

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 13, 2017
Time of Incident:	6:45 P.M.
Location of Incident:	Near XXXX West XX ST Street
Date of COPA Notification:	July 14, 2017
Time of COPA Notification:	2:19 P.M.

On July 13, 2017, complainant Subject 1 was walking on the XXXX block of West XXST Street when he was stopped by Chicago Police Department members Officer A and Officer B. Subject 1 alleged that the officers stopped him, handcuffed him, and searched him without just cause, and Subject 1 also alleged that he was verbally abused by the officers during the stop. Subject 1 was not arrested and was not cited for any violation, and he was released by the officers after a short time. Subject 1 asked the officers who stopped him to summon a supervisor, and Subject 1 walked to the CPD XXth District station to file a complaint when a supervisor did not appear on scene. Subject 1 alleged that the desk sergeant at the station, Sergeant A, refused to take his complaint. Subject 1 also alleged that a male sergeant, later identified as Sergeant B, ordered Subject 1 to stop using his cell phone to video-record the events taking place in the lobby of the station and threatened to arrest Subject 1 if he did not stop recording. COPA’s investigation determined that Officers A and B had probable cause to stop Subject 1 based on observing Subject 1 walking in the roadway, that the officers were justified in briefly handcuffing Subject 1 and conducting a limited search for weapons based on Subject 1’s observed actions and behavior, and that the amount of force used when handcuffing Subject 1 was reasonable. COPA’s investigation also determined that Sergeant A properly attempted to take Subject 1’s complaint, but that Subject 1 left the police station before Sergeant A could take the complaint because Sergeant B improperly ordered Subject 1 to stop video-recording the encounter and told Subject 1 that he would have to leave the station if he did not stop recording.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A ; Star #XXXX; Employee ID #XXXXXX; Appointed on XXXXXXXX XX, 2014; Unit #XXX, DOB XXXXXXXX XX, 1984; Male, White Hispanic
Involved Officer #2:	Officer B ; Star #XXXX; Employee ID# XXXXXX; Appointed on XXXX XX, 2013; DOB XXXX X, 1988; Male; White Hispanic

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Involved Officer #3	Sergeant A ; Star #XXXX; Employee ID# XXXXX; Appointed on XXXXXXXX X, 2005; Seniority Date XXXXX XX, 2017; DOB XXXXXX XX, 1981; Female; White Hispanic
Involved Officer #4	Sergeant B ; Star #XXX; Employee ID #XXXXX; Appointed on XXXXXXXX XX, 2004; Seniority Date XXXXX XX, 2017; DOB XXX X, 1981; Male; Asian/Pacific Islander
Subject #1:	Subject 1 , DOB XXXXXXXX XX, 1992; Male; Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	<p>It is alleged that on July 13, 2017, at approximately 1845 hours, near XXXX West XXst Street, that Officer A:</p> <ol style="list-style-type: none"> 1. Used excessive force in stopping, seizing, and searching Subject 1, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and; 2. Seized Subject 1 without reasonable grounds to believe that Subject 1 was committing, was about to commit, or had committed a crime, in violation of Rules 1, 2, 3, 6, 8, 10, and 11, and; 3. Handcuffed Subject 1 without reasonable grounds to believe that handcuffing Subject 1 was necessary to preserve his own safety or Officer B’s safety, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and; 4. Frisked Subject 1 without reasonable grounds to believe that Subject 1 was armed and dangerous, in violation of Rules 1, 2, 3, 6, 10, and 11, and; 5. Searched Subject 1’s tote bag without reasonable grounds to believe the bag contained a weapon, in violation of Rules 1, 2, 3, 8, 10, and 11, and; 	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p>

	<p>6. Handcuffed Subject 1 more tightly than reasonably necessary, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and;</p> <p>7. Verbally maltreated Subject 1 by saying words to the effect of “I don’t fuckin’ care what you heard, man. I don’t work for you,” in response to Subject 1’s inquiry about a police supervisor responding to the scene of the stop, in violation of Rules 2, 3, 8, and 9, and;</p> <p>8. Did not document stopping Subject 1 by completing an Investigatory Stop Report, in violation of Rules 2, 3, 10, and 11, and;</p> <p>9. Verbally maltreated Subject 1 by saying words to the effect of “Good luck with two Hispanic officers, idiot,” in response to Subject 1 saying that he planned to report Officer B and Officer A for racial discrimination, in violation of Rules 2, 3, 8, and 9.</p>	<p>Unfounded</p> <p>Sustained</p> <p>Exonerated</p> <p>Sustained</p>
<p>Officer B</p>	<p>It is alleged that on July 13, 2017, at approximately 1845 hours, near XXXX West XXst Street, that Officer B:</p> <p>1. Used excessive force in stopping, seizing, and searching Subject 1, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and;</p> <p>2. Seized Subject 1 without reasonable grounds to believe that Subject 1 was committing, was about to commit, or had committed a crime, in violation of Rules 1, 2, 3, 6, 8, 10, and 11, and;</p> <p>3. Verbally maltreated Subject 1 by saying words to the effect of “Good luck with two Hispanic officers, idiot,” in response to Subject 1 saying that he planned to report Officer B and Officer A for racial discrimination, in violation of Rules 2, 3, 8, and 9, and;</p> <p>4. Did not document stopping Subject 1 by completing an Investigatory Stop Report, in violation of Rules 2, 3, 10, and 11.</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Unfounded</p> <p>Sustained</p>

Sergeant A	<p>It is alleged that on July 13, 2017, at approximately 1900 hours, at the Chicago Police Department XXth District, XXXX West Ogden Avenue, that Sergeant A:</p> <p>1. Did not initiate an investigation of Subject 1’s complaint regarding the conduct of Officer A and Officer B as required by General Order G08-01-02, in violation of Rules 2, 3, 5, and 10.</p>	Exonerated
Sergeant B	<p>It is alleged that on July 13, 2017, at approximately 7:30 P.M>, at XXXX West Ogden Avenue, that Sergeant B:</p> <p>1. Hindered or prevented Subject 1 from recording a law enforcement officer who was performing his or her duties in a public place by ordering Subject 1 to turn off his cellular telephone while Subject 1 was recording officers in the lobby of the CPD District XXX station.</p>	Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rules and Regulations of the Chicago Police Department^{2,3}

Article V, Rules of Conduct, of the Rules and Regulations of the Chicago Police Department includes the following prohibitions:

Rule 1: Violation of any law or ordinance.

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 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.

Rule 6: Disobedience of an order or directive, whether written or oral.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

² The version of the Rules and Regulations of the Chicago Police Department referenced in this summary report was adopted on April 16, 2015. These Rules were in effect at the time of the incident under investigation.

³ Additional relevant excerpts from the Rules and Regulations of the Chicago Police Department are presented in Appendix B of this report.

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

Rule 10: Inattention to duty.

Rule 11: Incompetency or inefficiency in the performance of duty.

General Orders

1. **General Order G03-02,⁴ Use of Force Guidelines**

2. **General Order G03-02-02,⁵ Force Options**

Special Orders

1. **Special Order S03-14,⁶ Body Worn Cameras**

Federal Laws

1. **Fourth Amendment to the United States Constitution**

State Laws

1. **Illinois Constitution, Section 6. Searches, Seizures, Privacy and Interceptions**

2. **50 ILCS 706/10-20(a)(11)**

3. **625 ILCS 5/11-1007(a)**

4. **725 ILCS 5/107-2(1)(c)**

5. **725 ILCS 5/107-14**

6. **725 ILCS 5/108-1.01**

City Ordinances

1. **Chi., Ill., Municipal Code § 2-84-230 (1990)**

2. **Chi., Ill., Municipal Code § 2-84-310 (1990)**

⁴ This order was issued on September 23, 2002, became effective on October 1, 2002, and was rescinded on October 16, 2017. This order was in effect at the time of the incident under investigation.

⁵ This order was issued on January 1, 2016 and was rescinded on October 16, 2017. This order was in effect at the time of the incident under investigation.

⁶ This order was issued, and became effective, on June 9, 2017, and was in effect at the time of the incident under investigation.

3. Chi., Ill., Municipal Code § 2-84-320 (1990)

4. Chi., Ill., Municipal Code § 8-4-125 (2004)

5. Chi., Ill., Municipal Code § 9-80-180 (1990)

V. INVESTIGATION⁷

a. Interviews

1. Statement of Complainant Subject 1⁸

Subject 1 was interviewed by IPRA on July 14, 2017. Subject 1 said that on Thursday, July 13, 2017, at about 6:45 p.m., he walked out of his residence at XXXX West XXst Street, Apartment X.⁹ Subject 1 exited through the rear door and walked down to the alley on the west side of the building, and he then walked south in the alley out to the sidewalk on XXst Street. Subject 1 saw an unmarked, gray Ford Explorer driving on XXst Street. The Explorer made a U-turn and then stopped in the middle of the street near the entrance to the alley. Subject 1 said that the license plate on the Explorer was XXXXXXXX, and that he later identified the occupants of the vehicle as CPD officers A, badge number XXXX,¹⁰ and B, badge number XXXX.¹¹ Officer B was the driver and Officer A was the passenger. Both officers were wearing civilian clothing, but they were wearing vests showing their names and badge numbers.

Subject 1 said that Officer A exited the Explorer and said, “Don’t run.” Subject 1 immediately put his hands up and said, “Have I committed any crime? Did you guys receive a phone call that I committed a crime or do I fit the description of a suspect who committed a crime?” Officer A replied “no,” and Subject 1 asked, “Am I free to go?” Officer A replied, “No.” Subject 1 asked again if he was suspected of any criminal activity, and both officers again said “no.” Subject 1 said that he kept his hands in the air as both officers approached him. Subject 1 said that he told the officers “I do not give you guys permission to search me or my personal belongings.”

Subject 1 recounted that Officer A then grabbed Subject 1 by the right arm and slammed him up against a gate to an adjacent fenced yard.¹² Subject 1’s chest was pressed against the fence, which Subject 1 described as a chain-link fence, about six feet in height. Subject 1 said that he was slammed “hard enough to rattle the gate.” Officer A placed his knee between Subject 1’s legs and

⁷ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁸ Attachments 7, 79.

⁹ IPRA conducted a canvass of the area where the incident occurred and attempted to contact possible witnesses who were identified by Subject 1. No material evidence or information was discovered. (Attachments 21, 22, 23, 25, 87)

¹⁰ As noted above, PO A’s correct star number is #XXXXX.

¹¹ As noted above, PO B’s correct star number is #XXXXXX.

