

## INTRODUCTION

Subject 1 alleged that on December 26, 2014, Officer A picked her up and "slammed" her to the floor during a domestic altercation. When asked to provide an affidavit, Subject 1 declined to cooperate with IPRA's investigation. During the investigation, an incident on December 27, 2014 was discovered in which Subject 1 alleged in a 911 call that Officer A had physically abused her. Given that there was insufficient evidence to justify a request for an affidavit override, IPRA closed the case. IPRA re-opened the investigation on July 13, 2015 after Subject 1 agreed to cooperate.

## BACKGROUND

Subject 1 dated Officer A for approximately eight years in February 2015 and they had one child in common, a five-year-old daughter. Subject 1 moved in with Officer A in 2014 and they had a difficult relationship stemming from their finances. Subject 1 ceased living with Officer A in April 2015 and moved in with her mother in the south suburbs. Subject 1 gave birth to Officer A's second child, a son, in December 2015. As of November 2016, the relationship between Officer A and Subject 1 was solely that of co-parents.

## ALLEGATIONS

This complaint was registered on 26 December 2014 via telephone by complainant Subject 1. It is alleged that on 26 December 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive, #XXXX, the accused, **Officer A, #XXXXX:**

1. Engaged in an unjustified physical altercation with Subject 1, in violation of Rules 8 and 9; and
2. Did not allow Subject 1 to take her coat and took her coat from her, in violation of Rule 9; and
3. Picked Subject 1 up and "slammed" her to the floor, in violation of Rules 8 and 9; and
4. Searched Subject 1' pockets, in violation of Rule 9; and
5. "Snatched" Subject 1' keys and "snatched" a soda can from her hands.

It is also alleged that on 27 December 2014, at approximately 1320 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive, #XXXX, the accused, **Officer A, #XXXXX:**

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<sup>1</sup> Subject 1 provided a statement for allegations she made against Officer A in Log #1074825, included in that statement were allegations regarding Log #1073112, and Log #1073745.

6. Engaged in an unjustified physical altercation with Subject 1, in violation of Rule 8.

IPRA alleged that on 26 December 2014, at approximately 1620 hours, at X Hospital, XXXX S. Michigan, the accused, **Officer B, #XXXXX**:

1. Received allegations of misconduct against a Chicago Police Officer from Subject 1 and failed to notify a supervisor as required by General Order 08-01-02.ii.B.1, in violation of Rule 6.

### **APPLICABLE RULES AND LAW**

- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

### **G.O. 08-01-02-ii.B.1**

When misconduct is observed or an allegation of misconduct is received by a non-supervisory member, the member will immediately notify a supervisory member and prepare a written report to their unit commander Officer B obtaining the information received, observations made, and any action taken.

### **INVESTIGATION**

#### **December 26, 2014 Incident**

In an **interview** with IPRA on April 28, 2015, complainant **Subject 1** stated that on December 26, 2014, Officer A came home from working first watch as a police officer and went to sleep. She woke him up to tell him that her mother, Civilian 1, was coming over. He was upset from having his sleep disturbed and told Subject 1 that they needed to clean the apartment. Subject 1 stated that Officer A packed her belongings into bags and placed them into the hallway, but that she did not know why he did that. Subject 1 said that she went and brought her belongings out of the hallway and back into the apartment.

Subject 1 stated that she did not remember exactly what happened next. Subject 1 stated that Officer A tried to take her coat from her because he had bought it for her. Subject 1 stated that they were "tussling up" over her coat;<sup>2</sup> Officer A tried to take the coat from her as she attempted to hang on to it. In the bedroom, Officer A then slammed Subject 1 onto her back and she was unable to immediately get up from the floor. Although Subject 1 believed that Officer A went through her pockets to

<sup>2</sup>Transcript of Subject 1, Att. 29; Pg. 84; Ln. 20.

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retrieve her keys, she was not a hundred percent sure how he obtained her keys, or if he had actually retrieved them from her pockets.

