



Log # 2021-0000891

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On March 11, 2021, the Chicago Police Department's Crime Prevention and Information Center (CPIC) notified the Civilian Office of Police Accountability (COPA) of an officer-involved shooting near 6300 S. King Drive.² COPA personnel immediately responded to the scene, where they learned that an individual, now identified as █████ █████, was allegedly observed by an off-duty officer carrying a gun while getting on a bus at 63rd Street. The officers responded, and Officer Hecker discharged his weapon toward █████ who was not struck. █████ was taken into custody without incident.

It should be noted that Officer Matthew Hecker resigned from CPD effective August 20, 2023,⁴ and Officer Gabriel Garcia resigned from CPD effective January 28, 2023.⁵

II. SUMMARY OF EVIDENCE⁶

On March 11, 2021, an off-duty officer called 911 from a Citgo gas station at 63rd Street and Yale Avenue to report a man with a gun wearing a pink or red sweatshirt with dreadlocks getting on an eastbound 63rd Street bus. Officers Hecker⁷ and Gray heard the call and drove east on 63rd Street toward King Drive. They observed the bus approaching King Drive, where it stopped. Officers Garcia⁸ and Brinkley, near 69th and or 67th and Halsted Street, responded to the same call and arrived at approximately the same time as Officers Hecker and Gray. The driver, Officer Hecker, activated his emergency equipment and stopped his unmarked SUV in front of the bus while Officer Garcia stopped his marked SUV behind the bus.

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² Pursuant to § 2-78-120 of the Chicago Municipal Code, COPA has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm. Therefore, COPA determined it would be the primary administrative investigative agency in this matter.

³ Att. 44, Email from Attorney █████ █████ denying the request to interview █████

⁴ Att. 41 Hecker PAR form

⁵ Att. 41 Garcia PAR form

⁶ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body-worn camera (BWC) footage, Officer statements, Office of Emergency Management and Communications (OEMC) radio transmissions and event queries, CPD reports (arrest reports, tactical response reports, crime scene reports, and the detective file), and Illinois State Police laboratory reports.

⁷ Att. 41, PAR form, Officer Hecker resigned from the Department on August 20, 2023

⁸ Att. 41, PAR form, Officer Garcia resigned from the Department on January 28, 2023

Officer Hecker said that he observed a black male sitting on the bus wearing a pink or red shirt or sweater, which matched the description given over the radio.⁹ The bus stopped next to the elevator that leads to the King Drive CTA Green Line station. Officer Gray got on the bus and saw ██████ holding a gun up near his chest area in one of his hands as ██████ pushed the rear bus door open with his shoulders.¹⁰ ██████ exited the bus through the rear. Officer Brinkley observed a gun in ██████ left hand after he exited the bus and yelled, gun, gun, gun, to let the other officers know that ██████ had a handgun in his left hand.¹¹ Officer Gray exited the front of the bus and proceeded parallel to the bus where ██████ exited, down the sidewalk, southbound, and followed in ██████ footsteps. The officers observed ██████ hit a dumpster and bounced off when Officer Gray heard something fall.¹² Officer Garcia observed an object fly from ██████ body, and then the object hit the ground and made a loud metallic clinking or thud.¹³ Officer Brinkley heard metal clinking hitting the ground but did not know what it was.¹⁴ ██████ slowed down momentarily but continued to run.¹⁵

As Officer Hecker exited his vehicle and walked around the rear of his squad car, he observed ██████ and Officers Gray, Brinkley, and Garcia running southbound in front of the bus. As they were running, Officer Hecker heard the other officers yell gun and simultaneously observed the gun in ██████ left hand. ██████ made eye contact with Officer Hecker when he raised the gun toward Officer Hecker, who thought he was going to be killed. Officer Hecker observed a gray car and waited a quarter of a second for the car to pass. ██████ was in Officer Hecker's direct line of sight still raising the gun toward Officer Hecker. Officer Hecker discharged his weapon four times.¹⁶ As Officer Hecker discharged his weapon, ██████ continued to point his gun at him. The gun comes up, and Officer Hecker stops shooting. ██████ continued to run while Officers Gray, Brinkley, and Garcia were still in pursuit, and ██████ then turned a corner.¹⁷