¹² Later in the interview, Subject 1 said that PO A had grabbed him by the right wrist with a “gorilla grip” before twisting Subject 1’s arm behind his back and pushing him against the gate. Subject 1 also recalled that PO A had pushed Subject 1 on the chest prior to grabbing his wrist. When PO A pushed Subject 1, Subject 1 raised his hands and told PO A that he was not trying to fight and was not resisting arrest.

handcuffed Subject 1 tightly behind Subject 1's back. Subject 1 said that he did not have any visible injuries to his wrists, but that there were indentations on his wrists immediately after the handcuffs were removed, and his wrists had temporarily turned a bluish or purplish color. Subject 1 said that he did not photograph his wrists.

Subject 1 saw that Officer A was equipped with a body-worn camera, and Subject 1 asked Officer A if the camera was on. Officer A then pressed a button and said that the camera was on.¹³ Officer A then told Subject 1 that the officers would run Subject 1's name and let him go if he returned clear. Subject 1 told Officer A that the officers were inconveniencing him and that he did not give them permission to conduct a search. Officer A replied that Subject 1 could not tell the police what to do, and Officer A frisked Subject 1's clothing, placed his hands inside Subject 1's pockets, and searched inside Subject 1's barber bag. Subject 1 told the officers that he intended to file a complaint, and Subject 1 asked the officers to call for a supervisor. Subject 1 said that he requested a supervisor multiple times, but the officers kept laughing at him in response. Subject 1 started yelling out for assistance and requested that anyone in the area record the incident on their camera-phone. In response to Subject 1's cries for help, a teenage boy who was in the area pulled out his phone and appeared to begin recording. Subject 1 said that he does not know the boy's name, but he has seen the boy in the neighborhood on previous occasions.

The officers asked Subject 1 for identification, and Subject 1 told them that his identification was in the back of his cell-phone case. Subject 1 then asked Officer B if Officer B's body-worn camera was turned on, and Officer B replied "yes." Officer B took Subject 1's identification back to the Explorer, and Subject 1 again asked if he was free to go. Subject 1 also asked the officers if they were harassing him because of his race. In response to the question about race, both officers looked at each other and began laughing. Officer B returned with Subject 1's identification and told Subject 1 that if he didn't shut up, he'd be going to jail.

Eventually, the officers released Subject 1 from the handcuffs and told Subject 1 that he was free to go; Subject 1 took out his cell-phone and began to video-record the incident.¹⁴ Subject 1 attempted to record the officers' badge numbers and the license plate number on their vehicle. Subject 1 also asked both officers for their names and badge numbers, and the officers provided this information. While Subject 1 stood outside the driver-side door of the patrol vehicle, Officer B told Subject 1 that the officers could lock Subject 1 up for obstructing traffic. Subject 1 then walked out of the street and stood on the sidewalk. Subject 1 continued to ask for a "white shirt" supervisor, and the officers drove away, telling Subject 1 to wait for the supervisor. When no supervisor arrived, Subject 1 walked to the CPD's XXth District Station at XXXX West Ogden Avenue, arriving sometime after 7:00 p.m.

Subject 1 walked into the lobby of the police station and asked to file a complaint. The first officer that Subject 1 encountered told Subject 1 that he didn't have any paper, and Subject 1 then asked to speak with a sergeant. Subject 1 spoke with Sergeant A, badge number XXXX, who Subject 1 described as female, short, and Hispanic. Subject 1 told Sergeant A about his encounter

¹³ When asked if the red lights were flashing on either officers' body camera, Subject 1 answered that he did not see any blinking lights.

¹⁴ Subject 1 provided COPA with a copy of his cell-phone video recording. The recording is discussed below. (Attachment 8)

with Officers A and B, and said that he wanted to file a complaint for assault, harassment, and “threats of being incarcerated for just walking down the street and being my skin color in my own neighborhood.” Subject 1 also told Sergeant A that he had the names and badge numbers of the officers and that he had a video recording. Subject 1 gave Sergeant A a piece of paper with the officers’ names and badge numbers written down, and Sergeant A took the paper to a computer terminal. Sergeant A then returned to Subject 1 and told Subject 1 that CPD had no officers with those names or with those badge numbers. Subject 1 told Sergeant A that he saw “District XXX” and “Ogden” on the officers’ name tapes, and he was sure that they were from Sergeant A’s district. Sergeant A replied, “Sorry, I cannot help you.” Subject 1 told Sergeant A that he also had the license plate number from the officers’ vehicle, and Sergeant A replied that she might be able to help. Subject 1 told Sergeant A that the license plate number was recorded on his cell phone, but the battery on the phone had died. Subject 1 told Sergeant A that he would walk home and charge the phone, and he would return to the police station later.

Subject 1 went home, charged his phone, and obtained the license plate number of the patrol vehicle. He then walked back to the XXth District station and approached the front desk. The desk officer spoke with Subject 1 about his complaint and told him to wait for a sergeant. Subject 1 said that he was broadcasting on Facebook Live with his cell phone to record the fact that he was attempting to file the complaint. The desk officer walked to the other end of the service counter and spoke with Sergeant A, who was working at a computer terminal. Sergeant A then spoke with Subject 1 and asked Subject 1 to wait. Subject 1 sat down in the lobby and continued to broadcast on Facebook Live with his phone. A male CPD sergeant then approached Subject 1 and yelled for Subject 1 to turn off his phone, telling Subject 1 that he could not have his cell-phone out in the police station. Subject 1 described the male sergeant as Caucasian, possibly of Hispanic descent, between 5’7” and 5’9” in height, between 180 and 215 lbs., with gray hair. While this was happening, another civilian sitting next to Subject 1 also appeared to be using her cell phone, but the sergeant did not say anything to that person. In response to the male sergeant’s command, Subject 1 put his phone in his pocket, but he continued to broadcast on Facebook Live until his battery ran out.

About 15 minutes after his encounter with the male sergeant, Sergeant A told Subject 1 that he would have to continue to wait if he wanted to file a complaint. Sergeant A also gave Subject 1 the telephone number for IPRA, and she told Subject 1 that he could call that number to file his complaint. Subject 1 told Sergeant A that he had “all of the time in the world” and that he would wait for her. Subject 1 also told Sergeant A that he wanted to file a complaint against her for refusing to take his complaint against POs A and B. While Subject 1 continued to wait, he spoke with his step-father by telephone. Subject 1’s step-father advised Subject 1 to leave the police station before the police became angry, and Subject 1, fearing what the police might do, walked out of the station. He walked home, arriving just after 9:00 p.m. He filed his complaint at IPRA the following day.

2. Statement of Accused Officer B¹⁵

COPA interviewed Officer B on November 13, 2017. Officer B said that on July 13, 2017, he was working evenings on Beat XXXXX, a tactical team, with his partner, Officer A. At about

¹⁵ Attachments 56, 57, 82, 83.

6:45 p.m., they were on patrol near XXXX West XXst Street when they observed a subject, later identified as Subject 1, walking “literally in the middle of the street,” causing vehicles to change course to avoid striking him. Officer B said that Subject 1’s obstruction of traffic was the only reason for Subject 1’s stop. When the officers approached Subject 1, he walked back towards the sidewalk. As Officer B, who was driving, stopped and parked their patrol vehicle, Officer A exited and approached Subject 1, who at that point had reached the grassy area between the street and the sidewalk. As Officer A approached, Subject 1 immediately became irate, “tightened up,” and pulled away from Officer A as Officer A attempted to grab him. Officer B exited the vehicle and assisted his partner in patting down Subject 1 and placing Subject 1 in handcuffs. Officer B said that he used “barely any” force while handcuffing Subject 1, simply placing his hand against Subject 1’s lower back and holding Subject 1’s arm as Officer A applied the handcuffs.

The officers attempted to explain the reason for the stop to Subject 1, but Subject 1 argued with them and complained that he had been stopped unjustly. Subject 1 complained that the handcuffs were too tight, and Officer B immediately checked and loosened the cuffs. Officer B believed that Subject 1’s discomfort was relieved because Subject 1 stopped complaining about the tightness of the handcuffs. Officer B recalled patting down Subject 1’s pockets and waistband, but he did not search Subject 1’s bag or inside Subject 1’s clothing.¹⁶ Officer B saw Officer A look inside of a bag that Subject 1 had dropped when Officer A initially approached Subject 1. Officer B explained that the officers conducted the pat-down because Subject 1 was screaming and pulling away from Officer A, leading Officer B to believe that Subject 1 might assault the officers. Because Officer B believed Subject 1 might assault the officers, Officer B wanted to make sure that Subject 1 was not armed; the purpose of the pat-down was only to discover if Subject 1 possessed any weapons. The officers did not find any weapons. Officer B then obtained Subject 1’s identification and checked Subject 1’s name through LEADS. When Subject 1’s name-check returned clear, the officers released Subject 1. Officer B explained that the officers chose not to issue any tickets or pursue any charges because they didn’t know if Subject 1 was “physically and mentally stable” or if he was just having a “bad day.”

Officer B said that he had intended to provide Subject 1 with an ISR receipt, but that he had run out of the receipts. Officer B returned to the patrol vehicle to find a receipt, but there were no receipts in the vehicle. At that point, Subject 1 asked to speak with a sergeant, and the officers contacted their supervisor, Sergeant C. The officers returned to their patrol vehicle, and Subject 1 walked into the street and began speaking to Officer B through the driver-side window. Officer B had de-activated his body-worn camera when he believed the encounter with Subject 1 was over, but he re-activated the camera when Subject 1 approached their vehicle. The officers asked Sergeant C to meet with Subject 1 and to give Subject 1 an ISR receipt. The officers told Subject 1 to wait for the sergeant, and they drove away. Officer B later learned from Sergeant C that Subject 1 was gone when the sergeant arrived.

Officer B acknowledged that CPD directives required him to complete an Investigatory Stop Report (ISR) to document Subject 1’s stop. Officer B also acknowledged that he did not, in fact, ever complete the ISR. Officer B explained, “There was a miscommunication on who was going to do it, and then we . . . forgot to put it in the system later on. A lot of things happened that

¹⁶ After viewing PO A’s body-worn camera video recording, PO B said that he now believed he did not pat Subject 1 down, and he only stood by while PO A conducted the pat-down.

day – a miscommunication of who was going to do it.” Officer B believed that the miscommunication happened because Officer A was the “business officer” that day, and the business officer usually completed the reports. But in the case of Subject 1, Officer B had all of Subject 1’s biographical information, so Officer B would have been responsible for completing the report.