Subject 1 stated that she immediately felt that the right side of her neck and head were strained. Subject 1 decided to go to the emergency room of X Hospital across the street. As she was about to leave, she met her mother Civilian 1 coming from the elevator. Her mother came inside the apartment and Subject 1 told her what had happened. Civilian 1 confronted Officer A and told him that she did not allow her sons to put their hands on their wives, and likewise, she would not allow him to put his hands on her daughter. Officer A stated that he understood. Subject 1 told her mother that she needed go to the hospital. Officer A told Subject 1 that she was exaggerating the situation and that she did not need to go to the hospital.

Subject 1 texted Officer A from X Hospital to inform him that she told staff what had happened.<sup>3</sup> Subject 1 stated that she was cold as she waited in the emergency room so she returned to the apartment to get her coat. While there, she grabbed a can of Strawberry Crush soda to take back to the hospital. Officer A took the soda from her hand and told her that she could not have the soda because he paid for it. When Subject 1 returned to the emergency room, she told staff that her boyfriend had slammed her to the floor. X Hospital staff called police on Subject 1's behalf and a case report was completed.

Subject 1 reported that she informed the hospital that her boyfriend was a police officer, because she remembered that the nurse went up front to alert security. Subject 1 explained that the nurse told her that because police officers have access to the treatment area of the emergency room, she needed to give Officer A's name to security to prevent him from entering.

Subject 1 stated that she told the responding officer, now known as Officer B, that she had been slammed to the floor by her boyfriend Officer A. Officer B completed a case report and advised Subject 1 to leave her boyfriend, stating that getting slammed to the floor was just the beginning and that he did not want to have to write future reports for her documenting more abuse. Subject 1 also stated that Officer B gave her a lot of information and told her that he could not make her file charges but that he would do his job. Officer B gave Subject 1 the telephone number for IPRA but did not file a complaint for her. No sergeant responded to the hospital. Subject 1 stated that she called IPRA after leaving the hospital and filed her own complaint. (Atts. 28, 29, 65).

In a telephone call on October 12 2016, witness Civilian 1 stated that she had a very rocky relationship with her daughter in 2014. Subject 1 moved out of her residence in 2014 and went to live with Officer A. Civilian 1 stated that she had no idea that their relationship was troubled because Subject 1 did not tell her anything about their relationship that was not positive.

On December 26, 2014, Civilian 1 stated that she went to their apartment but could not recall the reason for her visit. As Civilian 1 walked the 18<sup>th</sup> floor hallway toward their apartment, she encountered Subject 1, who was crying.

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<sup>3</sup> Subject 1 did not retain these text messages and did not present them to IPRA for inclusion in the file.

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Subject 1 told her that nothing was wrong. Civilian 1 then followed Subject 1 to the elevator and stood in front of the elevator to block Subject 1 from getting on the elevator until she told her what was wrong. Subject 1 told her that she was going to the hospital because Officer A picked her up and "slammed" her to the floor. Civilian 1 stated that while she did not observe any injury to Subject 1, she did not doubt her since Officer A was a very big man who stood 6'7" tall. Subject 1 then left to go to the hospital. Civilian 1 did not witness any physical interaction between Officer A and Subject 1.

Civilian 1 stated that she then went to the apartment and yelled at Officer A, telling him that he had no right to put his hands on her daughter. Civilian 1 chastised him for being physical with a 5'4" woman given his large stature. Civilian 1 stated that while she was present when Subject 1 returned from the hospital, she did not know what injuries she sustained or what her diagnosis was. (Att. 56).

