell Subject 1 that he was under arrest. Prior to the review of the traffic citations, Subject 1 and Officer A engaged in a verbal altercation when he requested to read the citations. Ultimately, Subject 1 was issued traffic citations and released without further incident. (Atts. 13, 56)

In an **interview with IPRA** on November 3, 2016, **Officer A, Star#XXXX** acknowledged that he conducted the traffic stop of Subject 1 and Subject 2 on August 18, 2016 after a review of his body worn camera and in-car camera video.<sup>2</sup> He stated that while sitting in his police vehicle on 91<sup>st</sup> street facing eastbound, his attention was drawn towards Subject 1's vehicle, which was heading westbound on 91<sup>st</sup>

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<sup>1</sup> Attachment 56- pg. 9, 13-14

<sup>2</sup> Officer A and all other interviewed officers viewed their assigned video footage related to the incident

street. Officer A explained that the "revving" sound of Subject 1's vehicle indicated heavy acceleration of a vehicle driving at a rapid pace. After Subject 1's vehicle passed Officer A, he continued to watch Subject 1's vehicle over his shoulder. After observing Subject 1 drive through a stop sign at 91<sup>st</sup> and Exchange, he conducted a U-turn and proceeded to follow Subject 1. Officer A left his partner, Officer D, behind at the Dunkin' Donuts. After activating his emergency lights and sirens in an attempt to curb the vehicle, he tailed Subject 1 for approximately one minute.

According to Officer A, Subject 1's rate of speed and quick sharp turns indicated that he was attempting to elude him. Therefore, Officer A suggested the stop had escalated to a "high risk" traffic stop. Officer A further stated that the traffic stop was "high risk" not only due to the "mannerism in which the vehicle was driven" but because the stop was in an area known for "gang and narcotic activities" and occurred near Chicago Housing Authority (CHA) residence. During further discussions regarding his professional knowledge of what would constitute a "high risk" stop, he offered that a felony traffic stop where an officer had prior knowledge that a vehicle may have been involved in a crime was an example of a high-risk traffic stop. Despite his understanding of what may be considered a high-risk traffic stop, Officer A did not call into dispatch that the incident was a high-risk traffic stop. Officer A did not characterize the incident as a pursuit and stated that, "it was him in my opinion tryin' to give me the slip." Officer A further stated that after Subject 1 pulled over, he considered the risk to be over because he had the situation under his control.<sup>3</sup> Officer A believed he gained "control of the situation" at the time he had exited his vehicle and approached Subject 1.

Officer A confirmed that he did not run Subject 1's license plate until after he initiated the stop. He did not believe that he put himself at risk when he approached Subject 1's vehicle because he believed he had control of the situation. However, even though he felt he had the situation under control, he did not feel comfortable releasing Subject 1 of the handcuffs or allowing him to return to his vehicle while the citations were prepared because he knew there was a hammer in the vehicle. (Atts. 23, 24)

Officer A further confirmed that he observed both occupants with their hands in the air and did not observe any threatening behavior. He believed that drawing and pointing his weapon upon exit of his vehicle was necessary until the point that Subject 1 was secured. Subject 1 was handcuffed and positioned at the front of his vehicle by one of the assisting officers.

While Subject 1 stood positioned at Officer A's vehicle, Officer A stayed behind and engaged in a brief conversation with the passenger, Subject 2. While speaking with Subject 2, he observed a wooden stick facing upward between the driver's seat in plain view. Officer A removed what was revealed to be a hammer and placed it on the floor of Subject 1's vehicle before returning to his vehicle. Subject 1 was issued three traffic citations: 09-40-01: Disobedience of Traffic Codes, 9-24-010 (b): Failure to Stop at a

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<sup>3</sup> Attachment 24- pgs. 58-64

Stop Sign, and 9-20-010: Using an Alley as a through Street. He was issued a court appearance for October 12, 2016. (Att. 10)

During discussions regarding the court appearance, Officer A provided a court notification that he received via CLEAR requiring his attendance for October 12, 2016 at 11:30 a.m. in Traffic Court Room CL05. (Att. 31) However, the document provided contradicted the original time written on the traffic citation, which was scheduled for 1:30 p.m. (Att. 10) Officer A stated he had no choice but to follow the direction of the Court Notification and it was not until he arrived to traffic court on October 12, 2016 at 11:30 a.m. that he discovered the time discrepancy. After signing the Court attendance sheet and conversing with an unknown male City of Chicago attorney in traffic courtroom CLO5 regarding the discrepancy, he requested a continuance. The attorney advised him that it was not his decision and that only a judge could continue the date. Officer A left and did not return to court at 1:30 p.m. because of personal childcare issues.