Officer Hecker said that he stopped shooting when he realized the gun was no longer in ██████ hand.¹⁸ Officer Hecker noticed something in the air and saw the gun hit the ground and slide. Officer Hecker re-holstered his weapon and went to the gun, went over the air, and said the police fired shots.¹⁹ After ██████ dropped the gun in the middle of the intersection, he continued to run eastbound, eventually stopping in a vacant lot where he was taken into custody. Officer Hecker described the gun as a black semiautomatic handgun.²⁰ ██████ did not sustain injuries during this incident.

⁹ Att. 39, Page, Lines 1-6

¹⁰ Att. 38, Pages 11-12, Lines 8-24, 1-24

¹¹ Att. 37, Pages 10-11, Lines 15-24, 1-21

¹² Att. 38, Page 13, Lines 16-21

¹³ Att. 40, Page 12, Lines 18-23

¹⁴ Att. 37, Page 11, Lines 7-12

¹⁵ Att. 38, Page 13, Lines 18-21

¹⁶ Att. 39, Page 21, Lines 4-6

¹⁷ Att. 39, Page 10-11, Lines 7-24, Lines 1-16

¹⁸ Att. 39, Page 21, Lines 2-11

¹⁹ Att. 39, Page 22, Lines 11-13

²⁰ Att. 39, Page 24, Line 24

A supervisor, Sgt. Eric Ruhnke arrived on the scene about 30 seconds after dispatch was notified of the incident and instructed Officer Hecker to sit down.

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendations
Officer Matthew Hecker	1. It is alleged that on or about March 11, 2021, at approximately 12:04 pm at or near 6300 S. M.L. King Drive, that Officer Matthew Hecker #12229 committed misconduct by discharging his firearm at or in the direction of ██████ A. ██████ in violation of General Order G03-02	Sustained
	2. It is alleged that on or about March 11, 2021, at approximately 12:04 pm at or near 6300 S. M.L. King Drive, that Officer Matthew Hecker #12229 committed misconduct by failing to timely activate his body-worn camera in violation of Special Order S03-14	Sustained
Officer Gabriel Garcia	1. It is alleged that on or about March 11, 2021, at approximately 12:04 pm at or near 6300 S. M.L. King Drive, that Officer Gabriel Garcia #17602 committed misconduct by failing to timely activate his body-worn camera in violation of Special Order S03-14	Sustained
Officer James Brinkley	1. It is alleged that on or about March 11, 2021, at approximately 12:04 pm at or near 6300 S. M.L. King Drive, that Officer James Brinkley #17677 committed misconduct by failing to timely activate his body-worn camera in violation of Special Order S03-14	Sustained

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of any of the individuals (sworn or unsworn) who provided statements.

V. ANALYSIS²¹

a. CPD's Use of Force Policy

i. G03-02: De-escalation, Response to Resistance, and Use of Force

CPD's stated highest priority is the sanctity of human life. CPD members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack, make an arrest, control a subject, or prevent escape.²² This means CPD members may use only the amount of force necessary to serve a lawful purpose.²³ The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.²⁴

The primary concern in assessing the use of force is whether the amount of force the member used was objectively reasonable in light of the totality of the circumstances faced by the member on the scene.²⁵ Factors to be considered by the member may include, but are not limited to: (1) whether the person is posing an imminent threat to the member or others; (2) the risk of harm, level of threat, or resistance presented by the person; (3) the person's proximity to or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; and (5) the availability of other resources.²⁶

The discharge of a firearm in the direction of a person constitutes the use of deadly force under CPD policy.²⁷ The use of deadly force is permitted only as a "last resort" when "necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."²⁸ A CPD member may use deadly force in only two situations: (1) to prevent "death or great bodily harm from an imminent threat posed to the sworn member or to another person"; or (2) to prevent "an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay."²⁹

A threat is considered imminent "when it is objectively reasonable to believe that: (1) the person's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken, and (2) the person has the means or instruments to cause death or great bodily harm, and (3) the person has the opportunity and ability to cause death or great bodily harm."³⁰

²¹ For a definition of COPA's standard of proof, *see* Appendix B.