**X Hospital Medical Records** documented that Subject 1 sought treatment for neck pain in the emergency room on December 26, 2014 at approximately 1556 hours. Subject 1 complained of neck pain and reported that her head and neck hit the floor after her boyfriend pulled her and threw her to the floor during an altercation. It was documented that staff called the police on Subject 1's behalf. Subject 1 also reported that she had been assaulted in the past. Her physical examination documented that Subject 1 neck displayed tenderness and muscle spasm. Subject 1 was diagnosed with a neck sprain and prescribed Tylenol, Moltrin and Flexeril. Subject 1 was discharged at approximately 2000 hours. (Att. 13)

The **OEMC Event Query** for December 26, 2014 documented that staff from X Hospital Emergency Room called to report that a twenty-eight year-old female had been battered by her boyfriend. Beat XXX responded and completed a case report. (Att. 5).

The first **911 Call** from December 26, 2014 was time-coded at 16:00:35 hours. A staff member in the Emergency Room of X Hospital requested that the police come to complete a case report for a 28-year-old female who had been battered by her boyfriend at XXXX King Drive. The second **911 Call** on December 26, 2014 was time-coded for 18:56:00 hours. A staff member identified as "Civilian 2" requested that police come to the Emergency Room of X Hospital to file a report for battery victim Subject 1 from XXXX S. King Drive. (Atts. 14, 15, 26)

The **Case Report** for Simple Domestic Battery documented that Subject 1 was at X Hospital on December 26, 2014 at 1630 hours, when she reported that her live-in boyfriend, Officer A, picked her up and slammed her on the floor in their apartment approximately one hour earlier. The report also noted that there were no visible signs of injury and that Subject 1 would be treated and released. The case report was classified as **Suspended** after detectives received no response from Subject 1. (Atts. 4, 23, 24).

The **Attendance and Assignment Record** documented that Officer B was assigned to Unit XXX on December 26, 2014. (Att. 32).

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In an **interview** with IPRA on December 2, 2015, **Officer B** stated that it was not unusual for him to respond to X Hospital two to three times a day to complete reports for dog bites, batteries, and death investigations. After reviewing Case Report for Domestic Battery Simple, RD XX-XXXXXX, Officer Officer B stated that he had no independent recollection of completing the report. Relying on the case report, Officer B stated that he listed Officer A as the offender based on the information given to him by Subject 1. Had Subject 1 identified the offender as a Chicago Police Officer, Officer B stated that he would have listed Officer A on the case report and notified a supervisor as required by General Order. Officer Officer B stated that he did not request that an Evidence Technician photograph Subject 1 because, according to the case report, she had no visible injury and photographs were not warranted. Officer B denied the allegation made against him, again stating that he would have called a sergeant if Subject 1 had identified the offender as a Chicago Police Officer. (Atts. 41, 57).

In an **interview** with IPRA on October 7, 2016, **Accused Officer A** stated that by December 2014, he and Subject 1 were no longer in a dating relationship but that they continued to live together as roommates. Officer A stated they had an arrangement that Subject 1 was to cook, clean, and contribute 400 dollars a month toward rent. However, Subject 1 was often unemployed and Officer A did not collect money from her, instead telling her to save her money so she could move out. Officer A stated that he also allowed Subject 1 to continue to live with him because he did not want their daughter living in a shelter. Officer A and Subject 1 continued to share the same bed in his one bedroom apartment. Officer A stated that they also sporadically continued to have sexual intercourse, which he stated was a condition of her continuing to live in his apartment. Officer A also stated that he did not provide Subject 1 with a key to the apartment because she did not pay rent consistently and because his lease for the apartment indicated that only one person could live in his one bedroom apartment. Officer A further stated that he did not want to spend \$10.00 to get another set of keys from building management.

Officer A stated that on 26 December 2014, he and Subject 1 verbally argued but he did not remember exactly what they argued about. Subject 1 stated that she was leaving the apartment but first went to a dresser drawer in the bedroom and took Officer A's keys, the only set of keys to the residence. Subject 1 put the keys in her pants pocket and started to walk out of the bedroom. Officer A told Subject 1 that she could leave but not with his keys. Subject 1 ignored Officer A and continued walking toward the door with his keys in her pocket.