COPA investigators and Officer B watched body-worn camera video recordings from Officer B and Officer A that documented Subject 1’s stop, as well as Subject 1’s cell-phone video recording. After viewing and listening to the recordings, Officer B identified Officer A as the person who referred to Subject 1 as a “fucking clown” and a “fucking idiot.” Officer B also identified Officer A as the person who said, “I don’t fucking care what you heard, man” to Subject 1 and as the person who said, “Good luck with two Hispanic officers, idiot.”

When confronted with the specific allegations in this investigation, Officer B denied using excessive force against Subject 1, denied seizing Subject 1 without justification, and denied verbally mistreating Subject 1. Officer B admitted that he did not document the stop by completing an ISR.

3. Interview of Accused Officer A¹⁷

COPA interviewed Officer A on November 20, 2017. Officer A provided an account of Subject 1’s stop that was substantially similar to the account provided by Officer B. Officer A recalled that Subject 1 threw his backpack to the ground, unprompted, as Officer A approached. Officer A believed that this was “extremely suspicious,” as most people do not spontaneously drop their belongings when approached by police. Officer A said that he heard a “clunking sound” when the backpack hit the ground, leading him to believe that a metallic object, possibly a gun or some other type of weapon, was inside the backpack. Officer A opened the backpack and discovered that it contained haircutting equipment. Officer A agreed that an ISR was required to document the stop. When the stop was over, Officer A discussed the ISR with Officer B, and Officer B acknowledged that he had the information required to complete the report.

COPA investigators and Officer A watched body-worn camera video recordings from Officer B and Officer A that documented Subject 1’s stop, as well as Subject 1’s cell-phone video recording. After viewing and listening to the recordings, Officer A said that he did not recall saying, “Good luck with two Hispanic officers, idiot” to Subject 1, but he did not deny making this statement. Officer A admitted that he said, “I don’t fuckin’ care what you heard, man,” to Subject 1. Officer A explained his use of profanity:

A lot of times . . . we’ll start off, hey man, listen, relax . . . most times that works. Oftentimes, if it doesn’t you wanna keep raising your voice and screaming, now I’m gonna start raising my voice and screaming too, because, you’re gonna see that. You’re just not going to continue to trounce and trounce and trounce, start outward like that. Now, it’s rare that it has to get past that.

Sometimes, it has to get there. But, when guys do that, and you see from the beginning, nobody called him a name, nobody cursed him out It was, hey, just

¹⁷ Attachments 66, 67, 84, 85.

relax, just relax, just relax. But, he wouldn't stop. So no, you have to see, okay, listen, now I'm gonna raise my voice. And then, ... after that, he kept on talking, but it was much calmer. And, that is the tactic. And, it often does work.

Officer A said that he was not taught this tactic at the police academy, but "I was taught that throughout life."

When confronted with the specific allegations in this investigation, Officer A denied using excessive force against Subject 1, denied seizing Subject 1 without justification, denied handcuffing Subject 1 without justification, denied frisking Subject 1 without justification, denied searching Subject 1's bag without justification, and denied handcuffing Subject 1 more tightly than reasonably necessary. Officer A said that he did not recall verbally maltreating Subject 1, but, "I have no reason to doubt what is depicted in the audio, or video." Officer A admitted that he did not document the stop by completing an ISR, but explained that he did not believe he was responsible for completing the ISR based on the understanding he had with Officer B regarding their division of labor.

4. Interview of Accused Sergeant A¹⁸

COPA interviewed Sergeant A on November 14, 2017. Sergeant A said that on July 13, 2017, at about 7:00 p.m., she was working, in uniform, in the XXth District station as the desk sergeant. Sergeant A said that she normally worked in the field as a patrol supervisor, but that she sometimes fills in as the desk sergeant when the personnel normally assigned to that function are on furlough. Sergeant A also said that she had been promoted to the rank of sergeant only four months prior her encounter with the subject later identified as Subject 1, and she had only taken one log number complaint prior to July 13, 2017. Sergeant A said that she had a "cheat sheet" that she was given by another sergeant or lieutenant to use when taking complaints, but she would have likely had to leave the desk and retrieve the "cheat sheet" from her locker before taking Subject 1's complaint.

During her statement to COPA, Sergeant A tendered a copy of a document titled "Arrest Report Search Print" for the District XXX Lockup on July 13, 2017.¹⁹ Sergeant A explained that the document listed all the people who were arrested in the XXXXX District around the time that Subject 1 came to file his complaint, and she further explained that she had to approve every arrest and review all the associated paperwork. Sergeant A also reiterated that she rarely worked as a desk sergeant, that she was trying to be very thorough in her work, and that each arrest took about 15 minutes to process.

Sergeant A recalled that Subject 1 came into the station and asked to file a complaint. She also said that Subject 1 was "in my face" and that he was holding his phone in her face. Sergeant A told Subject 1 that she had "a line of officers that needed reports approved and inventories for due process," and she asked Subject 1 to wait. Subject 1 immediately accused Sergeant A of not taking his report, and Sergeant A insisted that she would take the report, but that Subject 1 needed

¹⁸ Attachments 60, 61, 80, 81.

¹⁹ The reports documents that three people were arrested between 7:10 and 7:19 p.m., and a total of six arrests were processed between 7:10 p.m. and 9:12 p.m., after which Sergeant A's shift ended. (Attachment 62)

to wait. Sergeant A did not provide Subject 1 was an estimate of how long the wait would be, but she believed it would have taken about 30 minutes to complete her more pressing tasks and attend to Subject 1. Sergeant A also remembered offering IPRA's telephone number to Subject 1, and she told Subject 1 that he could file his complaint with IPRA if he did not want to wait.

At some point, Subject 1 told Sergeant A that he wanted to complain about two officers who had stopped him earlier in the day. Subject 1 handed Sergeant A a piece of paper with star numbers written on it, and Sergeant A attempted to look up the star numbers in her computer. Neither star number, however, returned as being associated with a current CPD member. Sergeant A told Subject 1 that the star numbers were not correct, and she gave the piece of paper back to Subject 1. Sergeant A described what happened:

I asked him to wait and I gave him the number to IPRA and I said I needed some time – the whole time when I was approving and hadn't finished what I was doing he was in my face with the phone. It was very frustrating for me to finish what I was doing and tend to his needs just because it felt like a lot of pressure. So I just kept asking him to wait and then I'd give in and okay, let me run this and that's when I ran the star numbers. But then I felt like I wasn't doing everything correctly or I felt like I could make a mistake on the reports or what I was running for him because I wasn't, you know, given time because he kept, you know, insisting in kind of a rude way to be honest.

Sergeant A did not remember if Subject 1 ever left the station and returned. Sergeant A did remember that other civilians and other CPD members were in the lobby, and the civilians were there to file police reports. While this was happening, Subject 1 was holding up his phone and loudly narrating the event, saying, "They don't want to give me a report." Sergeant A recalled that Sergeant B was in the lobby, and Sergeant B told Subject 1 to stop recording because "there were other people in the waiting room waiting to get a report done and [Subject 1] was recording the whole lobby." Subject 1 became angry when Sergeant B told him he could not record, and Sergeant B told Subject 1 that he could record the police, but he could not record the other people in the lobby. Sergeant A did not recall how the incident ended or if Subject 1 obeyed Sergeant B's order to stop recording. But at some point, the lobby became quiet, and Sergeant A went back to her work. She never saw Subject 1 again, and she assumed he had walked out of the station.

Sergeant A acknowledged that, as a CPD supervisor, she was required to initiate an investigation and to begin the log number report process. Sergeant A said that she fully intended to take Subject 1's complaint and initiate the required procedure, and the only reason she did not take the complaint was that Subject 1 did not wait. Sergeant A said that the initial information she received from Subject 1 before he left the station was not sufficient for her to initiate an investigation, as she never learned Subject 1's name, the time or location of the interaction Subject 1 was complaining about, or any information, other than incorrect star numbers, that could identify the involved CPD members. When confronted with the specific allegation against her, Sergeant A responded, "I didn't know who those officers were at the time and I wasn't given the opportunity to take the log because the citizen didn't wait," and, "I would have given him a log number if he would have waited the half hour that I needed him to wait."

5. Interview of Accused Sergeant B²⁰

COPA interviewed Sergeant B on December 28, 2017. Sergeant B said that on July 13, 2017, at about 7:00 p.m., he was working, in uniform, in the XXth District on an overtime assignment supervising officers assigned to the Violence Reduction Initiative (VRI). Sergeant B had been promoted to the rank of sergeant only a few months prior to the date of this incident, and his normal assignment was as a relief supervisor, working on the street in the XXth District. Sergeant B recalled walking into the front desk area and seeing the subject later identified as Subject 1 holding his cell phone in the air and pointing the phone towards different areas, as if he was recording. Sergeant B remembered seeing some interaction between Subject 1 and the desk sergeant, Sergeant A, but he did not know any of the details regarding their interaction. Sergeant B confronted Subject 1 and immediately told Subject 1 to stop recording. Sergeant B explained:

I don't remember what he said to me; but I knew I asked him to stop recording various times, intermittently, so. I would ask him to stop. He wouldn't stop. Maybe a minute would go by and I would ask him to stop again, and he wouldn't stop. And I told him you can't record inside here; you can record outside if you wish. He didn't stop, so, I basically just told him that he couldn't record various times.

Subject 1 did not stop recording, and Sergeant B told Subject 1 that he had to leave the station if he was not going to stop. Subject 1 then walked out of the station, and Sergeant B never saw him again. Sergeant B did not remember if Subject 1 ever said that he was there to file a complaint. Even if Subject 1 had said that he wanted to file a complaint, Sergeant B explained that he still would have told Subject 1 to stop recording. Sergeant B could not recall if he threatened to arrest Subject 1 if Subject 1 did not stop recording.

Sergeant B said that there were multiple reasons why he told Subject 1 to stop recording:

In this station, it is a public area, but the public is entitled to their privacy, especially when we have rape victims, juveniles who are victims of crimes, domestic battery victims, witnesses; it is a safe haven also. By Illinois State law, it is declared a safe haven.

We also have an ATM machine. When people are being interviewed by other police officers, they have to give very important information, not only their personal information, but details into something that has been traumatic to them. And for that reason, I tell you to stop recording.

There's also a statute . . . which is the use of cell phones, cameras, camera phones in "public privacy areas." And there's a list of areas . . . which I think the most important thing is including, but not limited to and it's a list of places: showers, locker rooms, changing rooms, bathrooms, and automatic teller machine areas, and cashier lines.

