

## INTRODUCTION

On May 25, 2017 Police Officer (“PO”) Officer A conducted a traffic stop on Subject 1. Officer A stopped Subject 1’s vehicle for an expired license plate tag. During the traffic stop, Officer A learned that Subject 1 has a conceal carry license (“CCL”). Based on this information, Officer A asked if Subject 1 had a firearm in his possession. Subject 1 confirmed that he did. Subject 1, however, would not surrender his firearm to Officer A upon request. Officer A then requested that Subject 1 exit his vehicle at which time Officer A drew his service weapon. The officer’s in-car camera recorded the traffic stop, including audio recordings of the conversations between Officer A and Subject 1.

## ALLEGATIONS

It is alleged that on May 25, 2017, at around 1510 hours, at XXXX S. Carpenter, Officer A, #XXXXXX,

1. Unnecessarily displayed his service weapon at Subject 1 while on duty in violation of Rules 2, 4, 6, 8, 10 and 38.<sup>1</sup>

## 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.<sup>2</sup>

**Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.<sup>3</sup>

**Rule 6:** Disobedience of an order or directive, whether written or oral.<sup>4</sup>

**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 any person, while on or off duty.<sup>5</sup>

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<sup>1</sup> On May 25, 2017, at 2140 hours, reporting party, Sergeant B, contacted the Independent Police Review Authority (“IPRA”) and registered Subject 1’s complaint. (Attachment 4).

<sup>2</sup> This Rule applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member of the Department, including public and open association with persons of known bad or criminal reputation in the community unless such association is in the performance of police duties. It also includes any action contrary to the stated policy, goals, rules, regulations, orders or directives of the Department.

<sup>3</sup> This Rule prohibits any omission of failure to act by any member of the Department, whether on or off-duty, which act would be required by the stated policy, goals, rules, regulations, orders and directives of the Department. It applies to supervisory and other members who, through carelessness, inefficiency or design fail to implement all policy goals, rules, regulations, orders and directives to the Department or fail to report to the Department any and all known violations of same, of who through carelessness, inefficiency or design fail to become aware of any such violation, when their assigned duty or supervisory responsibility would require them to be so aware.

<sup>4</sup> This Rule prohibits disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior.

<sup>5</sup> Rules 8 and 9 prohibit the use of any excessive force by any member. These rules prohibit all brutality, and physical or verbal maltreatment of any citizen while on or off duty, including any unjustified altercation of any kind.

**Rule 10:** Inattention to duty.

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

**Special Order S06-05-02:** Firearm Concealed Carry Act.

## INVESTIGATION

IPRA obtained relevant documentary evidence associated with this incident. Additionally, IPRA interviewed the involved civilian Subject 1 and witness Civilian 1. Summaries of this evidence follow.

### Interviews

**Involved Civilian Subject 1** reported in a statement to IPRA on May 30, 2017, that he was driving down XXth Street from a Menard's location when he was pulled over by Officer A. Subject 1 reported that he was pulled over by Officer A due to expired license plate tags on his vehicle. Per Subject 1, Officer A requested proof of insurance and other routine documentation during the traffic stop. The officer then returned back to his vehicle. At this time, it was reported by Subject 1 that Officer A returned to Subject 1's vehicle and asked if Subject 1 had a CCL. Subject 1 reported to Officer A that he did.

Subject 1 reported that Officer A then repeatedly asked questions pertaining to the firearm. Subject 1 reported that Officer A kept asking "loaded questions" so that he would reach for his gun to cause a problem. Subject 1 reported that Officer A "pulled his gun out with anger" after he questioned whether or not Officer A was a legitimate police officer. Subject 1 then reported that he was asked to get out of the vehicle while Officer A had his gun aimed at him. After Subject 1 had removed himself from his vehicle he reported that he was pushed on to the vehicle by Officer A who then removed the firearm from his person. Subject 1 then stated that the officer requested that he return to his vehicle while citations were generated. At the conclusion of the traffic stop, Subject 1 reported that Officer A returned his firearm to him either assembled or disassembled and the officer "ran" back to his vehicle. (Attachment 9)

