

## INTRODUCTION

On June 19, 2016, at approximately 11:45 pm, at XXX N. Michigan Avenue, Subject (the complainant) was stopped by Officers A and B for playing music too loudly from the Jeep he was driving. Subject's girlfriend, Civilian, was also in the vehicle. During the traffic stop, Subject alleges that Officer A grabbed him by the wrist, pulled him out of the Jeep, and then pushed him against the Jeep. Subject alleges that Officer A handcuffed him too tightly and refused to loosen the handcuffs. Subject was transported to the XX<sup>th</sup> District, where he alleges that he asked to speak with a supervisor, though none responded.

## ALLEGATIONS

It is alleged that on June 19, 2016, at approximately 11:45 pm, at XXX N. Michigan Avenue, and during the course of Subject's arrest, **Officer A #XXXXXX of Unit 018:**

1. Grabbed Subject's wrists and pulled him out of his vehicle;
2. Pushed Subject against the vehicle;
3. Handcuffed Subject too tightly;
4. Refused to loosen the handcuffs upon request; and
5. Arrested Subject without justification.

It is alleged that on June 20, 2016, at approximately 12:01-12:50 am, at the I 8<sup>th</sup> District Station, located at XXXX N. Larrabee Street, **Officer A:**

6. Detained Subject for an excessive amount of time;
7. Impounded his vehicle without justification; and
8. Failed to allow Subject to speak with a supervisor.

It is alleged that on June 19, 2016, at approximately 11:45 pm, at XXX N. Michigan Avenue, and during the course of Subject's arrest, **Officer B #XXXX of Unit 018:**

1. Arrested Subject without justification.

It is alleged that on June 20, 2016, at approximately 12:01-12:50 am, at the 18<sup>th</sup> District Station, located at XXXX N. Larrabee Street, **Officer B**

2. Detained Subject for an excessive amount of time; and
3. Impounded his vehicle without justification.

**APPLICABLE RULES AND LAWS**

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

**Rule 8** — Disrespect to or maltreatment of any person, while on or off-duty.

**Rule 9** — Engaging in any unjustified verbal or physical altercation with a person, while on or off duty.

**Special Order 04-23(11)(8)(3)** — Ordinance Complaint Form: An Ordinance Complaint form will **NOT** be issued when:

- (j) the violator refuses to sign the Ordinance Complaint form to acknowledge receipt of it. The violator will be advised that their signature on the form is required as an acknowledgement that it has been received; it is not an admission of guilt.

**NOTE:** If the violator being cited refuses to sign the Ordinance Complaint form, normal arrest procedures will then be followed. If the form has been completed and the violator being cited subsequently refuses to sign, the form will be canceled according to provisions of this directive.

**Special Order 07-03-05(I11)(A)(7)** —General Impoundment Procedures (refer to MCC 9-76-

**145) Municipal Code of Chicago (MCC) 9-76-145**

- a. No person shall play...sound in any motor vehicle on the public way...at a volume such that the sound generated by the device is clearly audible to a person with normal hearing at a distance greater than 75 feet.
- b. Any person who violates this section shall be subject to a fine of \$50.00 for a first offense, \$100.00 for a second offense committed within a one-year period, and \$500.00 for a third or subsequent offense committed within a one-year period.
- c. (1) A motor vehicle that is used in the violation of subsection (a) of this section shall be subject to seizure and impoundment under this subsection. The owner of record of such vehicle shall be liable to the city for an administrative penalty of not less than \$500.00 and not more than \$750.00 in addition to fees for the towing and storage of the vehicle.

**INVESTIGATION**

In his statement to IPRA on June 21, 2016, **Subject** stated that on June 19, 2016 at approximately 11:45pm, he was going home from the El Jefe bar with his girlfriend, Civilian. He was driving Civilian's Jeep Wrangler through the downtown area with his music turned up, and the rooftop and the doors removed when he was pulled over by two uniformed officers. Subject stated the officers, now identified as Officer A and Officer B, told him that his music was too loud. Subject told them that he was celebrating because LeBron James just won the [NBA] championship. Officer B then told him, "My supervisor gave you the same warning yesterday about the same thing and you are doing it again today." Subject stated, "No, you have the wrong guy, I was at a barbeque yesterday."