In the lobby of the station room, we have an . . . automatic teller machine, which, obviously, if I believe that someone has a privacy in a public area to not be recorded at an ATM machine. I'm pretty sure that I, in my position, and in my

²⁰ Attachments 78, 86.

experience, I have the knowledge to make the call to say, hey, you can't record because we have rape victims, domestic battery victims, juveniles, children, safe haven.

We have . . . confidential informants . . . walking into the station to meet with police officers who I'm pretty sure do not want their identity compromised through any type of social media whatsoever. That is the reason why I told him to stop recording various times within the station.

Sergeant B acknowledged that he did not know if any of the citizens in the lobby were, in fact, using the ATM or engaged in any of the activities or reporting any of the types of crimes that he had described. Sergeant B also acknowledged that CPD Special Order S03-14 prohibits officers from hindering or preventing people who are recording officers performing their duties in a public place. Sergeant B acknowledged that he was performing his duties, that he was in a public place, and that he had no personal expectation of privacy when he ordered Subject 1 to stop recording. But Sergeant B also acknowledged that the same special order allows CPD members to take reasonable actions to enforce the law and to perform their duties; in this case, Sergeant B believed that ordering Subject 1 to stop recording was reasonable because of the possible presence of crime victims, confidential informants, and other civilians who expected privacy.

When asked about the configuration of the lobby, Sergeant B explained that the ATM is located on the right, just inside of the public entrance. There is a "huge long desk" where reports are taken. Sergeant B further explained that the desk sergeant sits at the opposite end of the lobby from the ATM, and Subject 1 was near the desk sergeant when Sergeant B confronted him. Sergeant B later clarified that Subject 1 was pacing back and forth, and Subject 1 may have been closer to the ATM at some point.

When confronted with the specific allegation against him, Sergeant B said, "Unfortunately, I cannot attest to what his intentions were with the recording device. All I know is that from my observation, he appeared to be recording with his cellular phone."

b. Digital Evidence

COPA requested all CPD body-worn camera and in-car camera recordings associated with Beat XXXXX, Officer B and Officer A, related to an incident that occurred at 6:45 p.m. on July 13, 2017, around XXXX West XXst Street. The following recordings were turned over to COPA and made part of the investigation.²¹

1. Body-Worn Camera, Officer A²²

One recording from Officer A's body-worn camera was turned over to COPA. The recording begins at 6:51:10 p.m. and is five minutes and twelve seconds long. The first thirty seconds of the recording are silent. The recording starts with Officer A seated in the front passenger

²¹ The response from CPD's Records Division indicated that no in-car camera video was recovered. Body-worn camera recordings were recovered for both involved officers. No police observation device (POD) cameras were found in the area. (Attachments 10, 20, 35)

²² Attachment 37.

seat of a moving vehicle. The vehicle stops, and Officer A opens his door and steps out. Subject 1 can be seen walking on the grass between the street and the sidewalk on the north side of West XXst Street, heading west, away from the apartment building at XXXX West XXst Street. As Officer A exits the vehicle and begins moving towards Subject 1, Subject 1 stops walking, raises his hands, and steps back onto the sidewalk. Subject 1 stands facing Officer A with his hands up, palms forward at approximately shoulder-height, with a cell phone in his right hand and a black leather tote bag or backpack in his left hand. A tall chain-link fence is behind Subject 1, separating the sidewalk from an empty lot. A closed gate in the chain-link fence is directly behind Subject 1.

As Officer A closes the distance to Subject 1, Subject 1 bends forward and his arms begin to lower. Subject 1 then steps backwards and raises his right arm up and out to his side as Officer A grabs Subject 1's left forearm with his left hand, bringing Subject 1's left arm down and in front of his body. Officer A steps to Subject 1's left side and begins to bring Subject 1's left arm behind his back. Subject 1's right arm is still raised, palm forward, holding his phone. Subject 1 turns and steps back, away from Officer A, so that Subject 1 is now facing east. Officer A is still holding Subject 1's left forearm, and Subject 1's left arm is extended in front of his body. Officer A uses his right hand to turn on his body-worn camera, and the audio recording begins at the 30-second mark.

As the audio begins, Subject 1 says, "For the record and on the record, I do not give you permission to search me." Subject 1 backs up towards the chain-link fence, and Officer A tells Subject 1 to put his hands on the gate. Subject 1 turns around to face the fence. Officer B stands behind Subject 1 and Officer B places his left hand on the left side of Subject 1's torso while holding Subject 1's right arm with his right hand. Officer A pats the outside of Subject 1's pants below the waist and appears to feel for objects in Subject 1's pockets. Subject 1 continues to say that he does not give the officers permission to search him, and Subject 1 asks both officers to provide their names and badge numbers when they finish what they are doing. Officer A takes hold of Subject 1's left wrist with his right hand, while applying a handcuff to Subject 1's wrist using his left hand. Subject 1 shouts, "I just left out of the house! Why are you doing me like this?" As Officer A finishes handcuffing Subject 1, Officer B says, "This is because the way you're acting and for our safety." As Officer B speaks with Subject 1, Officer A picks up Subject 1's bag from the sidewalk and unzips the top zipper. Officer A manipulates objects inside of the bag with his hands before placing the bag down and closing the zipper. Officer A then asks Subject 1 if he has any identification, and Subject 1 tells Officer A to look inside of the back of his telephone case. Officer A takes the phone and removes Subject 1's identification. Subject 1 then asks, "And could you loosen up these handcuffs, please?" Officer A says, "They're loose already," while Officer B appears to check and to adjust the handcuffs. Officer B walks towards the patrol car, leaving Subject 1 with Officer A. Subject 1 asks Officer A if the officers stopped him because he was a "new face" in the neighborhood, and Officer A replies, "OK, if that's what you think."

Subject 1 then asks Officer A why the officers "singled him out," and Officer A points down the sidewalk and says, "We just finished grabbing them . . . just finished talking to them." Subject 1 replies, "You just grabbed them so that means come grab me?" Officer A says, "mm hmm." Another marked CPD patrol car drives west on XXst Street and turns north into the alley on the west side of XXXX West XXst Street, stopping at the mouth of the alley. Officer A walks back towards the street and hands Subject 1's identification to Officer B, who is now seated in

their unmarked gray patrol vehicle. Officer A then turns around and walks back towards Subject 1. As Officer A approaches Subject 1, Subject 1 says, "Can I have a white shirt here please?" Officer A replies, "They'll be on the way." Subject 1 says, "I ain't here nobody call over no radio for no white shirt," and Officer A replies, "I don't fuckin' care what you heard, man. You don't tell me what to do." Subject 1 says, "You work for me," and Officer A replies, "The fuck I do. I work for myself, I don't work for you." Subject 1 then shouts to a group of people on the sidewalk, "Can one of you all record this for me?"

Officer A tells Subject 1 to turn around, and Subject 1 turns to face the fence, away from Officer A. Officer A removes the handcuffs from Subject 1's wrists while Officer B stands to the side. Officer A asks Officer B if he has an ISR receipt, and Officer B says that he'll look for a receipt in their patrol car. Subject 1 begins to manipulate his cell phone and holds the phone up, pointing towards Officer A, as if he is taking a photograph or video recording. Subject 1 asks Officer A to confirm that his name is "Officer A," and Officer A confirms it. Subject 1 asks Officer B for his name and badge number, and Officer B says, "Yeah, we're gonna give it to you right now," before walking back towards the patrol car.

Subject 1 says to Officer A, "Just put me in handcuffs like I'm a criminal," and Officer A replies, "You got put in handcuffs because of the way you were acting." Subject 1 says, "No, you put me in handcuffs because you thought I was a criminal." Officer A replies, "I put you in handcuffs because you started pulling away, and you started yelling and spitting in my face." Subject 1 reminds Officer A that he asked for a white shirt, but Officer A does not reply. Officer A then turns towards the patrol vehicle and speaks briefly to Officer B, who is now back in the driver's seat. Officer A walks away from Subject 1, enters the patrol vehicle on the passenger's side, sits down, and turns off his body-worn camera. The video recording then ends.

2. Body-Worn Camera, Officer B²³

Two recordings from Officer B's body-worn camera were turned over to COPA.

i. July 13, 2017, 6:53 p.m.

The first recording begins at 6:53:14 p.m. and is two minutes and two seconds long. The first thirty seconds of the recording are silent. The recording starts with Officer B seated in the driver seat of a vehicle, in the process of closing the driver's door. The front passenger seat is empty. Officer B places the vehicle in reverse, drives backwards while turning the wheel, and then pulls forward, stops the vehicle, and places it in park. Officer B reaches across the front passenger seat and is handed a document by another officer who reaches into the passenger compartment from outside. At the 30-second mark, the audio recording begins, and Officer B can be seen and heard typing on the vehicle's Police Data Terminal ("PDT").²⁴

²³ Attachment 36.

²⁴ PDT messages from Beat XXXXX on July 13, 2017, were obtained by COPA and made part of this investigation. A PDT Messages Report documents that Beat XXXXX conducted an Illinois Law Enforcement Agencies Data System (LEADS) check on Subject 1 at 6:54 p.m. (Attachment 24)

After Officer B completes his work on the PDT, he exits the vehicle holding an Illinois driver license or identification card. Officer B walks to the rear of the vehicle, and the apartment building at XXXX West XXst Street is visible to Officer B's left. A marked CPD patrol vehicle is parked at the entrance to the alley on the west side of the apartment building. Pedestrians walk along the sidewalk, and Officer B turns and walks from the street onto the sidewalk, west of the alley. As Officer B turns to face the sidewalk, Subject 1 can be seen standing perpendicular to a tall chain-link fence, and Officer A is standing behind him. Subject 1 is bending over slightly at the waist, and his hands are cuffed behind him. Officer A removes the handcuffs while Subject 1 asks the officers for their badge numbers. As the handcuffs are removed, Subject 1 reaches into his pocket and retrieves a cell phone. Officer A asks Officer B if he has an ISR receipt, and Officer B says that he might have one in the car. Officer B walks back to their patrol vehicle, opens the front passenger-side door, and enters the vehicle. After a few seconds, Officer B exits the vehicle and turns towards the sidewalk. The recording shows Subject 1 standing on the sidewalk facing Officer A and pointing his cellular phone at Officer A. Officer B then turns off his camera and the recording ends.

ii. July 13, 2017, 6:57 p.m.