In an **interview with IPRA** on November 3, 2016, **Officer D, Star #XXXX** acknowledged that he assisted his partner, Officer A, with the traffic stop of Subject 1 and Subject 2 on August 18, 2016. Officer D stated that he was inside a nearby Dunkin' Donuts when two unknown officers on bike patrol informed him that his partner was conducting a traffic stop. After receiving this information, he proceeded to walk half of a block down 91<sup>st</sup> Street, where he approached the scene of the traffic stop. He observed Subject 1, Subject 2, and assisting Officer B and Officer C. Subject 1, who was already in handcuffs, was positioned near the hood of Officer A's police vehicle. Officer D briefly entered the squad car to put his coffee down and observed Officer A writing traffic citations. He then served as a guard officer while Officer A continued to prepare the traffic citations. Subject 1 appeared to be angry, agitated, frustrated, and used profanities; however, Officer D confirmed that Subject 1 never became physically aggressive with any of the officers.

After reviewing footage obtained from his BWC, Officer D acknowledged that he told Subject 1 that he was under arrest for traffic violations and was not free to leave.<sup>4</sup> He offered that he later learned from Officer A that Officer A considered the stop to be a "high risk," but he did not know this at the time. Officer D stated that he "trust[s] what he [Officer A] does" and that if Officer A believed that Subject 1 needed to be handcuffed, he would "back 'em up." At the conclusion of Officer D's interview, he provided his understanding of the difference between a formal arrest and a brief detainment by stating in summary that being handcuffed indicates an arrest.<sup>5</sup>

In an **interview with IPRA** on 30 November 2016, **Officer B, Star# XXXXX** acknowledged that he assisted with the traffic stop of Subject 1 and Subject 2 on August 18, 2016. He recalled that he and his partner, Officer C, were on routine patrol when they observed a CPD vehicle driven by Officer A driving through the north alley of 91<sup>st</sup> street. Upon observation, Officer B and his partner proceeded to follow

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<sup>4</sup> Attachment 30- pgs. 7, 22, 29-30

<sup>5</sup> Attachment 30- pgs. 30, 12-19

Officer A through the alley, around the block, and back onto 91<sup>st</sup> Street. When he and Officer C turned onto 91<sup>st</sup> Street, he observed the vehicle driven by Subject 1 curbed and both Subject 1 and Officer A out of their vehicles. Officer B stated that he and his partner pulled over to assist, serving as guard officers. At this time, Subject 1 was already in handcuffs and standing outside of his vehicle.

As Officer A conducted his investigation, Officer B was informally placed in charge of guarding Subject 1. Subject 1 appeared agitated and confrontational with the fact that he was handcuffed. Officer B's assessment of Subject 1's demeanor was based on his elevated tone, body language, and looks. However, he confirmed that Subject 1 did not get physically aggressive nor did he hear him make any direct verbal threats toward anyone on the scene.<sup>6</sup>

During the conclusion of his interview, Officer B suggested that Subject 1 did not act physically non-compliant but that he did refuse to sign the issued tickets. During an attempt to clarify this topic, the reporting investigator (RI) pointed out that Subject 1's request was to read the citations prior to signing and he did not refuse to sign them. Officer B had no further interaction with Subject 1 and did not observe any physical aggression.

In an **interview with IPRA** on January 10, 2017, **Officer C, Star# XXXXX** acknowledged that he assisted with the traffic stop of Subject 1 and Subject 2 on August 18, 2016. He was on routine patrol with his partner, Officer B, when they observed Officer A following a vehicle. He recalled following Officer A and ultimately assisting while the traffic stop was conducted. However, Officer C was unable to recollect any specifics concerning the traffic stop. (Att. 54)

The Clerk of the Circuit Court of Cook County **Mainframe Court Docketing System** provides the details of the issued traffic citations as they pertain to Subject 1 and the alleged incident. Per the record, the hearing date was scheduled for 12 October 2016 at 1:30 p.m. Records reflect that Subject 1 was issued three traffic violations pursuant to the City of Chicago municipal code: 09-40-01: Disobedience of Traffic Codes, 9-24-010 (b): Failure to Stop at a Stop Sign, and 9-20-010: Using an Alley as a through Street. (Att. 32) Subject 1 also provided photocopies of the issued traffic citations during his interview with the Independent Police Review Authority. (Att. 10) Ultimately, Officer A was not present for the hearing and all citations were dismissed for want of prosecution. (Att. 32)