Officer B repeated her comment, and Subject responded "You must have the wrong nigger, because more than one nigger drives Jeeps around here, and you are going to start seeing more niggers in Jeeps around here." Officer A told him, "You know we can impound your vehicle for music." Subject responded, "You going to impound my vehicle for loud music, are you serious, you really going to do that? You're going to impound my vehicle for music?"

Officer A affirmed that he could impound the vehicle, and Subject replied, "Man if that's what you think is necessary to do because I have my music up, impound my vehicle for loud music. Man, I guess you gotta do what you gotta do; I'm gonna get my vehicle out either today or the next day. If you think it's necessary — all these people... getting killed in Chicago, and you're going to impound me for loud music. If that's what you feel is necessary then you gotta do it.

Officer A continued, "I can also lock you up for it," and Subject exclaimed, "You can lock me up for having my music up loud — are you serious? If that's what you feel is necessary to do, impound my vehicle, and lock me up for turning my music up loud, with all this stuff goin' on in the city. Man, I guess you gonna have to do what you have to do." Officer A retorted, "So you're telling me you want to go to jail?" and Subject explained, "No, I never said I wanted to go to jail. I said if you feel it is necessary to lock me up for loud music and to impound my car for loud music, you do what you have to do. It's your job; do what you have to do. Officer A then grabbed Subject by the wrist, pulled him out of the Jeep, and then pushed him against the Jeep. Subject repeatedly asked whether he was really under arrest for loud music.

Subject stated that Officer A handcuffed him too tightly, at which time he asked the officer to loosen the handcuffs. Officer A ignored his request and instead told him, "Those are my best handcuffs," and transported him to the station. Officer B asked Civilian to exit the vehicle, left her at the scene and drove the Jeep to the station. Subject asked Officer A to loosen the cuffs at the station. Officer A loosened the handcuffs and handcuffed Subject's left hand to a bar on the wall inside the 18<sup>th</sup> District station. Subject repeatedly asked for a supervisor and questioned why he was in custody. He reported in his statement that he became agitated and began pounding on the desk. Subject further stated that he was repeatedly instructed to sign a piece of paper, but he refused

because he wanted to speak with a supervisor. At this time, an unknown white male in plainclothes, approached him and identified himself as a supervisor. Subject stated that he did not trust that this officer was a supervisor, because he was not wearing a white shirt. The man in plainclothes and Officer A told him to sign the paper or he would be arrested. Subject stated that he refused to sign the paper, at which time the man told Officer A to arrest Subject. Subject was searched again and processed to be arrested. Subject stated that he sustained red marks and minor swelling to his wrists. He did not seek medical treatment. Subject stated that he was detained for an excessive amount of time without justification and without being given the opportunity to speak with a supervisor. (Atts. 7, 8)

In her statement to IPRA on June 21, 2016, **Civilian** stated that she was with her boyfriend, Subject, when they were pulled over by the police. The male officer, now identified as Officer A, asked Subject for his driver's license and insurance and informed him that the music that he was playing was too loud. Subject agreed to turn down the music, and explained to the officers that he was celebrating because LeBron James just won the game.

The female officer, now identified as Officer B, approached their vehicle and told Subject, "You're the same guy...I just got off the phone with my supervisor, and you're the same guy we had last night." Subject stated, "No, you got the wrong guy, I was at a barbeque last night, I wasn't out here." Officer B repeated the comment again and then told Subject, "You know I can have your car impounded for playing music too loud." Subject responded, "If you think that's necessary, do what you have to do." Officer A then stated, "We can take you in for this also," and Subject stated, "Are you arresting me for loud music?" Civilian stated that Officer A never replied, but instead pulled Subject out of the car, put him against the truck and handcuffed him. Officer A put Subject in the marked police SUV, and Officer B asked Civilian to exit the Jeep. Officer A drove away with Subject, and Officer B drove Civilian's Jeep, and Civilian was left standing on the sidewalk. Civilian reported that she took two videos of the incident, including when Subject was handcuffed. After Subject was released she also took photographs of his injured wrists. She described his wrists as being red and swollen. Civilian stated that Subject did not complain about the handcuffs while on the scene.