The second recording begins at 6:57:05 and is three minutes and thirty-five seconds long. The first 30 seconds of the recording are silent. The recording starts with Officer B seated in the driver seat of a parked vehicle. Subject 1 is standing outside of the vehicle, facing the front driver-side window. When the audio begins at the 30-second mark, Subject 1 is telling Officer B that he has Officer B's badge number. Officer B tells Subject 1, "You're standing in the middle of the street. You can get arrested right now." Subject 1 walks around the front of the vehicle towards the side of the road. Officer B remarks to Officer A, "He was in the street before." Officer B then tells Subject 1, "You can't just walk in the middle of the street. It's illegal." Subject 1 replies, "No, it's not." Officer B asks Subject 1 if he still wants to talk to the officers' sergeant, and Subject 1 says yes. Officer B tells Subject 1 to wait, and then tells Officer A, who is sitting in the passenger seat, to call the sergeant. Officer B replies that he already called the sergeant, but the sergeant did not answer. While the officers discuss calling the sergeant, Subject 1 continues talking, saying that the officers have violated his rights. Officer A calls for the sergeant on the police radio while Officer B speaks with Subject 1.

Officer B tells Subject 1, "We told you why we put you in handcuffs. It's because of the way you were acting. We told you why we grabbed you and we told you why . . ." While Officer B talks to Subject 1, Officer A can be heard speaking on the telephone. Only Officer A's side of the telephone conversation is audible. Officer A says, "This fuckin' clown over here wants to see our boss, so I just told him I'm gonna call you. I called you once but you didn't answer, so I had to go over the radio. He's a fuckin' idiot." Officer A says "yes" and "alright" in response to the other party on the telephone call, and then the call ends.

Subject 1 says that the officers racially discriminated against him. Officer B says, "We racially discriminated . . . in your community," repeating what Subject 1 told him. The officers then discuss asking the sergeant to bring an ISR receipt. Subject 1 apparently hears the conversation between the officers and says, "See now they want to give me some more documentation. That's what they want to do right now." Officer A replies to Subject 1 and says, "We're not giving you anything." Officer B again tells Subject 1 that they could lock him up for

being in the middle of the street and obstructing traffic, but then tells Subject 1, “We’re giving you a break because I don’t want to deal with you.” Subject 1 says that the officers are threatening him, and Officer B replies, “We’re not threatening you. I said that we should, but I’m not going to. . . . I already made my decision that I do not want to deal with you . . . just by talking to you.” Officer B then laughs, and Officer A says, “We can go. He’s on his way over here.”

The officers speak to each other, and Officer A says that the sergeant will bring the ISR receipt to Subject 1. Officer B then tells Subject 1 that the sergeant is on his way. The officers tell Subject 1 that their body cameras recorded the incident and that Subject 1 can speak to their sergeant about his complaint. Officer B then tells Subject 1, “We did everything right, and you did everything wrong.” Subject 1 says that he’s going to report the officers for racial discrimination, and Officer A responds, “Good luck with two Hispanic officers, idiot.” Officer B begins to drive away as he turns off his camera, and the recording ends.

D. Subject 1’s Cell-Phone Video Recording²⁵

Complainant Subject 1 provided COPA with a cell-phone video recording of his interaction with Officer A and Officer B. The recording is four minutes and thirty seconds long, and it appears to begin after the events depicted in the recording from Officer A’s body-worn camera. The recording begins with Subject 1 standing in the street and recording the license plate number on the front of the officers’ gray, unmarked patrol vehicle. Subject 1 then walks onto the parkway between the sidewalk and street and approaches the passenger side of the vehicle. Officer A is sitting in the passenger seat and his window is rolled down. Subject 1 asks Officer A, “Can I get your beat number too, sir,” while repeating Officer A’s name and badge number. Subject 1 then asks Officer B for his badge number. Officer B begins to reply, while Subject 1 walks around the front of the car and approaches Officer B from the driver’s side. Officer B’s window is also rolled down, and Subject 1 repeats Officer B’s badge number while Officer B tells Subject 1 that a sergeant is on his way. Subject 1 tells Officer B that he will wait for the sergeant, and repeats that he never gave the officers permission to search him or his personal property. Officer B then tells Subject 1, who is standing at the driver’s window of the patrol vehicle, to get out of the street. Subject 1 begins to walk towards the sidewalk while Officer B tells him that he could be arrested for obstructing traffic.

Subject 1 again stands on the parkway at the passenger side window of the patrol vehicle and continues to record. Subject 1 tells the officers that they will hear from his lawyer because they violated his rights, and says that the officers racially discriminated against him. Subject 1 also says that the officers are threatening him and coercing him. Officer B tells Subject 1 that the sergeant will be there soon, and Subject 1 asks the officers not to leave before the sergeant arrives. Subject 1 says that he’s going to report the officers for racial discrimination, and Officer A replies, “Good luck with two Hispanic officers, idiot.”²⁶ The officers then drive away, and Subject 1 walks towards the apartment building at XXXX West XXst Street. Subject 1 approaches a male child on

²⁵ Attachment 8.

²⁶ From the recording alone, it is not clear which officer is speaking. PO B identified PO A as the person who made this statement during an interview with COPA on November 13, 2017. (Attachments 57, 83) PO A told COPA that he did not recall making the statement, but that he had no reason to doubt what was depicted in the recording. (Attachments 66, 67, 84, 85)

the sidewalk and tells the child that he plans to walk “right to the police station” to file a complaint against the officers. The recording then ends.

c. Documentary Evidence²⁷

COPA searched for any Investigatory Stop Reports associated with Subject 1’s encounter with Officer B and Officer A, but none were found. COPA also searched for relevant surveillance video recordings from the CPD XXth District station, but no video surveillance equipment was installed in the front desk area.

COPA also obtained OEMC Records, including GPS Data, Unit History Report and Event Query, and Radio Transmissions. This information corroborated that Beat XXXXX stopped Subject 1 and that a supervisor was dispatched to the scene.²⁸ In their statements to COPA, both Officer A and Officer B said that Officer A spoke with Beat XXXX, Sergeant C, by telephone shortly after they left the scene of Subject 1’s stop. Sergeant C said that he had driven to the location, but he had been unable to locate the complainant.²⁹

VI. ANALYSIS

1. Officer A and Officer B were justified in stopping and searching Subject 1 based on observing Subject 1 walking in the roadway and based on Subject 1’s subsequent actions: throwing down his backpack, shouting, and pulling away from Officer A.

Subject 1 alleged that he was walking on the sidewalk when he was stopped and searched by the accused officers, and he further alleged that the officers had no justifiable reason for stopping him. Officer A and Officer B both described initially seeing Subject 1 walking in the roadway – not on the sidewalk – and provided “obstruction of traffic” as the justification for the stop. While the available evidence is not entirely conclusive, there is substantial evidence demonstrating that the officers’ account is, more likely than not, correct. The available video evidence of the initial stop does not show Subject 1 walking in the street, and the recorded portions of the initial encounter between Subject 1 and the police take place on the parkway (the grassy area between the street and the sidewalk) and on the sidewalk. But there are several reasons to credit the officers’ accounts.

First, when Subject 1 initially appears on Officer A’s body-worn camera video recording, he is walking on the parkway and then steps back onto the sidewalk. In Subject 1’s account of the incident, he was walking out of an alley and had just reached the sidewalk when the encounter began. The video recording is more consistent with Subject 1 walking from the road towards the sidewalk than with Subject 1 walking out of the alley, from the opposite direction, and onto the sidewalk.

Second, Officer B’s body-worn camera video recording captured a contemporaneous conversation between Officer B and Officer A, after they returned to their patrol vehicle, where

²⁷ Attachments 11, 16, 31.

²⁸ Attachments 13, 14, 15, 19, 27.

²⁹ Attachments 56, 66, 82, 84.

they discussed the fact that Subject 1 had been in the roadway. It is highly unlikely that the officers made false statements to each other during their encounter with Subject 1. It is more likely that the officers' contemporaneous statements were true.

Third, Officer B's body-worn camera video recording captured a conversation between Officer B and Subject 1. Officer B told Subject 1, "You can't just walk in the middle of the street. It's illegal." Subject 1 replied, "No, it's not." If Subject 1 had not been walking in the street, he likely would have disputed Officer B's factual assertion rather than disputing Officer B's legal conclusion. In other words, he likely would have replied, "No, I wasn't," instead of, "No, it's not."

If the officers observed Subject 1 walking in the roadway, they were justified in stopping Subject 1 based on either the applicable municipal ordinance or the analogous state statute that prohibit this behavior.³⁰ Such a stop would be based on probable cause that Subject 1 had violated the ordinance or the statute.³¹

When Officer A ordered Subject 1 to stop and approached Subject 1 on foot, the available video and testimonial evidence shows that Subject 1 immediately dropped his backpack to the ground and began shouting. The evidence also shows that Subject 1 pulled away from Officer A. Officer A said that he heard a metal object hitting the ground when Subject 1 dropped his backpack. Subject 1 himself told investigators that his backpack contained haircutting equipment, which likely included electric shears. CPD's Special Order S04-13-09(c)(2) closely tracks the language of an Illinois statute, 725 ILCS 5/108-1.01, which provides in relevant part that "When a peace officer has stopped a person for temporary questioning pursuant to Section 107-14 of this Code and reasonably suspects that he or another is in *danger of attack*, he may search the person for weapons."³² Illinois courts have interpreted 725 ILCS 5/108-1.01 to adhere to the United States Supreme Court's Fourth Amendment jurisprudence which requires that an officer believe the individual is *armed* and dangerous before performing a pat down during an investigatory stop.³³ In this case, the combination of Subject 1's reaction to being approached by police and the sound that Officer A heard when Subject 1's backpack hit the ground gave Officer A reason to suspect that Subject 1 could be both armed and dangerous. The limited pat-down of Subject 1's pockets and waistband, as well as the limited search of his backpack, which was terminated as soon as Officer A determined that the backpack did not contain a weapon, were reasonable.³⁴

³⁰ See Chi., Ill., Municipal Code § 9-80-180 (1990); 625 ILCS 5/11-1007(a).

³¹ See *People v. Fitzpatrick*, 2011 IL App (2d) 100463 (holding that a custodial arrest, and subsequent search, for violating the Vehicle Code by walking in the middle of a public road did not violate the federal constitution or the Illinois state constitution's prohibition against unreasonable searches and seizures).

³² Similar language is also used in the analogous city ordinance. See Chi., Ill., Municipal Code § 2-84-320 (1990).

³³ Any contrary interpretation of 725 ILCS 5/108-1.01 would be unconstitutional because Illinois law must comply with the United States Constitution. See, e.g., *People v. Walker*, 2013 IL App (4th) 120118.