**Office of Emergency Management and Communications (OEMC)** Audio CD and event query recorded under Event #XXXXXXXXXX identified Beats XXX, XXX, and XXX as the responding officers on the scene of the traffic stop regarding Subject 1 and Subject 2. The records revealed that Beat XXX, Officer A, initiated a call to dispatch requesting a vehicle plate and name check for Subject 1. The incident begins at 5:59 p.m. and ends at 6:35 p.m. (Atts. 58, 59)

**Logscan** records from the Chicago Police Department reflect that Officer D initiated a name inquiry for Subject 1 on 18 August 2016 at 6:00 p.m. (Att. 48)

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<sup>6</sup> Attachment 50 - pgs. 16, 18-23

**Body Worn Camera Videos (BWC)** depict footage related to the traffic stop of Subject 1 and Subject 2 and capture the incident in its totality from multiple views. Video evidence was retrieved from accused Officers Officer A #XXXX and Officer D, #XXXX, and Witness Officer B #XXXXX, Officer C #XXXXX, and Sergeant A #XXXX. (Atts. 33, 35, 37, 52)

**BWC** video (XXXXXXXXXXXX) assigned to **Officer A #XXXX** provides footage and audio related to a traffic stop lasting for the duration of 00:30:00. The video captures Officer A's interaction with Subject 1 and Subject 2. The captured footage shows Officer A in his vehicle engaged in what appears to be a pursuit of a red 4-door vehicle. After a short pursuit around the block, the red vehicle, driven by Subject 1, abruptly stops and parks. Upon exiting his police vehicle, Officer A draws his weapon and points at Subject 1's vehicle, which is occupied by him and Subject 2, as he approached. Officer A can be heard ordering the occupants of the vehicle to place their hands in the air, to which they complied. With his weapon still drawn and pointed at Subject 1 through the driver's side window, Officer A attempts to open the locked door. Once he orders the door to be unlocked, Officer A opens the door and orders Subject 1 out of his vehicle. Officer A asks Subject 1 "what is wrong with you?"

Immediately upon exiting his vehicle, Officer A places handcuffs on Subject 1. At this time, two officers, later identified as Officers B and C, appear on the scene, serving as assisting officers. They can be seen escorting Subject 1 to the front of Officer A's police vehicle while Officer A stays behind to speak with passenger Subject 2. When Officer A specifically asks Subject 2 why Subject 1 drove through a stop sign, she states "we be scared of the police" and that she was "shaken" because "look at what you [Officer A] are doing." Subject 1 can be overheard asking why he is under arrest.

While speaking with Subject 2, Officer A is leaning into the vehicle and there is a wooden handle stuck between the driver's seat and the center console. Officer A can be heard asking Subject 2 if the item in the car is a hammer. After she confirms what it is, he says "that's fine" and "I am going to put it on the seat." He continues his discussions with Subject 2, which involve questions related to Subject 1's driving, and returns to his police vehicle. Upon returning to his police vehicle, Officer B hands him Subject 1's license. Officer A informs Subject 1 that he will be receiving traffic citations. Officer A sits in his vehicle and begins to prepare citations.

At 00:03:17, Officer A's partner, Officer D #XXXX, is seen opening the passenger door of the police vehicle occupied by Officer A. Officer D places his coffee in the side door compartment and walks to the front of the police vehicle, where he takes the position of a guard officer. At 00:04:29 into the footage a male officer, later identified as Officer B, approaches Officer A to inquire about what he should do with Subject 1 with regards to placing him in a vehicle or not. Officer A's response is "no he's gonna get a few tickets. He can sweat it out until were done." At that time, Officer A continues to prepare the traffic citations while Subject 1 stands handcuffed and guarded by multiple officers.

After approximately 15 minutes, the preparation of the tickets concluded. At that time, Officer A exits the vehicle to review the citations with Subject 1. However, the two engage in a verbal dispute, both with elevated tones, regarding Subject 1's request to read the traffic citations and gather a better understanding. Shortly thereafter, a male sergeant, later identified as Sergeant A, Star #XXXX arrives on scene (out of view) and can be heard directing Subject 1 to get his hands out of his pocket. In response, Subject 1 is heard saying, "I don't care if you're a Sergeant!" Officer A redirects Subject 1's attention, continues to discuss the traffic citations, and there is no further incident. (Atts. 33, 37)

