



Log # 2021-0000322

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On January 25, 2021, the Civilian Office of Police Accountability (COPA) received an initiation report² from Sergeant (Sgt) Renee Whittingham #2595. The report alleged misconduct by a member of the Chicago Police Department (CPD). Sgt. Whittingham alleged that on January 25, 2021, Police Officer (PO) Abdul-Aziz Vhora #8758 displayed his department issued taser in a manner inconsistent with training/policy while assisting in the apprehension of a subject, specifically placing his taser on the subject's head.³ Upon review of the evidence, COPA served additional allegations that PO. Vhora pointed his taser at the subject's face. Following its investigation, COPA reached exonerated findings on the alleged misconduct.

II. SUMMARY OF EVIDENCE⁴

On January 25, 2021, at approximately 10:35am, at or near [REDACTED]. PO Andrew Kutella #14005 responded to a wellbeing check.⁵ Upon arrival he would hear what appeared to be loud yelling coming from the residence.⁶ Approximately four minutes later, PO. Vhora showed up and assisted with the situation. At the time, officers did not have access to the front door, due to a tall metal gate blocking entry into the front yard of the residence.⁷ Appearing almost concurrently, a female (later identified as the victim of domestic battery) is seen opening the front door for a brief second until a male (later identified as [REDACTED]) closes the door.⁸ More yelling is then heard coming from the residence. Both officers tried looking for alternate entry points, with negative results. Ultimately, a CPD squad car is driven closer to the gate and used as a leverage point. PO. Kutella and PO. Vhora climb onto the hood of the squad car and subsequently jump over the gate and approach the front door, to which the victim opens. The

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 Att. 1- Initiation Report

³ One or more of these allegations fall within COPA's jurisdiction pursuant to Chicago Municipal Code § 2-78-120. Therefore, COPA determined it would be the primary investigative agency in this matter.

⁴ 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), audio recorded statement, and a transcribed audio recorded statement

⁵ Att. 18- Event Query

⁶ Att. 16- PO. Kutella BWC, Minute- 00:34

⁷ Att. 14- PO. Vhora BWC, Minute- 00:20

⁸ Att. 16 and 14- Minute- 04:57 and 00:34

victim is seen with blood on her face and shirt. As both officers go into the residence, BWC shows PO. Kutella approaching ██████ ordering him to stand up, to which ██████ does not comply. PO. Kutella then grabs ██████ by the left wrist and PO. Vhora can be seen aiming his taser at ██████ face.⁹ ██████ appears to get up and then falls on the ground. While on the ground, PO. Kutella is seen trying to apprehend Mr. ██████ while PO. Vhora is seen placing his taser near and/or on ██████ head.¹⁰ PO. Kutella then handcuffed ██████ and PO. Vhora removed his taser from ██████ head and holstered it.

III. ALLEGATIONS

Officer Abdul-Aziz Vhora

1. Pointing your taser at ██████ face without justification
 - Exonerated
2. Placing your taser against ██████ head without justification
 - Exonerated

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. ANALYSIS¹¹

COPA finds allegation #1 and #2 against PO. Vhora, regarding the pointing and the placing of the taser to be **exonerated**. COPA has determined by clear and convincing evidence that the conduct described in the allegation occurred but is lawful and proper. Under the Municipal Code of Chicago (MCC) Chapter 2-78-120, COPA shall have the powers and duties to conduct investigations in which a CPD member discharges a stun gun or taser *in a manner that results in death or serious bodily injury*.¹² (emphasis added). In this case PO. Vhora never discharged his taser. PO. Vhora displayed his taser in a manner that did not cause death or serious bodily injury. In this matter, per the Municipal Code, the pointing and the placing of the taser near and/or on ██████ head is not subject to the investigative jurisdiction of COPA. In reviewing the use of force in this matter, COPA personnel interviewed PO Vhora. In his audio recorded statement¹³ he stated

⁹ Att. 16- Minute- 6:57

¹⁰ Att. 14- Minute- 02:36 and 02:42

¹¹ For a definition of COPA's findings and standards of proof, see Appendix B.

¹² Att. 27- Municipal Code of Chicago, Chapter 2-78-120

¹³ Att. 7 and 8- PO. Vhora transcribed audio statement and PO. Vhora audio statement

“maybe, maybe just out of nervousness of the situation, I didn't pay attention to where the taser was being pointed at. But at the same time, my finger was never near the trigger of the taser.”¹⁴