²² Att. 46, G03-02 (III)(B), De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to present).

²³ Att. 46, G03-02 (II)(C).

²⁴ Att. 46, G03-02 (III)(B)(3).

²⁵ Att. 46, G03-02 (III)(B)(1).

²⁶ Att. 46, G03-02 (III)(B)(1).

²⁷ Att. 46, G03-02 (IV)(A)(1).

²⁸ Att. 46, G03-02 (IV)(C).

²⁹ Att. 46, G03-02 (IV)(C); 720 ILCS 5/7-5.

³⁰ Att. 46, G03-02 (IV)(B)(emphasis added).

ii. G03-02-01: Response to Resistance and Force Options

CPD members are required to continually assess situations and determine the appropriate response or force option based on the totality of the circumstances, considering individualized factors such as the risk posed by the person, or if the person is injured, restrained, or in crisis.³¹ Members are expected to modify their force in relation to the amount of continued resistance offered by a person.³²

CPD policy defines an assailant as “a person who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury.”³³ Assailants are further subdivided into two categories: (1) a person whose actions are aggressively offensive with or without weapons; and (2) a person whose actions constitute an imminent threat of death or great bodily harm to a CPD member or another person.³⁴ When the person’s actions constitute an imminent threat of death or great bodily harm to a member or another person, firearms and other deadly force responses are authorized.³⁵

b. Officer Heckers’ Use of Deadly Force Against ██████████

PO Hecker used deadly force³⁶ by discharging his firearm in the direction of ██████████ after ██████████ allegedly pointed a weapon in PO Hecker’s direction. COPA finds that, although ██████████ had a gun, his actions did not rise to the level of an imminent threat to justify the use of deadly force.

COPA finds it was not objectively reasonable for PO Hecker to discharge his firearm at ██████████ because deadly force was not necessary to prevent death or great bodily harm. Factors to be considered in assessing whether the force was objectively reasonable include, but are not limited to, (a) whether the person is posing an imminent threat to the member or others; (b) the risk of harm, level of threat, or resistance presented by the person; (c) the person’s proximity or access to weapons; (d) whether de-escalation techniques can be employed or would be effective; and (e) the availability of other resources.³⁷ When determining whether the force was reasonable, courts

³¹ Att. 47, G03-02-01 (II)(E)(3), Response to Resistance and Force Options (effective February 29, 2020, to April 15, 2021).

³² Att. 47, G03-02-01 (II)(F).

³³ Att. 47, G03-02-01 (IV)(C).

³⁴ Att. 47, G03-02-01 (IV)(C).

³⁵ Att. 47, G03-02-01 (IV)(C)(2).

³⁶ In addition to the requirements for the use of deadly force specifically, COPA finds that the force PO Hecker used was not (1) objectively reasonable, (2) necessary, and (3) proportional to ensure his safety. (1) Here, under the “totality of the circumstances faced by the officers on the scene,” it was not objectively reasonable for PO Hecker to discharge his weapon considering ██████████ did not pose an imminent threat. Although ██████████ had a gun it was not pointed toward PO Hecker. ██████████ did not fire his weapon at PO Hecker or any other officer on the scene at that time. ██████████ was running eastbound when Hecker fired his weapon, per PO Hecker’s BWC. Although ██████████ presented significant resistance, the risk of harm to PO Hecker was not death or severe bodily injury, and the level of the threat was not severe. Further, the high level of force discharging a firearm at ██████████ was neither necessary nor the most minor force required in these circumstances. PO Hecker’s decision to discharge his firearm at the ██████████ was not proportional to the level of threat that requires such force.