**BWC** video (XXXXXXXXXX) assigned to **Officer D #XXXX** opens with appearing on the street with a Dunkin' Donuts cup in hand and walking approximately a half of a block to the scene of the incident. Upon arrival, he approaches the police vehicle occupied by Officer A, opens the door, and places the cup in the passenger door. At that time, he proceeds to assist with the traffic stop involving Subject 1. The overall interaction between Subject 1 and Officer D appears to concern his detainment and handcuffs. Subject 1 was visibly upset and voiced concern regarding the fact that a gun was pointed at him and that he was placed in handcuffs. (Att. 35)

**BWC** (XXXXXXXXXX) assigned to **Officer B #XXXX** essentially depicts the same footage related to the traffic stop but captures the interactions between the involved parties from his positional view. Upon arrival to the scene, Officer B escorts Subject 1, who was already handcuffed, to Officer A's police vehicle. Officer B searches Subject 1's pockets and removes his wallet and some other items and places them on the hood of the police car. Shortly thereafter, Officer A walks to the vehicle, has a brief conversation with Subject 1, and removes Subject 1's identification from his wallet. At that time, Officer A informs Subject 1 that he will receive traffic citations and he proceeds to his vehicle to prepare the traffic citations.

Subject 1 remained in handcuffs for approximately 25 minutes during the traffic stop. Officer A sat in his vehicle to prepare traffic citations. Additionally, Subject 1 can be heard making several requests to be un-handcuffed. At 00:11:28 into the video, Officer D, who is standing nearby Officer B, can be heard informing Subject 1 that he is under arrest for traffic violations and therefore not free to leave. A portion of the verbal dispute between Officer A and Subject 1 at the conclusion of the stop was captured. Ultimately, no further incident took place and Subject 1 was free to leave. (Att. 37, Clip #1)

**BWC** (XXXXXXXXXX) assigned to **Officer C #XXXX** depicts similar footage related to the traffic stop but captures the interactions between the involved parties from his positional view. Upon arrival to the scene, Officer C assists with the traffic stop but has limited interaction with Subject 1 and Subject 2. Per the video, he appears to keep his distance. (Att. 52)

**BWC** (XXXXXXXXXX) assigned to **Officer E #XXXX** captures the last five minutes of the incident. Upon his arrival, Officer A and Subject 1 are engaged in the dispute regarding Subject 1's request to read his citations prior to signing. At that time, Sergeant A interjects and instructs Officer A to allow the reading of the citations. (Att. 37, Clip #2)



**In-Car Camera video (ICC)** of the vehicle assigned to Beat XXX captures footage related to the traffic stop involving Subject 1 in its entirety. The video opens with Officer A curbed and sitting in his police vehicle near the intersection of 91<sup>st</sup> Street and Commercial Avenue facing eastbound. The vehicle, occupied by Subject 1 and Subject 2, is seen waiting at a traffic signal heading westbound on 91<sup>st</sup> Street. The video shows Subject 1's vehicle as it accelerates and proceeds through the light, passing accused Officer A. In response, Officer A initiates a U-turn and proceeds to follow Subject 1. After approaching the next corner, Subject 1's vehicle makes a right turn and another quick right turn into an alley.

After Officer A follows Subject 1 through an alley, Subject 1 makes another right turn, placing him back on 91<sup>st</sup> street. Subject 1 curbs his vehicle at the location of XXXX E. 91<sup>st</sup> Street. Officer A parks to the rear of the driver's side of Subject 1's vehicle and exits his vehicle with his weapon drawn and pointed in the direction of Subject 1's vehicle. As he approaches the vehicle, Officer A directs the occupants to make their hands visible. Officer A orders Subject 1 to exit the vehicle and put his hands on the vehicle. Subject 1 complies, at which time he is immediately handcuffed and escorted to the police vehicle by Officer B, who arrived on-scene. Once at the vehicle, Officer B conducts a pat down search and removes Subject 1's wallet from his person.

When Officer A returns to his vehicle, he is given Subject 1's driver's license. At that time, Officer A sits in his vehicle to prepare traffic citations as Subject 1 stands at the front hood of the police vehicle. As Officer A sits in his vehicle, Officer D can be seen opening the passenger door and placing a coffee cup in the door panel before walking to the front of the vehicle and assisting Officer B and C with guarding Subject 1. The video shows that Subject 1 remains in handcuffs for approximately 20 minutes while Officer A writes him three citations. Lastly, the video also captures a verbal exchange between Subject 1 and Officer A pertaining to Subject 1's desire to read the traffic citations before signing them. During this verbal exchange, when Subject 1 insists on reading the traffic citations before he signs them, Officer A states that if Subject 1 does not sign the ticket, his driver's license will be "kept as bond." At this point, Subject 1's license was returned however, he continued to insist on reading the ticket prior to signing. At this point, Officer A told Subject 1 to give the license back and if that if he did not return the license, he would be taken to jail.

## ANALYSIS

### **I. The Traffic Stop involving Subject 1 and Subject 2**

#### **A. The Traffic Stop Was Justified**

Under *Terry v. Ohio* an officer may lawfully stop a person for brief questioning when the officer reasonably believes that the person has committed, or is about to commit, a crime. *Terry v. Ohio*, 392 U.S. 1 (1968). A relatively brief encounter, such as a routine traffic stop, is more analogous to a so-called *Terry* stop than to a formal arrest. *Knowles v. Iowa*, 525 U.S. 113, 117 (1998), in turn citing *Terry v. Ohio*, 392 U.S. 1 (1968).

In this instance, Officer A's initiation of the traffic stop was proper. Officer A was initially alerted to Subject 1's vehicle upon hearing its engine "revving" while stopped at a traffic light. This drew the officer's attention to the vehicle and caused the officer to continue watching the vehicle as and after it traveled by him. Ultimately, Officer A observed the vehicle proceed through the stop sign located at 91<sup>st</sup> Street and S. Exchange Avenue without stopping, which is a traffic violation. The body worn camera and the in-car camera show that Officer A engaged in a short pursuit of Subject 1's vehicle and activated his emergency lights to initiate the traffic stop of the vehicle. Officer A's observation of the stop sign violation was sufficient reasonable suspicion upon which to justify the traffic stop.

#### **B. The Length of the Traffic Stop Was Not Excessive**

A seizure for a traffic violation justifies a police investigation of that violation. *Rodriguez v. United States*, 135 S. Ct. 1609, 1614, 191 (2015). A routine traffic stop is more analogous to a so-called '*Terry* stop' than to a formal arrest. *Knowles v. Iowa*, 525 U.S. 113, 117 (1998) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984); see also *Arizona v. Johnson*, 555 U.S. 323, 330 (2009). Like a *Terry* stop, the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's "mission"—to address the traffic violation that warranted the stop and attend to related safety concerns, *Illinois v. Caballes*, 543 U.S. 405, 407 (2005); see also, *United States v. Sharpe*, 470 U.S. 675, 685 (1985); *Florida v. Royer*, 460 U.S. 491, 500 (1983) (plurality opinion) ("The scope of the detention must be carefully tailored to its underlying justification."). Because addressing the infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose. *Caballes*, 543 U.S. at 407.

IPRA acknowledges that there was probable cause to arrest Subject 1 based on the observed traffic violations. Pursuant to *Atwater v. City of Lago Vista, et al.*, the Fourth Amendment does not forbid a warrantless arrest of minor criminal violations. 121 S.Ct. 1536. The court reasoned that the standard of probable cause applies to all arrests; if an officer has probable cause to believe that an individual has committed an offense in his presence he may, without violating the Fourth Amendment, arrest the individual. *Id.* at 1557. The court applied this standard to misdemeanor offenses punishable only by fines, such as a traffic violation for failure to wear a seat belt. *Id.* at 1538. In in this instance, the minor traffic citations were basis for an arrest pursuant to this standard.

Here, Subject 1 was detained for over 20 minutes waiting for Officer A to issue the ticket. This timespan does appear excessive for the issuance of a ticket for a minor traffic infraction such as what occurred here. However, the bodycam and dashcam recordings make clear that, during this timeframe, the officer was in communicating with CPD dispatch in an attempt to ascertain the proper citation information for the ticket. Once the officer acquired the information, he drafted the ticket and presented it to Subject 1. Based on these circumstances, the duration of the traffic stop, although perhaps longer than most, was not excessive. However, other aspects of the scope of the detention are problematic.

### **C. The Manner in which the Traffic Stop was Conducted Was Overly Intrusive and in Violation of the Fourth Amendment**

The Fourth Amendment explicitly addresses the sort of physically intrusive government conduct that constitutes a seizure. *Graham v. Connor*, 490 U.S. 386, 395 (1989). Determining whether the force used to effect a particular seizure is 'reasonable' under the Fourth Amendment, requires balancing the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interest alleged to justify the intrusion. *Id.* at 396; *Fitzgerald v. Santoro*, 707 F.3d 725, 733 (7th Cir. 2013); *Abbott v. Sangamon County, Illinois*, 705 F.3d 706, 724 (7th Cir. 2013). Such an analysis is inherently fact-dependent, requiring consideration of such factors as the severity of the crime at issue, whether the person posed an immediate threat to the safety of the officers or others, and whether the person was actively resisting the officers. *Graham*, 490 U.S. at 396; *Miller v. Gonzalez*, 761 F.3d 822, 829 (7th Cir. 2014); *Abbott*, 705 F.3d at 724.