Officer A then approached Subject 1 from behind, and placed her in a bear hug, by wrapping his arms around her arms and torso. Subject 1 continued to walk toward the door with Officer A's arms wrapped around her. Officer A stated that he tried to get his keys out of her pants pocket but that they fell to the floor from the awkwardness of her walking forward while he had his arms wrapped around her from behind. Subject 1 also held her pocket closed and resisted Officer A's attempts to retrieve his keys by shaking her arms and holding her pocket. Officer A described them as landing side-by-side on the floor. Officer A stated that neither he nor Subject 1 sustained any injuries from this fall, and that

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Subject 1 did not strike either her neck or head on the floor.

According to Officer A, while they were on the floor, "That's when I reached inside `er pocket and grabbed `er keys."<sup>4</sup> Officer A denied that he searched Subject 1's pockets, but explained that he did go into one pocket of her pants to retrieve his keys. Officer A stated that Subject 1 then left the apartment. Officer A denied engaging in an unjustified physical altercation with Subject 1, stating that the altercation was justified because Subject 1 took something from him and refused to give it back, adding that he would have no access to his apartment if she had been successful in taking his keys. When asked why he did not call police to retrieve his keys from Subject 1, he explained that she would have been gone before they arrived. Officer A denied picking up Subject 1 and slamming her to the floor.

Officer A stated that he had purchased several coats as gifts for Subject 1 throughout their relationship. Officer A denied taking Subject 1's coats and stated that he did not remove her coat from her. Officer A also denied prohibiting Subject 1 from leaving the residence with her coat. Officer A also denied snatching keys and a soda can out of Subject 1's hands.

After being informed of Subject 1 receiving medical treatment at X Hospital, Officer A again denied picking up and slamming Subject 1, stating that he was off balance while holding Subject 1 and that they tripped over each other's feet. Officer A stated that Civilian 1 came to the apartment while Subject 1 was gone but that he did not recall what they talked about. (Atts. 52, 60).

### **December 27, 2014 Incident**

In her **interview** with IPRA on April 28, 2015, complainant **Subject 1** did not address the incident on December 27, 2014. Further attempts to contact Subject 1 for an account of the December 27, 2014 incident were unsuccessful. (Atts. 28, 29, 65).

The first **OEMC Event Query** from December 27, 2014, documented that Subject 1 called 911 at 13:22:38 hours regarding a disturbance with her boyfriend. The second OEMC Event Query documented that Subject 1 called 911 at 13:22:44 hours to report that a man in the apartment had put his hands on her. It was also noted that there was a child on scene. The third OEMC Event Query at 13:30:55 hours documented that Subject 1 called to report that the offender had left and was no longer on scene. Beat XXX responded to Subject 1's request. (Atts. 8 -10).

The first **911 Call** on December 27, 2014, at 13:22:35 hours, documented Subject 1 requested the police to XXXX S. King Drive #XXXX, because she had gone to the emergency room yesterday over a domestic and that there was about to be another domestic situation. The second **911 Call** at 13:26:11 hours documented Subject 1 decline an ambulance. In the third **911 Call** at 13:27:42 hours, a very young child called 911 and requested the police because there was a "big problem." Subject 1 then came on the line and requested that police come because her boyfriend had put his hands on her and he was a Chicago Police Officer who was still at the residence. The fourth **911 Call** at 13:30:52 hours documented Subject 1 state that her boyfriend had left the residence

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<sup>4</sup> Att. 60; Pg. 20; Lns. 3-4.

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and was no longer there. OEMC dispatched Unit XXX to respond to the Domestic Disturbance and reported, "Subject 1 called saying a man in the apartment is putting his hands on her." (Atts. 18 —22; 26).

The **Attendance and Assignment Record** documented that Officers D, #XXXXX, and E, #XXXX were assigned to Beat 172. (Att. 31).