³⁴ The United States Supreme Court has not directly opined on the extension of *Terry* from a frisk of a subject's outer clothing for weapons to a "frisk" of a subject's bag or backpack. The Illinois Supreme Court has also not directly addressed this issue, although the court did allow police to search inside a subject's boot, which had been removed from the subject's foot prior to the search, when the police reasonably suspected the boot might contain a knife. *People v. Sorenson*, 196 Ill. 2d 425 (2001). Other courts that have examined this issue have generally taken a fact-specific approach, and those courts have found searches of bags to be justified when the police had reason to believe the bag contained a weapon and the search was limited in scope to either confirm or dispel the officers' suspicion. See, e.g., *United States v. Walker*, 615 F.3d 728 (6th Cir. 2010); *Commonwealth v. Pagan*, 440 Mass. 62 (2003).

Allegation #1 against both Officer A and Officer B, that the officers used excessive force in stopping, seizing, and searching Subject 1, is based on Subject 1's allegation that the officers did not have any justifiable reason to stop him. If the stop was unjustified at its outset, then no amount of force, no matter how slight, would be justified. Likewise, Allegation #2 against both Officer A and Officer B is based on Subject 1's allegation that the officers seized Subject 1 without reasonable grounds to believe that Subject 1 was committing, was about to commit, or had committed a crime. Because a preponderance of the available evidence shows that the stop was justified based on Subject 1 walking in the roadway, COPA recommends that **Allegations #1 and #2 against both Officer A and Officer B be Unfounded.**

Allegation #3 against Officer A – that Officer A handcuffed Subject 1 without reasonable grounds to believe that handcuffing Subject 1 was necessary to preserve the officers' safety – is based Subject 1's assertion that the stop was wholly unjustified and that he cooperated fully and did not pose any danger to the officers. If officers have legitimate and reasonable safety concerns during an investigatory stop they may handcuff a suspect for officer safety purposes. However, officers should not resort to handcuffing a suspect in the typical investigatory stop because “handcuffing is the type of action that may convert an investigatory stop into an arrest because it heightens the degree of intrusion.”³⁵ Ultimately, COPA need not address whether Officer A's handcuffing of Subject 1 complied with *Terry*, as Officer A had the authority to arrest Subject 1 based on the violation he observed Subject 1 commit. Therefore, COPA recommends that **Allegation #3 against Officer A be Unfounded.** Likewise, COPA recommends that **Allegations #4 and #5 against Officer A**, related to Officer A frisking Subject 1 and unzipping Subject 1's bag to search for weapons, also be **Unfounded** for all the reasons cited above.

2. The lack of any documented injury and the video and testimonial evidence that the involved officers immediately loosened Subject 1's handcuffs when he asked them to do so show that Officer A did not handcuff Subject 1 too tightly.

Subject 1 alleged that Officer A handcuffed him too tightly. Subject 1 told investigators that there were marks on his wrists from the handcuffs that were visible immediately after he was released. These marks, however, were not visible the next day when Subject 1 gave his statement to IPRA. Subject 1 did not photograph the marks that were visible after the encounter, and he did not seek medical attention. The available body-worn camera video recordings do not show Officer A using any unusual techniques while handcuffing Subject 1. While Subject 1 shouts that he does not consent to being handcuffed or searched, he does not cry out in pain when the handcuffs are applied. Most significantly, when Subject 1 says, “And could you loosen up these handcuffs,” Officer B immediately checked and adjusted the handcuffs. Even if the handcuffs were initially too tight, it would not be appropriate to discipline the involved officers under circumstances where proper handcuffing techniques were used, where they caused no documented injury, and where they immediately adjusted and loosened the handcuffs at the request of the detainee. After Officer B adjusted the handcuffs, Subject 1 did not complain again prior to Officer A removing the handcuffs, demonstrating that Officer B's adjustment was satisfactory. Because a preponderance of the available evidence shows that Officer A did not handcuff Subject 1 too tightly, COPA recommends that **Allegation #6 against Officer A be Unfounded.**

³⁵ *People v. Johnson*, 408 Ill. App. 3d 107, 113 (2d Dist. 2010).

3. Officer A verbally maltreated Subject 1 by directing profanity at Subject 1 and by calling Subject 1 an “idiot.”

The available body-worn camera recordings captured Officer A saying, “I don’t fuckin’ care what you heard, man. I don’t work for you,” to Subject 1 after Subject 1 asked if a supervisor was coming to the scene of the stop. Officer B identified Officer A as the person who made this statement. Officer A told investigators that he did not remember making the statement, but that he had “no reason to doubt what is depicted in the audio, or video.” Based on the body-worn camera recording and the statements of the involved officers, there is substantial evidence to show that Officer A made this statement. Even if Officer A was frustrated by Subject 1’s reaction to being stopped and offended by Subject 1’s insinuation that Officer A was being unlawfully discriminatory, there is no possible justification for Officer A using this language during an interaction with a civilian. Subject 1 was already handcuffed and under control when Officer A made this statement, so there is no reasonable argument that strong language was needed, or desirable, to change Subject 1’s behavior or get Subject 1’s attention. Officer A’s language also goes directly against the ideals articulated in the Law Enforcement Code of Ethics: “The practice of courteous and respectful conduct by a member is not a manifestation of weakness; it is, on the contrary, entirely consistent with the firmness and impartiality that characterizes a professional police officer.” For these reasons, COPA recommends a finding of **Sustained for Allegation #7 against Officer A**, in that Officer A verbally maltreated Subject 1 by saying words to the effect of “I don’t fuckin’ care what you heard man. I don’t work for you,” in response to Subject 1’s inquiry about a police supervisor responding to the scene of the stop, in violation of Rules 2, 3, 8, and 9.

A preponderance of the available evidence shows Officer A said, “Good luck with two Hispanic officers, idiot” to Subject 1. Initially, allegations were made against both Officer A and Officer B regarding this statement, as the identity of the speaker had not been determined. This statement was made while Officer A and Officer B were seated in their patrol vehicle. Because the speaker’s face was not captured on video and the involved officers have similar voices, it was difficult to determine who was speaking in the recordings. When interviewed, however, Officer B identified Officer A as the person who made this statement. Officer A told investigators that he did not recall making the statement, but he did not deny making the statement. Officer A also said that he had “no reason to doubt what is depicted in the audio, or video.” The statement must have been made by one of the two officers, as no one else was present in the car.³⁶ Based on Officer B’s identification of Officer A as the speaker, and Officer A’s inability to attribute the statement to anyone else, it is more likely than not that Officer A made the statement. There is no conceivable justification for a CPD member to call a civilian an “idiot.” For these reasons, COPA recommends a finding of **Sustained for Allegation #9 against Officer A**, in that Officer A verbally maltreated Subject 1 by saying words to the effect of “Good luck with two Hispanic officers, idiot,” in response to Subject 1 saying that he planned to report Officer B and Officer A for racial discrimination, in violation of Rules 2, 3, 8, and 9. Because this statement was made by Officer A, COPA recommends that **Allegation #3 against Officer B be Unfounded**.

³⁶ PO A said that his sergeant was on speaker-phone at some point during the encounter, but there is no indication on the recordings that a third person made this statement, and PO A did not identify his sergeant as the speaker. PO A also noted that Subject 1 was speaking while the officers were speaking; but again, in listening to recordings, it is apparent that Subject 1 did not call himself an idiot.

4. Both Officer B and Officer A admit that an ISR was required to document Subject 1's stop, and Officer B took responsibility for not filing the required report.

CPD Special Order S04-13-09 requires that an ISR be completed for a stop based on probable cause when no other document captures the reason for detention. The same order also requires that an ISR be completed when a CPD member conducts a protective pat down or other search. Both Officer A and Officer B told investigators that they stopped Subject 1 based on probable cause to believe that Subject 1 was violating the law by walking in the roadway and obstructing traffic. The officers used their discretion not to cite or arrest Subject 1, and the officers did not create any other record of the stop. Officer A performed a protective pat down of Subject 1 because Officer A suspected that Subject 1 might be armed, and Officer B helped Officer A control Subject 1 while Officer A performed the pat down. Based on either the “probable-cause-stop-when-no-other-document-captures-the-reason-for-the-detention” or the “protective-pat-down-or-other-search” prong of Special Order S04-13-09, the involved officers were required to complete an ISR. It is undisputed that the officers did not complete an ISR, and both officers readily admitted that an ISR was required.

Officer A said that he believed Officer B was going to complete the ISR because Officer B had collected Subject 1's identifying information. Officer B said that he, and not Officer A, was responsible for completing the ISR because he had the necessary information. Both officers described using a system to divide their labor whereby the officer who had taken the subject's information was responsible for completing the ISR. Because it is undisputed that an ISR was required and because Officer B took responsibility for failing to complete the ISR, COPA recommends a finding of **Sustained for Allegation #4 against Officer B**, in that Officer B did not document stopping Subject 1 by completing an Investigatory Stop Report in violation of Rules 2, 3, 10, and 11. Correspondingly, COPA recommends that **Allegation #8 against Officer A be Exonerated** because Officer A was justified in relying on his partner to complete the report.

5. Sergeant A did not initiate an investigation of Subject 1's complaint because Sergeant B caused Subject 1 to leave the XXth District police station before Sergeant A had obtained the necessary information.

It is undisputed that Subject 1 went to the XXth District station to file a complaint against Officer A and Officer B and that Sergeant A, the desk sergeant, spoke with Subject 1. Both Sergeant A's account and Subject 1's account are generally consistent: Subject 1 told Sergeant A that he wanted to file a complaint against officers who had stopped him earlier in the day; Sergeant A attempted to look up the involved officers' badge numbers in her computer, but did not identify the officers; Sergeant A asked Subject 1 to wait in the lobby while she worked on other tasks; and Subject 1 left the station after Sergeant B told Subject 1 that he was not allowed to record the goings-on in the lobby with his cell phone. At the time of her encounter with Subject 1, Sergeant A was both new to XXth District and new to the rank of sergeant. A more experienced sergeant may have handled Subject 1's complaint differently and may have re-prioritized other tasks so that she could turn her attention to Subject 1's complaint sooner. And it is troubling that Sergeant A told Subject 1 he would have to wait – without providing Subject 1 with any estimate as to how long he would be waiting. Sergeant A should have realized that this could lead Subject 1 to believe, correctly or not, that his complaint was not being taken seriously. But it is also undisputed that

Sergeant A was, in fact, quite busy processing fresh arrests at the time Subject 1 came to the station and that Subject 1 complicated the matter by providing incorrect star numbers for the involved officers.³⁷ Significantly, Subject 1 recalled telling Sergeant A that he had “all the time in the world” to wait; Sergeant A may have taken Subject 1 at his word when she was prioritizing her tasks. Had there been no intervening factor, Subject 1 likely would have waited and Sergeant A likely would have registered Subject 1’s complaint.

But there was an intervening factor: Sergeant B. As discussed in more detail below, Sergeant B saw that Subject 1 was apparently recording the events taking place in the lobby of the station using his cell phone. Sergeant B ordered Subject 1 to stop recording, and Sergeant B told Subject 1 he would have to leave the station or face arrest if he did not stop. Faced with this choice, Subject 1 walked out of the station and did not return. There is no evidence that Sergeant A asked Sergeant B to intervene, and there is no evidence that Sergeant A ever ordered Subject 1 to stop recording. At the time Subject 1 left the station, Sergeant A did not have enough information to initiate a log number investigation: she did not know Subject 1’s name, the names of the involved officers, the time or location of the encounter that gave rise to the complaint, or the type of conduct that Subject 1 was complaining about. Because Sergeant A made appropriate efforts to take Subject 1’s complaint and only failed to take the complaint because of Sergeant B’s intervening act, COPA recommends that **Allegation #1 against Sergeant A be Exonerated.**

6. Sergeant B ordered Subject 1 to stop recording in the lobby of the XXth District police station without proper justification.

Sergeant B readily admitted to investigators that he ordered Subject 1 to stop recording when he saw Subject 1 using his cell phone to record in the lobby of the police station. Sergeant B also admitted that the lobby was a public place, and that both CPD policy and Illinois law generally prohibit a law-enforcement officer from hindering a person from recording a law enforcement officer who is performing his or her duties in a public place.³⁸ Sergeant B explained that he believed it was necessary to prevent Subject 1 from recording in the lobby to protect the confidentiality of potential crime victims who may have been making reports and the privacy of potential confidential informants who may have been in the lobby to meet with police. Sergeant B specifically mentioned that he was thinking of possible rape victims, juvenile victims of crime, domestic battery victims, witnesses in general, and parents taking advantage of the police station as a “safe haven” for surrendering newborns. But Sergeant B also told investigators that he did not know if any such people were actually in the lobby at the time; he saw that there were people in the lobby, and he was concerned with the possibility that they could fall into one (or more) of these categories. If such people were present, the CPD members dealing with them should have taken them to a more private area – not the lobby.

³⁷ The available body-worn camera and cell-phone video recordings show that PO A and PO B provided their correct names and correct star numbers. Subject 1 provided incorrect star numbers for these officers during his initial interview with IPRA, and he likely provided the same incorrect star numbers to Sergeant A.

³⁸ See Special Order S03-14 § III.C; 50 ILCS 706/10-20(a)(11).

Sergeant B also cited the provisions of a Chicago municipal ordinance that prohibits the use of camera/cell phones to record images in what are defined as “public privacy areas.” Police station lobbies are not specifically included in the definition of “public privacy areas,” but the definition does include “areas where a person should reasonably expect to have privacy, **including but not limited to** showers, locker rooms/changing rooms, bathrooms, lactation rooms, automatic teller machine areas, and cashier lines.”³⁹ Sergeant B noted that an ATM is located just inside the entrance to the lobby, and that people reporting crimes could be providing personal information to the police and would reasonably expect to have privacy in the lobby while doing so. But Sergeant B also acknowledged that the ATM was at the opposite end of the lobby from where Subject 1 was interacting with Sergeant A, that he did not recall if anyone was using the ATM, and that he did not know if anyone in the lobby was reporting private or confidential information. Sergeant B added that Subject 1 might have been recording when he walked past the ATM, but there was no indication that Subject 1 lingered in that area or was attempting to record people using the ATM.

Sergeant B’s interpretation of both the municipal ordinance and the state statute is overbroad and contrary to the laws’ intent. The Appellate Court of Illinois has specifically held that there is no reasonable expectation of privacy in the lobby of a police station, and that a person speaking in the lobby of a police station would not have “a reasonable subjective belief that any conversation held in the lobby would be a private one.”⁴⁰ The Chicago ordinance prohibiting recording in an ATM area is unambiguously intended to prohibit recording people who are using an ATM – not to prohibit all recording anywhere near an ATM. And Sergeant B made it clear that he believed he had the authority to prohibit anyone from recording in the lobby of the police station at any time: “I’m pretty sure that I, in my position, and in my experience, I have the knowledge to make the call to say, hey, you can’t record because we have rape victims, domestic battery victims, juveniles, children, safe haven.” COPA disagrees. If such a broad prohibition on recording in the lobbies of CPD district stations was lawful and in accordance with the Department’s mission and goals, it would only be properly implemented at the order of the Superintendent – not by an individual sergeant.⁴¹ Because a preponderance of the evidence demonstrates that Sergeant B was not justified in ordering Subject 1 to either stop recording or to leave the station, COPA recommends a finding of **Sustained for Allegation #1 against Sergeant B**, in that Sergeant B hindered or prevented Subject 1 from recording a law enforcement officer who was performing his or her duties in a public place by ordering Subject 1 to turn off his cellular telephone while Subject 1 was recording officers in the lobby of the CPD District XXX station, in violation of Rules 1, 2, 3, 6, 8, and 9.

³⁹ Chi. Ill., Municipal Code § 8-4-125 (2004) (emphasis added).

⁴⁰ *People v. Calvert*, 258 Ill. App. 3d 504, 514 (1994).

⁴¹ COPA is not suggesting that an order totally prohibiting recording in the lobbies of police stations would, in fact, be lawful.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	1. Used excessive force in stopping, seizing, and searching Subject 1, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and;	Unfounded
	2. Seized Subject 1 without reasonable grounds to believe that Subject 1 was committing, was about to commit, or had committed a crime, in violation of Rules 1, 2, 3, 6, 8, 10, and 11, and;	Unfounded
	3. Handcuffed Subject 1 without reasonable grounds to believe that handcuffing Subject 1 was necessary to preserve his own safety or Officer B's safety, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and;	Unfounded
	4. Frisked Subject 1 without reasonable grounds to believe that Subject 1 was armed and dangerous, in violation of Rules 1, 2, 3, 6, 10, and 11, and;	Unfounded
	5. Searched Subject 1's tote bag without reasonable grounds to believe the bag contained a weapon, in violation of Rules 1, 2, 3, 8, 10, and 11, and;	Unfounded
	6. Handcuffed Subject 1 more tightly than reasonably necessary, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and;	Unfounded
	7. Verbally maltreated Subject 1 by saying words to the effect of "I don't fuckin' care what you heard, man. I don't work for you," in response to Subject 1's inquiry about a police supervisor responding to the scene of the stop, in violation of Rules 2, 3, 8, and 9, and;	Sustained
	8. Did not document stopping Subject 1 by completing an Investigatory Stop Report, in violation of Rules 2, 3, 10, and 11, and;	Exonerated

	9. Verbally maltreated Subject 1 by saying words to the effect of “Good luck with two Hispanic officers, idiot,” in response to Subject 1 saying that he planned to report Officer B and Officer A for racial discrimination, in violation of Rules 2, 3, 8, and 9.	Sustained
Officer B	1. Used excessive force in stopping, seizing, and searching Subject 1, in violation of Rules 1, 2, 3, 6, 8, 9, and 10, and;	Unfounded
	2. Seized Subject 1 without reasonable grounds to believe that Subject 1 was committing, was about to commit, or had committed a crime, in violation of Rules 1, 2, 3, 6, 8, 10, and 11, and;	Unfounded
	3. Verbally maltreated Subject 1 by saying words to the effect of “Good luck with two Hispanic officers, idiot,” in response to Subject 1 saying that he planned to report Officer B and Officer A for racial discrimination, in violation of Rules 2, 3, 8, and 9, and;	Unfounded
	4. Did not document stopping Subject 1 by completing an Investigatory Stop Report, in violation of Rules 2, 3, 10, and 11.	Sustained
Sergeant A	1. Did not initiate an investigation of Subject 1’s complaint regarding the conduct of Officer A and Officer B as required by General Order G08-01-02, in violation of Rules 2, 3, 5, and 10.	Exonerated
Sergeant B	1. Hindered or prevented Subject 1 from recording a law enforcement officer who was performing his or her duties in a public place by ordering Subject 1 to turn off his cellular telephone while Subject 1 was recording officers in the lobby of the CPD District XXX station.	Sustained

Approved:

COPA Deputy Chief Administrator
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	XXXXXX
Investigator:	COPA Investigator
Supervising Investigator:	COPA Supervising Investigator
Deputy Chief Administrator:	COPA Deputy Chief Administrator

Appendix B

Applicable Rules and Law

Rules

1. Rules and Regulations of the Chicago Police Department

Article I.A(2) of the Rules and Regulations of the Chicago Police Department provides the following general regulation:

A large urban society free from crime and disorder remains an unachieved ideal, nevertheless, consistent with the values of a free society, it is the primary objective of the Chicago Police Department to as closely as possible approach that ideal. In doing so, the Department's role is to enforce the law in a fair and impartial manner, recognizing both the statutory and judicial limitations of police authority and the constitutional rights of all persons.

Article I.B of the Rules and Regulations of the Chicago Police Department provides the following standards of conduct:

3. The Law Enforcement Code of Ethics is adopted as a general standard of conduct for all sworn members of the Department. It states:

...

 - a. As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder and to respect the Constitutional rights of all men to liberty, equality, and justice.
 - ...
 - c. I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence
5. A police officer is the most conspicuous representative of government, and to the majority of the people he is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his actions are found to be excessive, unwarranted or unjustified he, and the Department, are criticized for more severely than comparable conduct of persons in other walks of life. Since the conduct of a member, on or off duty, does reflect directly upon the Department, a member must at all times conduct himself in

a manner which does not bring discredit to himself, the Department or the city.

6. Effective law enforcement depends upon a high degree of cooperation between the Department and the public it serves. The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance. The majority of the public are law abiding citizens who rightfully expect fair and courteous treatment by members of the Department. While the urgency of a given situation would demand firm action, discourtesy or disrespect shown toward and citizen is indefensible. The practice of courteous and respectful conduct by a member is not a manifestation of weakness; it is, on the contrary, entirely consistent with the firmness and impartiality that characterizes a professional police officer.
10. A recognition of individual dignity is vital in a free system of law. Just as all persons are subject to the law, all persons have a right to dignified treatment under the law, and the protection of this right is a duty which is as binding on the Department and each of its members, as any other. Every member must treat each person with respect and he must be constantly mindful that the people with whom he is dealing are individuals with human emotions and needs. Such recognition and conduct is not an additional duty imposed to a member's primary responsibilities, it is inherent in them.
13. Daily contact with citizens is the level that bears the greatest burden for strengthening community relations. In dealing with people each member must strive to make his contact one which inspires respect for himself as an individual and as a professional. No member can allow his individual feelings and/or prejudices to enter into his public contacts. Every member must constantly be aware of and eliminate any attitudes which might impair his effectiveness and impartiality.