Here, Officer A stopped Subject 1's vehicle, ordered Subject 1 out of his vehicle at gunpoint, placed Subject 1 in handcuffs, and demanded that the handcuffed Subject 1 remain standing in front of a police car surrounded by several police officers for over 20 minutes, while Officer A wrote up a traffic ticket for three minor traffic offenses.<sup>7</sup>

- 1. There was no indication that the occupants of the vehicle were dangerous warranting a "high-risk" traffic stop, therefore, Officer A's display of his weapon at Subject 1 and Subject 2 was unnecessary.**

When Officer A noticed Subject 1's vehicle, he had no reason to believe that the vehicle's occupants were engaged in any criminal act other than the commission of the traffic violation. Officer A's explanation for the manner in which he conducted the stop was because the circumstances led him to believe it would be a "high risk" stop. To be sure, traffic stops can be "especially fraught with danger to police officers," *Arizona v. Johnson*, 555 U.S. 323, 330 (internal quotation marks omitted), so an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely.

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<sup>7</sup> 09-40-01: Disobedience of Traffic Codes, 9-24-010 (b): Failure to Stop at a Stop Sign, and 9-20-010: Using an Alley as a through Street

*Rodriguez*, 135 S. Ct. at 1616. However, based on the factors Officer A's cites as the reasons why he believed the stop presented a safety risk, Officer A's perception of risk was objectively unreasonable.

The factors cited by Officer A as his reasons behind the belief that the stop presented a safety risk were as follows: 1) he believed the driver of the car was attempting to elude him; 2) the area was known for gang and narcotic activities; and 3) nearby Chicago Housing Authority residences near the location of the stop. As outlined below, none of these factors could have been reasonably be construed to indicate that the occupant or occupants of the specific car Officer A was following were armed and dangerous.

First, the Officer A's belief that the car was attempting to elude him was speculative at best. Officer A claims that, based on the speed of travel and the quick turns the car made, he believed that the driver had noticed and was attempting to elude the police vehicle. Based on a review of the dashcam video, Subject 1's vehicle was traveling at significant speed and made at least one fast turn before Officer A started following his car. However, even if it were reasonable to conclude from such driving that the driver was attempting to elude the officer, this fact does not necessarily mean that the driver is armed and dangerous.

The second and third factors upon which Officer A based his belief that the car's occupants might be dangerous are, frankly, preposterous and, at face value, appear pretextual. It is inappropriate and possibly unconstitutional to presume that the occupants of a vehicle in a high-crime neighborhood near public housing are likely to be armed and dangerous.

Officer A had no other information or evidence from which to infer that the occupants of Subject 1's vehicle might be dangerous. For example, Officer A admitted that he did not run Subject 1's name or license plate until after he stopped the car and returned to the police vehicle to write up the ticket. Therefore, Officer A had gained no information about the vehicle or its occupants prior to initiating the stop that in any way indicated the occupants of the vehicle might be dangerous. Nonetheless, after Subject 1 curbed his vehicle, Officer A confronted Subject 1 and Subject 2 with his weapon pointed at them. Even after Subject 1 complied with the demand that he exit his vehicle, Officer A slapped handcuffs on him and dragged him back to the police car where the officers made him stand while the ticket was being issued.

## **2. The circumstances of the seizure of Subject 1 were unreasonable, and therefore, in violation of Subject 1's Fourth Amendment rights**

There is no question that Subject 1 was considered the subject of a seizure under the Fourth Amendment. Subject 1 was ordered out of his car at gunpoint, then immediately handcuffed, escorted to a police vehicle, after which he was guarded by multiple officers for a period of approximately 20 minutes. Moreover, Subject 1 was explicitly told that he was under arrest and, therefore, not free to leave. Given the fact that Subject 1 was seized, the question remains whether appropriate law enforcement interests warranted the intrusiveness of the seizure. As is discussed below, it was not.

Officer A's conduct and the degree of intrusion were unreasonable based on the totality of the circumstances. First, as discussed above, there was no reasonable articulable suspicion that Subject 1 was armed and dangerous thereby requiring further safety measures. Second, after Officer A's decision to not formally place Subject 1 under arrest, his continued detention in handcuffs was unreasonable.