**Witness Civilian 1** reported in a statement to IPRA on May 30, 2017, that he was driving with Subject 1 when this alleged incident occurred. Civilian 1 reported that he and Subject 1 were driving from a Menard's location when Subject 1 immediately pulled his vehicle over when they noticed that an officer was behind them with emergency lights activated. Civilian 1 stated that when Officer A approached the vehicle he requested to see Subject 1's driver's license and proof of insurance. Subject 1 was unable to produce a copy of his proof of insurance. At this time, Civilian 1 reported that Officer A and Subject 1 began to argue about validity of their identities. When Subject 1 questioned the legitimacy of PO role, Civilian 1 reported that Officer A immediately drew his weapon. Civilian 1 stated that Officer A's firearm was drawn for about three minutes. Civilian 1 reported that Subject 1 gave his firearm to Officer A after Officer A ordered Subject 1 out of the vehicle. (Attachment 13)

## **Documentary Evidence**

Subject 1 received three **Traffic Citations (TNXXXXXX, TNXXXXXX and TNXXXXXX)** for No Valid State Registration, Operating Uninsured Vehicle, and No City Vehicle License. (Attachment 10)

**In-car camera recordings** from the vehicle used by Officer A include audio and video coverage of the entire traffic stop. The recording from Officer A's vehicle showed him initiate a traffic stop and question Subject 1 about his license plates. Subject 1 reported that he was waiting for his vehicle title to be obtained and that the VIN number on the vehicle was incorrect. Officer A had further questions regarding Subject 1's automobile insurance and then proceeded back to his vehicle.

When Officer A re-approached Subject 1's vehicle, he asked if Subject 1 had a CCL, and Subject 1 confirmed that he did. At that time, Subject 1 confirmed that he had a firearm on his person. Officer A requested that Subject 1 surrender his firearm for the duration of the traffic stop. Officer A explained why he was requesting the temporary surrender of the firearm and that Subject 1 would have his firearm returned to him. Subject 1 ignored this request and began discussing other vehicle issues.

Subject 1 and Officer A began to argue over the surrender of Subject 1's firearm. During this time, Officer A asked Subject 1 to stop moving or "fidgeting". Officer A then placed paperwork in his pocket while asking Subject 1 to step out of his vehicle. At this time, Officer A pulled Subject 1's vehicle door completely open, and then Officer A drew his firearm. Once Subject 1 had completely exited his vehicle, Officer A re-holstered his firearm and reached to the right side of Subject 1's torso to remove the firearm and holster. Subject 1 was asked to stand at the rear of his vehicle while Officer A stated that Subject 1 was not under arrest, he would receive his firearm back, and that Subject 1 was allowed to carry this firearm legally.

Officer A then secured the firearm in his vehicle before returning to Subject 1's vehicle to retrieve the wallet and other paperwork. Officer A and Subject 1 continued to discuss the possible issues with Subject 1's vehicle before Officer A returned to his vehicle. Officer A then explained to Subject 1 the citations that he would be receiving. Subject 1 reported how he was attempting to obtain needed insurance documents. Officer A then returned to his vehicle to issue citations. Officer A returned to Subject 1's vehicle with three citations and Subject 1's gun disassembled. Officer A explained that the gun was disassembled to ensure his safety until he left the scene. Subject 1 was told that the entire traffic stop was recorded via audio and video recordings. Officer A returned to his vehicle and left the scene.

## **ANALYSIS AND CONCLUSION**

The investigation revealed that the incident did not occur as alleged. The recording from Officer A's vehicle captured the entirety of his interaction with Subject 1 during the traffic stop and refutes Subject 1's account of the incident. Contrary to Subject 1's allegations that Officer A pointed his service weapon at him without justification and pushed him against the

vehicle, the video shows that Officer A professionally asked Subject 1 to exit his vehicle and then stood back and drew his weapon after opening the door of the vehicle. Officer A did this only after respectfully asking Subject 1 to give him his weapon numerous times. Officer A followed Special Order S06-05-02. Per Section III(E)(3): "During investigatory stops, including traffic stops, a licensee who is carrying a concealed handgun must: upon the request of the officer, permit the officer to safely secure the firearm for the duration of the investigative stop".

IPRA recommends that allegation #1, that Officer A pointed his service weapon at Subject 1 without justification be Unfounded. Based on the video evidence available in this case, Subject 1's allegation is unfounded on its face. Accordingly, Officer A need not address this allegation in any way.