³⁷ G03-02(III)(B)(1)

balance the nature and quality of the intrusion on the individual's rights against the "countervailing governmental interests at stake."³⁸

The body-worn camera video confirms that ██████ did have a weapon but posed no significant threat. At the time PO Hecker discharged his weapon, ██████ was running eastbound and away from the officers. PO Hecker stated he heard the other officers yell "gun, gun," and he saw ██████ with the gun in his left hand, but at no time in PO Hecker's body-worn camera was ██████ observed running in the direction of or pointing his weapon towards PO Hecker, but instead shows the opposite. ██████ is observed running eastbound away in a headlong flight from PO Hecker and the other officers. Such actions do not support ██████ posed an imminent threat of death or great bodily harm. Conversely, PO Hecker caused a more significant threat to innocent bystanders when he fired at ██████ who was running away from him. ██████ was not injured during this incident.

The preponderance of the evidence does not support the idea that PO Hecker discharged his firearm to eliminate the threat. The standard to determine if deadly force is justified is an objective standard based on the totality of the circumstances known by the member at the time but from the perspective of a reasonable member on the scene. An objective analysis of this situation indicates that ██████ actions were more likely than not an attempt to evade arrest rather than pose an imminent threat.

For these reasons, COPA finds PO Hecker used deadly force when it was not objectively reasonable to do so, where no imminent threat was present. Therefore, the allegation against PO Hecker is **sustained** as a violation of G03-02.

c. Officers Hecker, Garcia, and Brinkley Failed to Activate their Body-worn Cameras Timely.

COPA finds that Officer Hecker³⁹, Garcia⁴⁰, and Brinkley⁴¹ failed to timely activate their body-worn camera in a timely manner at the beginning of this incident. CPD policy mandates that officers record all law-enforcement-related encounters, including investigatory stops, foot and vehicle pursuits, and use of force incidents. Officers must activate and record their body-worn cameras at the beginning of an incident. If circumstances prevent the activation of the body-worn camera at the beginning of an incident, the officer "will activate their body-worn camera as soon as practical." The evidence depicts that the officers had ample opportunity to activate their body-worn cameras before engaging with ██████

Officer Hecker admitted that he did not turn on his body-worn camera until after he fired his weapon and stood over ██████ gun. Officer Hecker did not activate his body-worn camera until 1:59 into the video. Officer Garcia did not activate his body-worn camera until 2:01 into the

³⁸ Estate of Starks v. Enyart, 5 F.3d 230, 234 (7th Cir. 1993), quoting Graham v. Connor, 490 U.S. 386, 395-96 (1989)

³⁹ Att. 39, Page 25, Lines 1-9

⁴⁰ Att. 40, Page 24, Lines 6-14

⁴¹ Att. 37, Page 23, Lines 13-21

video, when he placed ██████ into custody. Officer Brinkley did not activate his body-worn camera until 2:00 into the video while observing ██████ being placed into custody. For these reasons, COPA finds that Officer Hecker, Garcia, and Brinkley failed to activate their body-worn cameras at the beginning of the incident or as soon as practical. Therefore, this allegation is **sustained** as a violation of Rules 5, 6, and 10.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Matthew Hecker

i. Complimentary and Disciplinary History⁴²

Officer Hecker has received 53 awards, including 43 honorable mentions, four department commendations, and 1-unit meritorious performance award. As of December 7, 2023, he has no disciplinary history in the past five years.

ii. Recommended Discipline

COPA has found that Officer Hecker violated General Order G03-02 when he discharged his weapon at ██████. COPA has found that PO Williams violated Rules 2, 3, 6, and 8 by discharging his firearm at ██████ without justification. ██████ did have a gun in his possession, but at no time did he point it at PO Hecker. Instead, he was running away from the officers with the gun in his hand, which he dropped in the middle of the street as he ran eastbound away from the officers. ██████ did not pose an imminent threat to PO Hecker. Despite this, PO Hecker fired his weapon four times. PO Hecker's use of deadly force was an egregious violation of General Order G03-02, requiring severe consequences.

COPA has found that Officer Hecker violated Rules 5, 6, and 10 by failing to activate his body-worn camera in a timely manner.