Civilian stated that Officer A pushed Subject against the Jeep, but not with force. Civilian described the push as being "placed" against the Jeep. Civilian stated that the vehicle had extra speakers besides the manufactured speakers and admitted that they were playing loud music. (Atts. 16, 17)

A **photograph** taken and provided by Civilian, of Subject, depicts some redness about his wrist and forearm areas. (Att. 20)

The **Arrest Report** of Subject documents that he was arrested for violation of Broadcast or Recorded Sound Restriction and failure to Display State Registration on the Front/Rear. The report states that Subject knowingly and intentionally had his sound audible over 75 feet at the intersection of Rush/Wabash/Chicago Avenue as he drove east toward Michigan Avenue. After Subject was curbed and approached for the violations, he became

irate and upset that he was not asked to turn the music down and instead was taken into custody and transported to the 18<sup>th</sup> District Station to receive citations for safety reasons, as they were in traffic. While at the station, Subject remained irate and verbally abusive toward the arresting officers. Subject refused to sign the citations even after being advised that the citations were arrestable offenses. Due to his refusal to sign the citations, Subject was arrested. (Att. 4)

A **Traffic Citation** was issued to Subject for missing front/rear plates under XX-XXX-XXX. (Att. 14)

The **Vehicle Impoundment Seizure Report** documented that the officers observed the vehicle (2016 Jeep Wrangler) with sound audible over 75 feet at the intersections of Rush, Wabash and Chicago Ave. The officers curbed the vehicle and the driver at Ontario and Michigan with the sound still audible. (Att. 12)

The **Event Queries** document that Subject was stopped near XXX N. Michigan Avenue for sound violation and vehicle will be impounded. (Atts. 28, 29)

A request for the **in-car camera** for the vehicle assigned to Officers A and B was made, but it was requested for the wrong date and time (20 Jun 16 at 0047 hours). IPRA made attempts to request and obtain the in-car camera video for the correct date and time (19 Jun 16 at 2345 hours), but was informed that all videos were purged after 90 days, and that the video for Beat 1833R had stopped recording at 2330 hours. (Atts. 22, 23, 53)

A **cell phone video** was emailed to IPRA by Civilian, but the video cannot be opened. Several attempts were made to request the video again, but all attempts were met with negative results. (Att. 61)

In her interview to IPRA on July 26, 2016, **Sergeant A** stated that she was on duty, working on June 20, 2016, and was the supervisor for Officers A and B. Sergeant A stated that she went into the 18<sup>th</sup> District Station and learned from Officers A and B that they issued Subject an ANOV noise citation, which he refused to sign at the scene, and were impounding his vehicle for the noise violation. During her conversation with Officer A about the individual and his vehicle, she learned that the vehicle that was being impounded was the same vehicle she had an incident with the prior night. Sergeant A asked Officer A if the vehicle was "black, really tall with no doors," and Officer A confirmed the description of the vehicle by further saying that the vehicle was a "tricked out Jeep." Although Sergeant A did not look at or speak with Subject during this incident, she went outside and saw the vehicle that was going to be impounded. Sergeant A told Officer A of her encounter with the same Jeep the night before. Sergeant A stated that when she encountered the Jeep the prior night, she did not pull the motorist over, but motioned to him and his passenger to turn the music down since they were playing extremely loud rap music. The motorist and his passenger complied then left the scene. Sergeant A also stated that she did not issue an ANOV to the motorist of the Jeep since they complied with her orders and immediately left the scene. Sergeant A stated that she was not aware that Subject had a complaint or wanted to speak with a supervisor. She did not know that another Sergeant talked to Subject nor did she have knowledge of the conversation. (Atts. 51, 56)

In his interview to IPRA on July 26, 2016, **Sergeant B** stated that he was at the station in the processing room when he heard a commotion from one of the arrestees, now identified as Subject. Sergeant B stated that Subject was using profanities and verbally abusing Officers A and B. Sergeant B stated that he spoke with the officers and learned that Subject was brought to the station because he refused to sign an ANOV citation during a traffic stop for loud music. Sergeant B stated that Subject was upset and irate, at which time he approached Subject, identified himself as a supervisor, and Subject stated to him, "You are too small. You're a midget." Sergeant B ignored Subject's comments and attempted to assist the officers in explaining to Subject the procedures of the ANOV citation. However, Subject did not want to accept the fact that he would be placed under arrest if he failed to sign the ANOV citation. Sergeant B explained to Subject one last time the procedures of the ANOV citation and talked to Subject for about three to five minutes. However, Subject continued to be argumentative, combative and disrespectful not only to him, but to Officers A and B. Subject continued to refuse to sign the ANOV, at which time he told the officers to place him under arrest.