Article IV.C of the Rules and Regulations of the Chicago Police Department includes the following requirements:

1. Render the highest order of police service to all citizens, whether or not during specifically assigned hours.
2. Obey all laws and promptly execute all lawful orders
3. Know and conform to the Department's Policy, Rules, Regulations, Orders, Procedures and Directives.
4. Receive, record and service immediately all complaints and requests for service in accordance with Department Orders.

-
5. Provide security and care for all persons and property coming into their custody.
 6. Maintain a military bearing and render military courtesy while in uniform.
 7. Maintain a courteous and respectful attitude towards all persons.

Article V, Rules of Conduct, of the Rules and Regulations of the Chicago Police Department includes the following prohibitions:

Rule 1: Violation of any law or ordinance.

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

COMMENT: 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 or the Department It also includes any action contrary to the stated policy, goals, rules, regulations, orders or directives of the Department.

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

COMMENT: This Rule prohibits any omission or 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 of the Department or fail to report to the Department any and all known violations of same, or 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 become so aware.

Rule 6: Disobedience of an order or directive, whether written or oral.

COMMENT: This Rule prohibits disobedience by a member of any lawful written or oral order or directive from a superior officer or another member of any rank who is relaying the order of a superior.

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.

COMMENT: 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 11: Incompetency or inefficiency in the performance of duty.

General Orders

1. General Order G03-02, Use of Force Guidelines

In relevant part, this order provides:

III.A When a Department member engages a member of the public, the member will do so in such a manner which affords that person the respect and dignity to which all persons are entitled. The use of excessive force or unwarranted physical force or unprofessional conduct by a Department member will not be tolerated under any circumstances, and all members will strictly adhere to the provisions of the Department directive entitled “Prohibition Regarding Racial Profiling and Other Bias Based Policing.”

III.B Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.

2. General Order G03-02-02, Force Options

In relevant part, this order provides:

II.D Members will maintain a courteous and professional demeanor when dealing with the public.

II.F Members will continually assess the situation to determine:

1. if any use of force option is necessary;
2. the appropriate level of force option based on the totality of the circumstances; and
3. if the level of force employed should be modified based upon the subject’s actions or other changes in the circumstances. The level of force should be de-escalated immediately as resistance decreases, while staying in control and as safety permits, and in accordance with the Department directive entitled “The Use of Force Model.”

Special Orders

1. Special Order S03-14, Body Worn Cameras

In relevant part, this order provides:

III.C According to law, no officer may hinder or prevent any non-officer from recording a law enforcement officer who is performing his or her duties in a public place or when the officer has no reasonable expectation of privacy. Violation of this law may constitute disciplinary actions consistent with the directive entitled “Complaint and Disciplinary Procedures” as well as criminal penalties such as theft or criminal damage to property. However, a member may take reasonable actions to enforce the law and perform their duties.

2. Special Order S04-13-09, Investigatory Stop System

In relevant part, this order provides:

VII.B.1 The Investigatory Stop Database will only be used to document: (a) Investigatory Stops, Probable Cause stops when no other document captures the reason for the detention, Protective Pat Downs or other searches

VII.B.4 Sworn members are responsible for entering all Investigatory Stop Reports created during their tours of duty into the electronic system as soon as possible but no later than the end of their tours of duty

VIII.A.1 Sworn members who conduct an Investigatory Stop, Probable Cause stop when no other document captures the reason for the detention, and, if applicable, a Protective Pat Down or other search in a public place, are required to submit an Investigatory Stop Report into the Investigatory Stop Database. All of the factors that support Reasonable Articulate Suspicion in order to temporarily detain an individual for investigation, Probable Cause when a stop is made and no other document captures the reason for detention, and, if applicable, all of the factors that support Reasonable Articulate Suspicion in order to perform a Protective Pat Down will be documented in the narrative portions of the database.

NOTE: For purposes of this directive, “public place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, parks, and the common areas of schools, hospitals, apartment buildings, office buildings, transport facilities, and stores.

This order also provides the following definitions:

Investigatory Stop – The temporary detention and questioning of a person in the vicinity where the person was stopped based on Reasonable Articulate Suspicion that the person is committing, is about to commit, or has committed a criminal offense. The suspect may be detained only for the length of time necessary to confirm or dispel the suspicion of criminal activity. . . .

Protective Pat Down – A limited search during an Investigatory Stop in which the sworn member conducts a pat down of the outer clothing of a person for weapons for the protection of the sworn member or others in the area. If, during a Protective Pat Down of the outer clothing, the sworn member touches an object which the sworn member reasonably believes is a weapon, the sworn member may reach into that area of the clothing and retrieve the object. A Protective Pat Down is not a general exploratory search for evidence of criminal activity.

Reasonable Articulate Suspicion – Reasonable Articulate Suspicion is an objective legal standard that is less than probable cause but more substantial than a hunch or general suspicion. Reasonable Articulate Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member's training and experience. Reasonable Articulate Suspicion can result from a combination of particular facts, which may appear innocuous in and of themselves, but taken together amount to reasonable suspicion.

Reasonable Articulate Suspicion should be founded on specific and objective facts or observations about how a suspect behaves, what the subject is seen or heard doing, and the circumstances or situation in regard to the suspect that is either witnessed or known by the officer. Accordingly, Reasonable Articulate Suspicion must be described with reference to facts or observations about a particular suspect's actions or the particular circumstances that an officer encounters. The physical characteristics of a suspect are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the suspect.

1. For Investigatory Stops, a sworn member must possess specific and articulable facts which, combined with rational inferences from these facts, reasonably warrant a belief that the suspect is committing, is about to commit, or has committed a criminal offense.
2. For a Protective Pat Down, a sworn member must possess specific and articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area.

NOTE: An Investigatory Stop and a Protective Pat Down are two distinct actions – both require independent, Reasonable Articulate Suspicion (i.e., to stop a person

there must be reasonable suspicion of criminal activity, and to stop a person and perform a Protective Pat Down of the person, there must be reasonable suspicion of criminal activity and reasonable suspicion that the person is armed and dangerous or presents a danger of attack).

Probable Cause – Probable cause exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject has committed it. This differs from Reasonable Articulate Suspicion in that the facts supporting RAS do not need to meet probable cause requirements, but they must justify more than a mere hunch. The facts should not be viewed with analytical hindsight but instead should be considered from the perspective of a reasonable officer at the time that situation confronted him or her.

Federal Laws

1. Fourth Amendment to the United States Constitution

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated

State Laws

1. Illinois Constitution, Section 6. Searches, Seizures, Privacy and Interceptions

The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means.

2. 50 ILCS 706/10-20(a)(11)

No officer may hinder or prohibit any person, not a law enforcement officer, from recording a law enforcement officer in the performance of his or her duties in a public place or when the officer has no reasonable expectation of privacy. The law enforcement agency's written policy shall indicate the potential criminal penalties, as well as any departmental discipline, which may result from unlawful confiscation or destruction of the recording medium of a person who is not a law enforcement officer. However, an officer may take reasonable action to maintain safety and control, secure crime scenes and accident sites, protect the integrity and confidentiality of investigations, and protect the public safety and order.

3. 625 ILCS 5/11-1007(a)

[W]here a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

4. 725 ILCS 5/107-2(1)(c)

A peace officer may arrest a person when . . . [h]e has reasonable grounds to believe that the person is committing or has committed an offense.

5. 725 ILCS 5/107-14

- (a) A peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed an offense as defined in Section 102-15 of this Code, and may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.
- (b) Upon completion of any stop under subsection (a) involving a frisk or search, and unless impractical, impossible, or under exigent circumstance, the officer shall provide the person with a stop receipt which provides the reason for the stop and contains the officer's name and badge number. . . .

6. 725 ILCS 5/108-1.01

When a peace officer has stopped a person for temporary questioning . . . and reasonably suspects that he or another is in danger of attack, he may search the person for weapons. If the officer discovers a weapon, he may take it until the completion of the questioning, at which time he shall either return the weapon, if lawfully possessed, or arrest the person so questioned.

City Ordinances

1. CHI., ILL., MUNICIPAL CODE § 2-84-230 (1990)

The members of the police department shall have power: (1) To arrest or cause to be arrested, with or without process, all persons who break the peace, or are found violating any municipal ordinance or any criminal law of the state.

2. Chi., Ill., Municipal Code § 2-84-310 (1990)

A police officer having identified himself as a police officer may stop any person in a public place whom the officer reasonably suspects is committing, has committed or is about to commit a criminal offense under the laws of the State of Illinois or a violation of Chapter 8-20 of this Code, and may demand the name and address of such person and an explanation of his actions.

3. Chi., Ill., Municipal Code § 2-84-320 (1990)

When a police officer having identified himself as a police officer has stopped a person for temporary questioning and reasonably suspects that he is in danger of

attack, he may search such person for dangerous weapons. If the officer discovers such weapons he may take such property until completion of the questioning, at which time he shall either return such property if lawfully possessed or arrest the person.

4. CHI., ILL., MUNICIPAL CODE § 8-4-125 (2004)

No person shall use a camera/cell phone or other device capable of preserving and/or transmitting an image in any public “privacy area”. For purposes of this section, “privacy area” shall be defined as rooms in structures, or other areas whether or not enclosed, designated for the administration of examinations, clinics, hospitals and areas where a person should reasonably expect to have privacy, including but not limited to showers, locker rooms/changing rooms, bathrooms, lactation rooms, automatic teller machine areas, and cashier lines. Possession of said devices in these areas is lawful if the image preserving and/or transmitting portion of the device is not operational.

5. CHI., ILL., MUNICIPAL CODE § 9-80-180 (1990)

Any person who shall willfully and unnecessarily hinder, obstruct or delay or who shall willfully and unnecessarily attempt to hinder, obstruct or delay any other person in lawfully driving or travelling along or upon any street . . . or who shall repeatedly cause motor vehicles travelling on public thoroughfares to stop or impede the flow of traffic shall be guilty of a misdemeanor