However, due to Officer Hecker's resignation from CPD, COPA cannot recommend disciplinary action, as he is no longer a CPD member. Thus, COPA's disciplinary decision will be made if he returns to CPD.

b. Officer Gabriel Garcia

i. Complimentary and Disciplinary History⁴³

Officer Garcia has received 67 awards, including 53 Honorable Mention, 3 Department Commendation, 1 Unit Meritorious Performance Award, and 1 Military Service Award. As of December 7, 2023, he has no disciplinary history in the past five years.

ii. Recommended Discipline

⁴² Att. 262.

⁴³ Att. 263.

COPA has found that Officer Garcia violated Rules 5, 6, and 10 by failing to activate her body-worn camera in a timely manner.

However, due to Officer Garcia's resignation from CPD, COPA cannot recommend disciplinary action, as he is no longer a CPD member. Thus, COPA's disciplinary decision will be made if he returns to CPD.

c. Officer James Brinkley

i. Complimentary and Disciplinary History⁴⁴

Officer Brinkley has received 72 awards, including 61 Honorable Mentions, 3 Department Commendations, 1 Joint Operations Award, and 1 Special Commendation. As of December 7, 2023, he has no disciplinary history in the past five years.

ii. Recommended Discipline

COPA has found that Officer Brinkley violated Rules 5, 6, and 10 by failing to activate his body-worn camera in a timely manner. Based on this information, COPA recommends **Reprimand**.

⁴⁴ Att. 263.

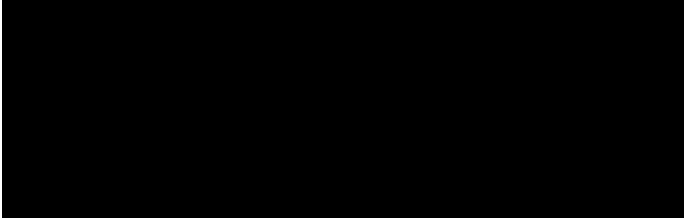
Approved:



January 16, 2024

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date



January 16, 2024

Andrea Kersten
Chief Administrator

Date

Appendix A**Case Details**

Date/Time/Location of Incident:	March 11, 2021 / 12:06 pm / 6300 South King Drive Chicago, Illinois
Date/Time of COPA Notification:	March 11, 2021 / 12:33 pm
Involved Officer #1:	Matthew Hecker, Star #12229, Employee ID # [REDACTED] Date of Appointment: April 6, 2015, Police Officer, Resigned, Male, White
Witness Officer #2:	Alex Gray., Star #8645, Employee ID # [REDACTED] Date of Appointment: August 29, 2016, Police Officer, Unit 007, Male, White
Involved Officer #3:	Gabriel Garcia, Star #17602, Employee ID # [REDACTED] Date of Appointment: July 15, 2013, Police Officer, Resigned, Male, Hispanic
Involved Officer #4:	James Brinkley, Star #17677, Employee ID # [REDACTED] Date of Appointment: November 4, 2013, Police Officer, Unit 010, Male, White
Involved Individual #1:	[REDACTED] Chicago IL, [REDACTED] 1997, Male, Black

Applicable Rules

- 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 5:** Failure to perform any duty.
- 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.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.

Applicable Policies and Laws

- General Order G03-02, De-escalation, Response to Resistance, and Use of Force (effective February 29, 2020, to April 15, 2021).
- General Order G03-02-01, Response to Resistance and Force Options (effective February 29, 2020, to April 15, 2021).
- Special Order S03-14 (effective April 30, 2018)

Appendix B

Definition of COPA's Findings and Standards of Proof

For each Allegation, COPA must make one of the following findings:

1. Sustained – where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained – where it is determined there is insufficient evidence to prove the allegation by a preponderance of the evidence;
3. Unfounded – where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated – where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.⁴⁵ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. Clear and convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”⁴⁶

⁴⁵ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it is found to be more probably true than not).

⁴⁶ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C**Transparency and Publication Information**

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation