

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

I. EXECUTIVE SUMMARY

Date of Incident:	July 8, 2017
Time of Incident:	12:00 PM
Location of Incident:	4700 S. Indiana Ave.
Date of COPA Notification:	July 8, 2017
Time of COPA Notification:	Approx. 12:00 PM

On July 8, 2017, at approximately 1:39 PM, IPRA received an “Initiation of Complaint” form from Sergeant Michael Haddad. It stated that as a civilian named [REDACTED] videotaped an arrest with his cellphone,<sup>2</sup> an un-named police officer slapped the cellphone out of his hand, causing it to fall to the ground. The form also stated that the un-named officer also refused to give Mr. [REDACTED] his star number. Although Mr. [REDACTED] did not have the officer’s name or star number, he provided the license plate number of the vehicle the accused officer was driving. The police officer was later identified as Robert Ramirez, Star # 3415.

Cellphone video showed Officer Ramirez ask Mr. [REDACTED] to back away from the arrest scene on two occasions. On the first occasion, Mr. [REDACTED] moved to his left as Officer Ramirez instructed. On the second occasion, as Mr. [REDACTED] seemed to be moving, Officer Ramirez grabbed Mr. [REDACTED] arm and the cellphone, which continued to record, fell to the ground. After Mr. [REDACTED] picked up the phone, Officer Ramirez almost immediately walked toward his vehicle and got inside.

Mr. [REDACTED] failed to cooperate with the investigation and an Affidavit Override was granted to complete the investigation.

II. INVOLVED PARTIES

Involved Officer #1:	Robert Ramirez, Star# 3415, Employee # [REDACTED], Date of Appointment April 30, 2001, Police Officer, DOB [REDACTED], 1974, Male, Race S.
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<sup>1</sup> 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.

<sup>2</sup> The person being arrested was Mr. [REDACTED] who has a related case under Log# 1088184. In a conversation with a COPA investigator Mr. [REDACTED] stated that he did not observe the situation involving Mr. [REDACTED] and Officer Ramirez. His recorded statement makes no mention of Mr. [REDACTED] incident. (Attachments 31, 34).

Involved Civilian #1: [REDACTED] DOB October 26, 1971, Male, African American.

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Robert Ramirez	1. Officer Ramirez used unnecessary force when he came into physical contact with the complainant causing the cell phone he was holding to fall to the ground in violation of Rule 9, G03-02 and G03-02-01.	Sustained / Suspension
	2. Officer Ramirez refused to give the complainant his star number in violation of Rule 37.	Unfounded

**IV. APPLICABLE RULES AND LAWS**

Rules

1. **Rule 9**-Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
2. **Rule 37**- Failure of a member, whether on or off duty, to correctly identify himself by giving his name, rank and star number when so requested by other members of the Department or by a private citizen.

General Orders

1. **G03-02 Use of Force Guidelines:** “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.” It then goes on to say, “Department members will use an amount of force 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.” Furthermore, “Reasonableness is not capable of precise definition or mechanical application. Circumstances that may govern the reasonableness of using a particular force option include, but are not limited to: a. the severity of the crime at issue, b. whether the subject possess an immediate threat to the safety of officers or others, and c. whether the subject is actively resisting arrest or attempting to evade arrest by flight. The reasonableness of a particular use of force will be judged under the totality of the circumstances viewed from the perspective of a reasonable officer on the scene.”
2. **G03-02-01 The Use of Force Model:** in large part echoes G03-02, and adds that, “Whenever reasonable, members will exercise persuasion, advice, and warning prior to the use of physical force.”

## V. INVESTIGATION<sup>3</sup>

### a. Interviews

#### Police Officer Robert Ramirez<sup>4</sup>

On February 5, 2018 Officer Ramirez gave a recorded statement to COPA investigators during which he was shown both the cellphone video recorded by Mr. [REDACTED] and the still frames extracted from the video by a COPA evidence technician. The still frames consisted of a series of four pictures, the fourth of which appeared to be a photo of Officer Ramirez holding or grasping Mr. [REDACTED] arm<sup>5</sup>.

Officer Ramirez stated that as he and the other two officers tried to place someone into custody, he needed some space between Mr. [REDACTED] and the individuals involved in the arrest for officer safety. Officer Ramirez told Mr. [REDACTED] that he was allowed to video tape, but when he asked Mr. [REDACTED] to move down, he refused to do so. Officer Ramirez stated that Mr. [REDACTED] got a little out of hand and that a crowd had started to come closer to them. Officer Ramirez then stated that when Mr. [REDACTED] would not move after repeated orders to do so, he attempted to escort him, with an open hand,<sup>6</sup> a little further down the sidewalk. Officer Ramirez stated that he believed Mr. [REDACTED] hand must have hit his hand, causing the cellphone Mr. [REDACTED] was holding to fall to the ground.

When the investigator asked Officer Ramirez what his safety concern was regarding Mr. [REDACTED] he stated his concern was "dying." Officer Ramirez did not know who these people were and must assume they might have a gun until proven otherwise. Mr. [REDACTED] who was not involved in the investigation, was filming and soon became vocal about his dislike of what was going on. Further, Officer Ramirez stated that Mr. [REDACTED] demeanor was drawing more attention to the officers, and he feared for his and the other officer's safety.

Mr. [REDACTED] demeanor was aggressive, he was vocal, and Officer Ramirez felt there was a potential that things could escalate. However, Officer Ramirez stated that he could not remember if Mr. [REDACTED] did something specific to make him believe he was armed.

The investigator asked Officer Ramirez how many people had gathered in the area, and Officer Ramirez stated that he did not recall; however, he did recall that it was a nice day and he assumed there were quite a few. Officer Ramirez could not recall whether anyone in crowd acted in a way to make him believe there was a safety issue.

The Investigator then asked Officer Ramirez to explain, based on photo number 4 of Exhibit 1<sup>7</sup>, why he was holding Mr. [REDACTED] arm, and if there was some need for him to do so. Officer Ramirez replied that when Mr. [REDACTED] failed to comply with his verbal command to move,

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<sup>3</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>4</sup> Attachment 21.

<sup>5</sup> Attachment 33, Exhibit 1. See inserted photo below.

<sup>6</sup> It is clear in Attachments 12 and 13 that Officer Ramirez' hand was not open. See inserted photo below.

based on the Use of Force Model, he probably tried to escort him down the sidewalk. Officer Ramirez stated that there was no excessive force used.



When Officer Ramirez was asked why he did not give Mr. ██████ his star number, Officer Ramirez replied that he did not recall Mr. ██████ asking him for his star number.<sup>9</sup>

#### **b. Digital Evidence**

##### **Cellphone Video recorded by Mr. ██████<sup>10</sup>**

The cellphone video recorded by Mr. ██████ showed three Chicago police officers, all in street clothes and bullet proof vests, arresting an African American male wearing a blue shirt. The officer holding a white plastic bag, who identified himself as Ramirez to the arrestee, walked over to Mr. ██████ and asked him to move back. Mr. ██████ complied. Officer Ramirez told Mr. ██████ he could record, but he needed to stay back.

Mr. ██████ drifted back toward the officers and the arrestee moments before the officers took the arrestee to the transport vehicle. While the two arresting officers attempted to place the arrestee in the transport vehicle, the arrestee protested when one of the officers tried to physically guide the arrestee into the vehicle. As this was happening, Mr. ██████ repeatedly said, “Now you pushin him,” and “I’m recording you now,” and there are other voices in the background but what they are saying is unintelligible.

At this point Officer Ramirez walked back over to Mr. ██████ and told him to “move that way,” and pointed toward Officer Ramirez’ right. As Mr. ██████ seemed to begin to move in that

<sup>8</sup> COPA evidence technicians extracted still frames from Mr. ██████ cellphone video to help determine what occurred when the cellphone got knocked out of Mr. ██████ hand. This still-frame showed Officer Ramirez’ hand grasping the arm of Mr. ██████ This still frame was extracted from the cellphone video just before or during the time when the picture appeared jostled. Attachment 12.

<sup>9</sup> There is no evidence on the cellphone video provided by Mr. ██████ that he ever asked Officer Ramirez for his star number. However, early in the video Officer Ramirez did state his name when asked by the arrestee on the scene.

<sup>10</sup> Attachment 11.

direction, the camera was jostled and the picture became momentarily unclear. The camera fell to the ground but continued to record while facing the sky. Officer Ramirez told Mr. [REDACTED] to “move that way or you’re gonna have to go to jail.” During this time there are other unidentified and unintelligible voices in the background. Mr. [REDACTED] finally reached down toward the phone, which recorded the palm of his hand for several moments.

Mr. [REDACTED] then asked Officer Ramirez to call him a “white shirt,” and Officer Ramirez replied, “Yep, 911.” Shortly thereafter, Officer Ramirez walked back to his car and got in as Mr. [REDACTED] said, “You just assaulted me.” Mr. [REDACTED] walked to the front of Officer Ramirez’ car and repeatedly said, “Make sure I gets that license plate,” while the camera is focused on the license plate. In the background another male voice said, “get it, get it.” Shortly after that the video ended.

Throughout the video several people walked by, between the scene with the officers and Mr. [REDACTED]. Other than that, no other people were visible on the recording. However, after Mr. [REDACTED] phone fell to the ground, one other voice stated something to the effect, “It’s a free world, we’re not blocking nobody”, and another said something related to harassment.

#### a. Documentary Evidence

#### Initiation Report-Sergeant Michael Haddad #1473: <sup>11</sup>

On or about July 8, 2017 Sergeant Haddad drafted an Initiation Report documenting that on that day, at 12:00, an unknown, male white or white Hispanic slapped the complainant’s phone out of his hand as he was filming the officers while standing on the sidewalk.

## VI. ANALYSIS

The Burden of Proof COPA must satisfy to support the findings for the allegations discussed below is Preponderance of the Evidence.

COPA recommends that **Allegation #1**, that Officer Ramirez used unnecessary force when he came into physical contact with the complainant causing the cell phone he was holding to fall to the ground in violation of Rule 9, G03-02 and G03-02-01, be **Sustained**.

There is no dispute that Mr. [REDACTED] lawfully recorded the arrest, which occurred outdoors and on a public sidewalk. Officer Ramirez, however, claimed that Mr. [REDACTED] was standing too close to himself and the arresting officers, which he believed put the officers’ safety at risk. Officer Ramirez also claimed that he became concerned when Mr. [REDACTED] started to object to things that occurred during the arrest. This, he said, drew attention to the arrest and caused a crowd to gather. Officer Ramirez also stated that he grabbed Mr. [REDACTED] arm to escort him because Mr. [REDACTED] failed to follow verbal commands to move.

In this case, COPA has determined by a preponderance of the evidence that Officer Ramirez’ use of force was unreasonable, unnecessary, and excessive based on the totality of the circumstances.

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<sup>11</sup> Attachment 6.

Based on the cellphone video, there is no indication that Mr. [REDACTED] failed to comply with Officer Ramirez' requests. Mr. [REDACTED] either moved or was beginning to move when Officer Ramirez asked him to.

At no time did Officer Ramirez exercise any persuasion, offer any advice, or give any warning prior to grabbing Mr. [REDACTED] arm as recommended by General Order G03-02-01, even though in this case it would have been reasonable and appropriate to do so.

Secondly, there is no evidence that Mr. [REDACTED] presented an immediate threat to officers or others. Officer Ramirez explained that his reason for the confrontation was that he had safety concerns. He said that he was afraid of "dying"; and that with a crowd you have to assume each person has a gun until proven otherwise. Based on the cellphone video, the officer's assumption is unreasonable.

In addition to Officer Ramirez' failure to articulate any specific thing that Mr. [REDACTED] did to make him believe that Mr. [REDACTED] was armed, he never performed a protective pat down of Mr. [REDACTED] which should have been done if Officer Ramirez reasonably believed that Mr. [REDACTED] possibly had a weapon. There was also no evidence that there was a problematic crowd gathered around Mr. [REDACTED] or near the arrest site. There is evidence that suggests there were other people there; however, there is no evidence that there was anything that amounted to a crowd, or that the people that were there were behaving in a manner to cause Officer Ramirez reasonable concern. In fact, Officer Ramirez never addressed anyone other than Mr. [REDACTED] which would have been a reasonable thing to do if one were trying to control a crowd. Furthermore, Officer Ramirez admitted that he only assumed there was a crowd.

Lastly, Officer Ramirez appeared relaxed throughout the video, and even walked up to Mr. [REDACTED] without exhibiting any sort of visible fear or apprehension

Because there is no evidence that Mr. [REDACTED] posed any actual immediate threat to the officers or to others, and because there is no evidence that Mr. [REDACTED] was committing any sort of crime or attempting to evade arrest, it is more likely than not that Officer Ramirez violated CPD orders, rules and regulations when he grabbed Mr. [REDACTED] causing his phone to fall to the ground.

COPA recommends that **Allegation #2**, that Officer Ramirez refused to give the complainant his star number in violation of Rule 37, be **Unfounded**.

Although Mr. [REDACTED] claimed that Officer Ramirez failed to give him his star number when requested, it is visible in Mr. [REDACTED] video that Officer Ramirez did give his name to the arrestee when he asked for it. Furthermore, there is no indication in Mr. [REDACTED] video that anyone ever asked for Officer Ramirez' star number, nor is there any other evidence to support Mr. [REDACTED] claim.

**VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Robert Ramirez**

**i. Complimentary and Disciplinary History**

**Complimentary History**

- Superintendent’s Honorable Mention 1
- Problem Solving Award 2
- Attendance Recognition Award 2
- Presidential Election Deployment Award 2008 1
- Department Commendation 5
- Honorable Mention 63
- 2004 Crime Reduction Ribbon 1
- Complimentary Letter 5
- Police Officer of the Month 1
- NATO Summit Service Award 1
- Arnold Mireles Special Partner 1
- Joint Operations Award 1
- 2009 Crime Reduction Award 1

**Disciplinary History**

Officer Ramirez does not have any disciplinary history relevant to the allegations in this investigation. In June 2017 he was Reprimanded for a Preventable Accident that occurred on 16 May 2017.

**ii. Recommended Penalty, by Allegation**

**1. Allegation No. 1. 5 Days**

Officer Ramirez used unnecessary force when he came into physical contact with the complainant causing the cell phone he was holding to fall to the ground in violation of Rule 9, G03-02 and G03-02-01.

CONCLUSION

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

Officer	Allegation	Finding
Officer Robert Ramirez	1. Officer Ramirez used unnecessary force when he came into physical contact with the complainant causing the cell phone he was holding to fall to the ground in violation of Rule 9, G03-02 and G03-02-01	Sustained
	2. Officer Ramirez refused to give the complainant his star number in violation of Rule 37.	Unfounded

Approved   
Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

10/31/18  
Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	2
<b>Investigator:</b>	Frances Lee, #68
<b>Supervising Investigator:</b>	Sherry Daun
<b>Deputy Chief Administrator:</b>	Andrea Kirsten