Sergeant B stated that at no time during his encounter with Subject did he make any complaints against either Officer A or B. Subject never complained of any pain or injuries. Subject only complained of the ANOV citation and the vehicle impoundment. Sergeant B stated that he did not complete any paperwork as none was needed for the brief explanation of the ANOV procedures. In addition, Sergeant B was not a witness to any police misconduct from Officers A or B while in the processing room or the station. (Atts. 54, 55) In her interview to IPRA on July 19, 2016, **Officer B #XXXX** stated on June 19, 2016, at approximately 11:45 pm, she and her partner, Officer A conducted a traffic stop at XXX N. Michigan Avenue of Subject. Officer B stated that she and Officer A observed Subject in a Jeep Wrangler that had no top or doors. Subject was playing loud music that could be heard over 75 feet away, violating the noise ordinance. Subject was pulled over and he became argumentative about the fact that he was pulled over for the loud music. Officer B stated that Subject was belligerent and loud, and refused to exit the Jeep when ordered to do so. Subject had a passenger, identified as Civilian, who complied with their orders and was a witness to the stop. Subject refused to exit the Jeep. At that time, Officer A unbuckled Subject, grabbed his arm and escorted him out of the Jeep. Officer A handcuffed Subject and explained the ANOV process and what was going to happen to him and the Jeep.

Officer B denied that Subject complained that the handcuffs were too tight. They transported Subject into the 18<sup>th</sup> District Station. While at the station, she learned from her new sergeant, now identified as Sergeant A, that Subject appeared to be the same individual that she had told the night before to lower the music. Sergeant A looked through the processing window and identified Subject as the same individual. Sergeant A also went into the garage and identified the Jeep. Subject was irate, screaming and upset about the circumstances that he was being arrested for and about what Sergeant A told Officer B regarding the night before.

Officer B stated that as Subject asked for a supervisor, Sergeant B, who was in the processing room, approached Subject and talked to him for approximately 30

minutes. Subject refused to sign the ANOV citation, was verbally abusive to the officers and was placed under arrest under the direction of Sergeant B. Officer B stated that because Subject refused to sign the ANOV, he was detained longer than an hour as he was placed under arrest. Officer B stated that Civilian came to the 18<sup>th</sup> District Station and was informed that Subject was going to be placed under arrest since he refused to sign the ANOV. Officer B gave Civilian the opportunity to remove personal belongings from the Jeep before it was impounded and gave the keys back to her, since the Jeep belonged to her and not Subject. Officer B also noted that the Jeep had a sound amplifying device underneath the driver's side seat. The vehicle had a Hi-Fonics 600 watt [amplifier], a device that amplifies the noise and music. Officer B denied that Officer A pushed Subject against the car. Officer B denied arresting Subject without justification, since he was arrested when he refused to sign for the ANOV for the city noise violation. Officer B denied detaining Subject for an extended period of time since it was he who delayed the process when he became argumentative, verbally abusive and refused to sign the ANOV. Officer B denied impounding the vehicle without justification as it was explained above, Subject was in violation of city noise ordinance and refused to sign the ANOV citation causing an arrest to take place and the impoundment of his vehicle as directed in Special Orders 04-23 and 07-03-05. Officer B denied the allegations against Officer A. (Atts. 43, 59)

In his interview with IPRA on July 19, 2016, **Officer A** stated that on June 19, 2016 at 11:45 pm, while on routine patrol with his partner, Officer B, they conducted a traffic stop of Subject at XXX N. Michigan Avenue for loud music. Officer A described the vehicle as a Jeep Wrangler that was modified with speakers and an [amplifier], it was lifted six inches higher than normal, had no roof top and no doors. The passenger in the vehicle was Subject's girlfriend, now identified as Civilian. Officer A approached Subject and asked him for his driver's license and insurance. Officer B also approached the Jeep and told Subject, "You know we can impound your vehicle for the loud music," when he complained about the stop. Subject responded, "Go ahead and impound the vehicle, I got the money to get it out." Officer B told Subject, "Okay then, we'll impound the vehicle. I need you to step out." Subject refused to step out of the Jeep, at which time Officer A ordered him twice to step out of the vehicle. Subject refused to exit the Jeep. Officer A proceeded to reach into the Jeep, unbuckled Subject's seatbelt, grabbed Subject by the wrist and helped him out of the Jeep. Officer A stated that Subject was handcuffed and placed in the squad car for transport to the 018<sup>th</sup> District Station. Officer A stated that Officer B explained the procedure of what was going on to Civilian and asked her to exit the Jeep. Officer B then drove the Jeep to the station as Officer A transported Subject. Officer A stated that Subject complained that he was being taken to the station for the loud music. He was upset and irate.

Officer A stated that once at the station in the processing room, Subject continued to yell and became verbally abusive to them. Officer A asked Subject to sign the ANOV and he refused. Subject requested a supervisor. Sergeant B, who was in the interview room with two officers from his team, heard the commotion. He approached Subject and told him, "You want a supervisor? You're talking to a supervisor, what can I do for you?" Sergeant B showed Subject his star since Sergeant B was in plainclothes.

Sergeant B explained the ANOV process and asked Subject to sign it. Subject was upset, continued to be loud and verbally abusive, and refused to sign the ANOV. Sergeant B explained to Subject that he would be arrested if he did not sign the ANOV, but Subject refused to listen or to sign the ANOV. Sergeant B told Officer A to process the arrest of Subject. Officer A stated that while Subject was talking to Sergeant B, he never made any complaints against him or Officer B. Officer A stated that while at the station, Sergeant A told him and Officer B that she believed that Subject was the same individual she had asked to lower the music the previous night. She positively identified the Jeep Wrangler Subject drove as the same vehicle from the previous night. Sergeant A did not have any verbal contact with Subject while at the station.

Officer A stated that Subject did not complain to him that the handcuffs were too tight or that he sustained any injury. Officer A denied pushing Subject against the Jeep or handcuffing him too tightly. Officer A denied detaining Subject without justification as he was detained and later arrested for the ANOV violation that Subject refused to sign. Officer A stated that the vehicle was impounded with justification because Subject violated the city noise ordinance and had been previously warned by Sergeant A. Officer A denied the allegations against him and Officer B. (Atts. 48, 60)

## CONCLUSION

IPRA recommends that **Allegation #1** against Officer A, that he grabbed Subject's wrists and pulled him out of the vehicle, a violation of Rule 9, be closed with a finding of EXONERATED. By his own admission, Subject refused to exit the Jeep when ordered to do so at which time Officer A proceeded to escort him out. Officer A admitted that he escorted Subject out of the Jeep, but denied using excessive force. Officer B supported the account given by Officer A. The actions as described surmount to simple techniques used in the process of handcuffing a person in accordance with department training and guidelines. Therefore, based on the preponderance of evidence standard, this allegation must be exonerated.

IPRA recommends that **Allegation #2** against Officer A, that he pushed Subject against the car, a violation of Rule 9, be closed with a finding of UNFOUNDED. Although Subject and Civilian initially stated that Officer A pushed Subject, they later described the action as being placed against the car without force. Officer A denied the allegation and his account was supported by Officer B. Since the statements of both Subject and Civilian contradict the initial allegation, this allegation must be unfounded.

IPRA recommends that **Allegation #3** against Officer A, that he handcuffed Subject too tightly, a violation of Rule 8, be closed with a finding of NOT SUSTAINED. There is insufficient evidence to prove or refute that the handcuffs were placed tightly. Although Subject sustained red marks, they do not in themselves indicate that the handcuffs were too tight. In addition, Civilian stated that she did not hear Subject complain that the handcuffs were too tight. Further, Subject did not seek medical treatment and related that Officer

A released the handcuffs upon arrival to the station. Sergeant B and Officer B stated that Subject never complained to them that the handcuffs were tight or that he had pain or injury. Officer A denied the allegation and his account was supported by Officer B. As such, the allegation cannot be proved or disproved based on the preponderance of the evidence.