Under CPD directive G03-02-04: Taser Use Incidents,¹⁵ department members are authorized to use a taser only for the purpose of gaining control of and restraining the following subjects: An active resister, the use of a taser as a force option against an active resister is limited to when there is an objectively reasonable belief at the time that a subject is violent, exhibiting violent or aggressive behavior. PO. Vhora reasonably believed that due to the circumstances of the situation, [REDACTED] was exhibiting violent behavior. In his statement to COPA, he states the observation of blood on the victims' clothing and the screaming coming from the residence.¹⁶ PO. Vhora also states [REDACTED] was an active resister and did not know what he was capable of. Regarding the taser being placed on [REDACTED] head. PO. Vhora states he didn't get a chance to holster his taser, because he didn't know how [REDACTED] would react.¹⁷ PO. Vhora also states that the only reason he had his taser on [REDACTED] was to gain full compliance and it was used as a scare tactic.¹⁸ It is also noted that directive G03-02-04: Taser Use Incidents, G03-02: Use of Force, G03-02-01: Force Options and U04-02-02 Control Devices and Instruments, does not prohibit the placement or aiming of a taser to the body when there is no electrical current being conducted.¹⁹

COPA reviewed Sgt. Whittingham's BWC. The BWC footage showed PO. Vhora's left hand in the back neck area of [REDACTED]. After review, COPA determined that PO. Vhora was not restricting the air way of [REDACTED]. It appears that PO. Vhora had his hand balled up and placed near the neck area but was conducting a pressure point tactic behind [REDACTED] ear.²⁰

During the BWC review, COPA noted the use of profane language as PO. Vhora was assisting with the apprehension of [REDACTED]. PO. Vhora stated “Get down mother fucker”. Addressing the officer's language, COPA reviewed MCC 2-78-100 which describes verbal abuse as “the use of oral or written remarks that are overtly insulting, mocking or belittling, directed at a person based upon the actual or, perceived race, immigration status, color, gender, age, religion, ancestry, national origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person.”²¹ While PO Vhora's choice of words is unfortunate and can be deemed unprofessional, it does not rise to the level of verbal abuse as defined and therefore is not misconduct.

COPA reviewed this case for the applicability of Rule 38 (unlawful or unnecessary use or display of a weapon) in that PO Vhora placed his taser near and/or against the head of [REDACTED]. CPD directives did not prohibit PO. Vhora from using his taser as a control device for the purpose of gaining control of and restraining an active resister. [REDACTED] refusal to comply with verbal

¹⁴ Att. 7 and 8- Page. 43 Line.12, Minute- 41:44

¹⁵ Att. 28- G03-02-04: Taser Use Incident

¹⁶ Att. 7 and 8- Page. 13 Line 10-13, Minute- 09:46

¹⁷ Att. 7 and 8- Page. 33 Line 11-14, Minute- 31:20

¹⁸ Att. 7 and 8- Page. 45 Line 2-4 Minute- 43:21

¹⁹ Att. 28, 29, 30 and 31- CPD directives

²⁰ Att. 13- SGT. Whittingham BWC- Minute 04:16-04:31

²¹ Att. 32 – MCC 2-78-100

instructions from CPD members moved [REDACTED] into the role/description of being an active resister. COPA believes that PO. Vhora’s actions were allowable and necessary in defense to prevent death or great bodily harm, given the injury(ies) to the domestic battery victim. Consequently, PO Vhora’s use of the taser in this manner did not place PO. Vhora in violation of Rule 38.

COPA determined that the use of force used to arrest [REDACTED] did not appear to be excessive.

Based on this investigation, COPA has determined PO. Vhora was not in violation of CPD policy or CPD rules. There were no overt indicators or evidence of misconduct. Based on the evidence and credibility assessment, COPA does not recommend any discipline. No further resources should be devoted to this matter and this case should be closed to COPA.

Approved:

[REDACTED]

12-29-23

Angela Hearts-Glass
Deputy Chief Investigator

Date

Appendix A

Case Details

Date/Time/Location of Incident:	January 25, 2021, 10:35am, ██████████, Chicago, IL, 60636
Date/Time of COPA Notification:	January 25, 2021, 01:28pm
Involved Member #1:	Abdul- Aziz Vhora, Star #8758, Employee ID # ██████████ DOA- April 13, 2013, Unit: 007, Male, Asian and Pacific Islander
Involved Witness: #1	Renne Whittingham, Star #2595, Employee ID # ██████████ DOA - December 05, 2005, Unit: 007, Female, White
Involved Witness: #2	Andrew Kutella, Star #1405, Employee ID # ██████████ DOA - February 29, 2016, Unit: 007, Male, White
Involved Individual #1:	██████████ 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.
- Rule __:** *[Insert text of any additional rule(s) violated]*

Applicable Policies and Laws

- G03-02: Use of Force (effective February 29, 2020, to April 1, 2021)
- G03-02-01: Force Options (effective February 29, 2020, to April 15, 2021)
- G03-02-04: Taser Use Incidents (effective February 29, 2020, to April 15, 2021)
- U04-02-02: Control Devices and Instruments (effective February 29, 2020, to present)

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 allegations 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.²² 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.”²³

²² 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).

²³ *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 Categories

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