In an **interview** with IPRA on November 17, 2016, witness Officer C stated that he had often responded to the high rise buildings in the complex that includes XXXX S. King Drive but that he had no recollection of the 27 December 2014 incident. Officer C also stated that he and his partner Officer D, would have requested a sergeant or supervisor to the scene if they were informed that an off duty Chicago Police Officer was involved in a domestic incident.<sup>5</sup> (Atts. 61, 62).

In an **interview** with IPRA on October 7, 2016, Officer A stated that he did not specifically recall what occurred between him and Subject 1 on December 27, 2014, but thought that they may have had an argument. Officer A then stated that he thought that this was the day that Subject 1 called the police and removed items from the residence.<sup>6</sup> After reviewing the 911 calls, Officer A stated that he left the apartment after a verbal argument with Subject 1, and was not present when the police responded. Officer A denied engaging in any kind of physical altercation with Subject 1 on December 27, 2014. (Atts. 52, 60).

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<sup>5</sup> No statement could be taken from Officer D because he was on a medical leave and unavailable for interview in November 2016.

<sup>6</sup> This incident occurred on February 10, 2015 and was investigated under Log #1073745.

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**CONCLUSION:**

IPRA recommends a finding of **Sustained** for **Allegation #1** against **Officer A**, that on December 26, 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive, #XXXX, he engaged in an unjustified physical altercation with Subject 1 in violation of Rules 8 and 9. Officer A stated that he grabbed Subject 1 from behind and wrapped his arms around her in a bear hug so she would not leave the residence with his keys, which subsequently caused them both to fall to the floor. Although Officer A stated that his actions were justified because Subject 1 took his only keys and he needed to retrieve them, this physical interaction was neither justified nor reasonable. Subject 1 was not a physical threat to Officer A and did not initiate the physical altercation. The totality of the circumstances indicates that this allegation should be **Sustained**.

IPRA recommends a finding of **Not Sustained** for **Allegation #2** against **Officer A** that on December 26, 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive #XXXX, he would not allow Subject 1 to take her coat and removed the coat from her. Officer A denied this allegation, and there were no witnesses to this allegation. There is insufficient evidence to determine if this allegation did or did not occur as alleged.

IPRA recommends a finding of **Sustained** for **Allegation #3** against **Officer A**, that on December 26, 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive, #XXXX, he picked Subject 1 up and "slammed" her to the floor. Although Officer A denied this allegation, his account lacks credibility. Officer A stated that he fell to the floor with Subject 1 as he held her from behind and she continued to walk. Officer A stated that he was unaware that Subject 1 sustained any injury, and that she also landed on her side. Subject 1 sought medical treatment at X Hospital within an hour of the incident. Subject 1 did not tell staff that they fell together onto the floor. Subject 1 told staff that her boyfriend had battered her by pulling her and throwing her to the floor. Subject 1 was diagnosed with a neck sprain.

Subject 1 obtained a case report in which she reported that Officer A picked her up and "slammed" her to the floor. Subject 1 also made immediate outcry to her mother, Civilian 1, when she encountered her in the hallway outside of their apartment as she was headed to X Hospital. Civilian 1 stated that her daughter told her that Officer A picked her up and "slammed" her to the floor. While Subject 1 stated that she saw no visible injury to her daughter, she did not doubt it because of Officer Officer A's large size.

The consistency and immediacy of the account provided by Subject 1 to Civilian 1, X Hospital, and Officer B as documented in the case report, along with the diagnosis of neck sprain, indicates that Subject 1' description of the incident was credible. Therefore, based on the preponderance of the evidence, this allegation should be Sustained.