IPRA recommends that **Allegation #4** against Officer A, that he refused to loosen the handcuffs upon request, a violation of Rule 9, be closed with a finding of NOT SUSTAINED. Though Subject stated that Officer A loosened the handcuffs upon arrival to the station, he also alleges that he had asked for the handcuffs to be loosened prior to this and that Officer A refused. Officer A stated that Subject never complained to him that the handcuffs were tight, and he was never asked to have them loosened. Further, Sergeant B and Officer B stated that they were not made aware that the handcuffs were tight or that Officer A refused to loosen them. In addition, Sergeant B, Officer A and Officer B did not see any injury to Subject nor did they hear him complain about the handcuffs. Officer A denied the allegation. Despite Subject's assertions, IPRA's investigation did not find evidence to prove or disprove this allegation.

IPRA recommends that **Allegation #5** against Officer A, that he arrested Subject without justification, a violation of Rule 10, be closed with a finding of UNFOUNDED. The evidence showed that there was justification for the arrest of Subject, when he refused to sign the ANOV citation for the noise violation. Officers A and B explained to Subject that the citations were an arrestable offense. Sergeant B also explained the ANOV process to Subject, who was irate, refused to listen and refused to sign the ANOV. Officer A followed the provisions in Special Order 04-23 and had justification to place Subject under arrest.

IPRA recommends that **Allegation #6** against Officer A, that he detained Subject for an excessive amount of time, a violation of Rule 10, be closed with a finding of UNFOUNDED. Subject was detained a little over an hour during the completion of his arrest process. Subject refused to sign the ANOV citation at the scene and again at the station causing the process to take longer than it would have if he had signed the ANOV. This process did not amount to an excessive detention as Subject was allowed to leave once the arrest procedures were completed.

IPRA recommends that **Allegation #7** against Officer A, that he impounded the vehicle without justification, a violation of Rule 10, be closed with a finding of UNFOUNDED. As explained in the arrest report, and as further supported in the statement of Civilian, Subject's music was loud enough for officers to hear it over 75 feet away as they completed another traffic stop. Per MCC 9-76-145(a) and (c), this was enough for the vehicle Subject was driving to be subject to impoundment. Based on the preponderance of evidence, there was in fact justification for the impoundment. Thus this allegation must be unfounded.

IPRA recommends that **Allegation #8** against Officer A, that he failed to allow Subject to speak with a supervisor, a violation of Rule 10, be closed with a finding of UNFOUNDED. Sergeant B, confirmed that he spoke with Subject at the 18<sup>th</sup> District

about the ANOV procedures and the consequences if he failed to sign the ANOV. Subject does not deny that he spoke to someone other than Officers A and B, but he did not believe him to be a supervisor. The fact that Subject did not believe Sergeant B to be a supervisor does not negate the fact that he was indeed a supervisor.

IPRA recommends that **Allegation #1** against Officer B, that she arrested Subject without justification, a violation of Rule 10, be closed with a finding of UNFOUNDED. The evidence showed that there was justification for the arrest of Subject, when he refused to sign the ANOV citation for the noise violation. Officers A and B explained to Subject that the citation was an arrestable offense. Sergeant B also explained the ANOV process to Subject, who was irate, refused to listen and refused to sign the ANOV. Officer A followed the provisions in Special Order 04-23 and had justification to place Subject under arrest.

IPRA recommends that **Allegation #2** against Officer B, that she detained Subject for an excessive amount of time, a violation of Rule 10, be closed with a finding of UNFOUNDED. Subject was detained a little over an hour during the completion of his arrest process. Subject refused to sign the ANOV citation at the scene and again at the station causing the process to take longer than it would have if he had signed the ANOV. This process did not amount to an excessive detention as Subject was allowed to leave once the arrest procedures were completed.

IPRA recommends that **Allegation #3** against Officer B, that she impounded the vehicle without justification, a violation of Rule 10, be closed with a finding of UNFOUNDED. As explained in the arrest report, and as further supported in the statement of Civilian, Subject's music was loud enough for officers to hear it over 75 feet away as they completed another traffic stop. Per MCC 9-76-145(a) and (c), this was enough for the vehicle Subject was driving to be subject to impoundment. Based on the preponderance of evidence, there was in fact justification for the impoundment. Thus this allegation must be unfounded.