Footage from Officer A's BWC and ICC reflects that the traffic stop lasted approximately thirty minutes, with Subject 1 handcuffed for approximately twenty of those thirty minutes. ICC footage also shows that Officer A conducted a name and vehicle check almost immediately upon return to his vehicle. Records confirmed that the check revealed both were clear. (Att. 48) The video also shows that Subject 1 asked several times why he was handcuffed and made numerous requests that the handcuffs be removed. All requests were denied despite the fact that Subject 1 was compliant. He followed all verbal commands, remained in the area where he was ordered to stand, was not in possession of any weapons or other contraband, and his name and vehicle check came back clear. Officer A's BWC camera also reveals that Subject 1 was made to remain in handcuffs even though he would not be formally arrested. This is reflected by Officer A's comment to fellow Officer B that Subject 1 was "just getting a few tickets" and that he was to remain in cuffs to "...sweat it out until we're done." In the statements given by Officers A and D, they specifically mentioned that there was a hammer in Subject 1's vehicle and this was one of the reasons why it was necessary for Subject 1 to remain handcuffed. (Atts. 23, 24, 29, 30) However, there was no indication that Subject 1 was a threat to the officer. He made no physical movements or verbal threats and was compliant with commands. In addition, the hammer was in the vehicle occupied by Subject 2, who was left unattended. This discredits the officer's speculations about any safety concern. The BWC of Officer A revealed that he made a comment to Officer B instructing him to let Subject 1 stand and wait until he was done. Additionally, pursuant to Officer A's BWC, Officer A the decision to not arrest Subject 1 and instead issue traffic citations was made within four minutes of the stop.

In this instance, because Subject 1 was unarmed and not dangerous, there was no compelling need for the type of restraint imposed. (*See, e.g., United States v. lenco*, 132 F.3d 517, 525 (1999) holding that a thirty-minute detention in a locked squad car was too long where reasonable suspicion was weak and suspects were not dangerous). In addition, the determination was made within four minutes of the stop that Subject 1 would not be formally arrested. The continued detention of Subject 1 in handcuffs after Officer A made the decision was unreasonable.

Moreover, keeping Subject 1 handcuffed during the preparation of the traffic citations was a form of punishment evidenced by his statement that he was to remain in cuffs to "...sweat it out until we're done." Courts generally construe the Constitution to prohibit a use of force that goes beyond that necessary to accomplish legitimate governmental interests so as to appear punitive. *See, Kingsley v. Hendrickson*, 135 S.Ct. 2466, 2473 (2015) ("[T]he Due Process Clause protects a pre-trial detainee from the use of excessive force that amounts to punishment.")

Because of his actions, the traffic stop was unreasonably intrusive and went beyond what was necessary to effect the main purpose of the stop—issuance of the citations for the observed traffic violations. Based on these facts, there were no reasonable law enforcement interests at stake warranting the

intrusiveness of Subject 1's seizure. Officer A's conduct was a violation of the Fourth Amendment and contrary to the stated policy, goals, rules, regulations, orders or directives of the Department.

## CONCLUSION

IPRA recommends that **Allegation #1 against Officer A #XXXX** for violating the 4<sup>th</sup> Amendment rights of Subject 1 during a traffic stop be **Sustained**. Officer A violated the **4<sup>th</sup> Amendment of the United States Constitution, Rule 2, and Rule 8**. Based on the totality of evidence, the accused officers did not provide a plausible account as to why the stop was characterized as high risk, which led to the arrest of Subject 1. Traffic stops must be temporary and for the limited purposes fulfilling the necessary purpose of the stop. The stop of Subject 1 exceeded what was permissible given the facts and circumstances known to Officer A. Subject 1 was detained for approximately thirty minutes, handcuffed, and guarded by multiple officers despite a clear name and vehicle check, valid license and insurance, no presence contraband, and no additional basis for probable cause that he had committed or was about to commit a crime.

IPRA recommends that **Allegations #2 and #3 against Officer A #XXXX** for unnecessarily displaying and pointing of his weapon at **Subject 1** and **Subject 2** during a traffic stop be **Sustained**. Officer A violated **Rules 2, 8 and 38** ICC footage shows that at the initial point of contact with Subject 1 and Subject 2, both appeared to comply with verbal commands and had their hands visible. Nevertheless, Officer A exited and approached the vehicle with his weapon drawn and pointed at them in their vehicle. Officer A kept his weapon pointed at Subject 1 through Subject 1's driver side window as Subject 1 exited his vehicle with both hands visibly in the air. Officer A's explanation for his display of the weapon was speculative at best. Officer A's actions were contrary to Department's policies; his actions impeded the Department's efforts to achieve its policy and goals and brought discredit upon the Department.