IPRA recommends a finding of **Not Sustained** for **Allegation #4** against **Officer A**, that on December 26, 2014, at approximately 1530 hours, inside the

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residence at XXXX S. Dr. Martin Luther King Jr. Drive, #XXXX, he searched Subject 1's pockets. Officer A denied this allegation and stated that he only went into Subject 1's pants pocket to retrieve his keys and did not search her person. Subject 1 stated that Officer A searched her and then stated that Officer A took her keys from her hand. Subject 1 then stated that she did not recall how Officer A obtained the keys. There are no witnesses to this allegation. Based on the inconsistent descriptions of Officer A's actions, there is insufficient evidence to determine if this allegation did or did not occur as alleged.

IPRA recommends a finding of **Not Sustained** for **Allegation #5** against **Officer A**, that on December 26, 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive #XXXX, he "snatched" keys and a soda can from Subject 1's hands. Officer A denied this allegation. There are no witnesses to this incident. There is insufficient evidence to determine if this allegation did or did not occur as alleged.

IPRA recommends a finding of **Not Sustained** for **Allegation #6** against **Officer A**, that on December 27, 2014, at approximately 1320 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr Drive #XXXX, he engaged in an unjustified physical altercation with Subject 1. When Subject 1 called 911, she first reported that there was about to be another domestic. In subsequent calls to 911 Subject 1 reported that her boyfriend had put his hands on her and that he had left the residence. Subject 1 did not provide an account of this incident to IPRA. Officer A denied this allegation. There are no witnesses to this incident. There is insufficient evidence to determine if this allegation did or did not occur as alleged.

IPRA recommends a finding of **Not Sustained** for **Allegation #1** against **Officer B**, that on December 26, 2014, at approximately 1630 hours, at X Hospital, XXXX S. Michigan Avenue, he received allegations of misconduct against a Chicago Police Officer from Subject 1 and failed to notify a supervisor as required by General Order 08-01-02.ii.B.1. Although Subject 1 stated that she identified her abusive boyfriend as Officer A to Officer B and X Hospital staff, there is no evidence to support this assertion. Medical Records from X Hospital did not identify Officer A by name as Subject 1's abusive boyfriend, nor did they document that her abuser was a Chicago Police Officer.

Similarly, staff from X Hospital did not report in their 911 calls that Subject 1 was battered by a Chicago Police Officer. The OEMC call-taker dispatched the job as a battery report needed and not as a domestic battery involving a Chicago Police Department. Officer B stated that Subject 1 did not identify her abuser as a Chicago Police Officer or he would have identified him as one on the case report and would have requested a supervisor to initiate a CR Number. Officer B denied this allegation. There is insufficient evidence to determine if this allegation did or did not occur as alleged.

**FINDINGS**

**Accused #1: OFFICER A, #XXXXX, UNIT XXX/XXX**

**Allegation #1: SUSTAINED — VIOLATION OF RULE 8,** "Disrespect or maltreatment of any person, while on or off duty," in that on 26 December 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive #XXXX, the accused engaged in an unjustified physical altercation with Subject 1.

**SUSTAINED — VIOLATION OF RULE 9,** "Engaging in any unjustified verbal or physical altercation with any person, while on or off duty," in that that on 26 December 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive #XXXX, the accused engaged in an unjustified physical altercation with Subject 1.

**Allegation #2: NOT SUSTAINED**

**Allegation #3: SUSTAINED — VIOLATION OF RULE 8,** "Disrespect or maltreatment of any person, while on or off duty," in that on 26 December 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive #XXXX, the accused picked Subject 1 up and "slammed" her to the floor.

**SUSTAINED — VIOLATION OF RULE 9,** "Engaging in any unjustified verbal or physical altercation with any person, while on or off duty," in that that on 26 December 2014, at approximately 1530 hours, inside the residence at XXXX S. Dr. Martin Luther King Jr. Drive #XXXX, the accused picked Subject 1 up and "slammed" her to the floor.

**Allegation #4: NOT SUSTAINED**

**Allegation #5: NOT SUSTAINED**

**Allegation #6: NOT SUSTAINED**

**ACCUSED #2: OFFICER B, #XXXXX, UNIT XXX**

**Allegation #1: NOT SUSTAINED**