IPRA recommends that **Allegation #4 against Officer A #XXXX** for failing to appear at the traffic hearing regarding the citations issued against Subject 1 be **Not Sustained**. As documented in General and Special Orders 08-02 and Special Order- SO4-14-06, department members are required to appear in court as received via the Court Notification process. Officer A provided a court notification that he received via CLEAR requiring his attendance for October 12, 2016 at 11:30 a.m. in Traffic Court Room CLO5. The notification provided contradicted the original time written on the traffic citations. (Att. 10) However, Officer A stated he had no choice but to follow the Court Notification and it was not until he arrived to traffic court that he discovered the time discrepancy.

Additional documentation collected during the investigation confirms that Officer A arrived at Court Room CLO5 at 11:07 a.m., which was roughly 20 minutes prior to the CLEAR notification for the hearing. Additionally, it was not until Officer A arrived to court did he discover the time discrepancy between the issued citations and the CLEAR notification. Therefore, Officer A attended

the hearing in compliance with the departmental policies and procedures directing him to follow the CLEAR notification system for all court dates.

IPRA recommends that **Allegation #1 against Officer D, #XXXXXX** for placing Subject 1 under arrest for traffic violations during a traffic stop be **Exonerated**. As depicted through body worn camera footage, Officer D informed Subject 1 that he was under arrest for traffic violations and was not free to leave. During his interview, Officer D acknowledged that he told Subject 1 that he was under arrest for traffic violations and was not free to leave. When Officer D arrived on the scene, Subject 1 was outside of his vehicle and handcuffed. Officer D stated that when he opened the passenger side of the squad car, he observed Officer A writing traffic citations. Officer A never specifically informed Officer D that Subject 1 was under arrest. Officer D stated that he and Officer A had been partners for almost three years and that he trusted him; if Officer A believed it necessary to keep Subject 1 in handcuffs, then he would "back 'em up" regarding the decision.

An officer may rely on the arresting officer's determination of probable cause when participating in an arrest; the non-arresting officer does not have to independently verify what conduct gave rise to probable cause for the arrest. Because the knowledge of the arresting officer is imputed to the other officers on scene, it is unnecessary for any officer other than the arresting officer to determine or independently verify the basis of probable cause. Officer D relied on Officer A's original decision to detain Subject 1. Officer D was not required to verify why Officer A placed Subject 1 under arrest or whether the traffic citations being written were for jailable offenses. It was appropriate for Officer D to rely on the information communicated to him when he arrived on scene. Therefore, it was not improper to inform Subject 1 that he was under arrest.

**FINDINGS****Accused #1                    Officer A, #XXXX, Unit XXX**

**Allegation #1:**            Officer A violated Subject 1's 4<sup>th</sup> Amendment rights in that he stopped, detained, and handcuffed him for an extended period of time without justification during a traffic stop in violation.

**Count I**                    **Sustained-** Violation of Rule 2, "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department" in that on 18 August 2016, Officer A stopped, detained, and handcuffed Subject 1 for an extended period of time without justification in violation of his Fourth Amendment rights as protected under the United States Constitution.

**Count II**                    Sustained-Violation of Rule 8, "Disrespect or maltreatment of a person while on duty" stopped, detained, and handcuffed Subject 1 for an extended period of time without justification in violation of his Fourth Amendment rights as protected under the United States Constitution.

**Allegations #2&3**            Officer A unnecessarily displayed and pointed his weapon at Subject 1 and Subject 2 during a traffic stop.

**Count I**                    **Sustained-** Violation of Rule 8, "Disrespect or maltreatment of a person while on duty" in that Officer A displayed and pointed his weapon at Subject 1 and Subject 2 during a traffic stop without justification.

**Count H**                    **Sustained-** Violation of Rule 38, "Unlawful or unnecessary display of a weapon" in that on 18 August 2016, displayed and pointed his weapon at Subject 1 and Subject 2 during a traffic stop without justification.

**Allegation #4**            **Not Sustained—Officer A** failed to appear to traffic court on 12 October 2016 regarding the traffic stop and issued citations against Mr. Subject 1.

**Accused #2                    Officer D, #XXXX, Unit XXX**

**Allegation #1**            **Exonerated—Officer D** informed Subject 1 he was under arrest for traffic violations and was not free to leave was not lawful or proper.