



Log # 2022-0004678

## FINAL SUMMARY REPORT<sup>1</sup>

### I. EXECUTIVE SUMMARY

On October 31, 2022, at 5:52 p.m., ██████████ telephoned COPA and registered a complaint against the Chicago Police Department. ██████████ alleged that Chicago Police officers entered and searched his garage without permission.<sup>2</sup> Upon review of the evidence, COPA served allegations that the officers failed to activate their body worn cameras (BWCs). Following its investigation, COPA reached Exonerated and Sustained findings.

### II. SUMMARY OF EVIDENCE<sup>3</sup>

On October 28, 2022, 008<sup>th</sup> District Tactical Officers Martin Kirkel, Thomas McDonnell, and Bradley Bullington were dispatched to a report of a person with a gun in the alley at ██████████<sup>4</sup> The caller related that an intoxicated male Hispanic, bald, 30s, wearing a black jacket and gray pants, pointed a gun at the caller in the alley across from the location of ██████████ in the alley between Kostner Ave and Kenneth Ave.<sup>5</sup> The officers arrived on the scene and announced their office.<sup>6</sup> They observed two males closely matching the description at the incident's location standing in the middle of the garage's apron.<sup>7</sup>

The officers approached, and the two males ran inside the garage and began closing the overhead garage door. Officers Kirkel and McDonnell were able to keep the door open at about knee-to-waist height.<sup>8</sup> The officers could see under the overhead garage door when they observed one male move north inside the garage and one male move south inside the garage.<sup>9</sup> The two male

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<sup>1</sup> 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*.

<sup>2</sup> 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.

<sup>3</sup> The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including third-party surveillance footage, 911 audio, and body-worn camera footage.

<sup>4</sup> Event Query location of service was in the alley between Kostner Ave and Kenneth Ave.

<sup>5</sup> Event Query Pages 1-4.

<sup>6</sup> Att. 29, Page 7, Line 6

<sup>7</sup> Att. 29, Page 6, Lines 18-24.

<sup>8</sup> Att. 29, Pages 6-7, Lines 24, 1-5.

<sup>9</sup> Att. 29, Page 7, Lines 2-7

Hispanics were identified as the homeowner, [REDACTED] and his neighbor, [REDACTED].<sup>10</sup> Officer Kirkel said they used flashlights to get the attention of [REDACTED] and [REDACTED] and started a dialogue with them.<sup>11</sup> Officer McDonnell stated that the officers announced their office and told [REDACTED] and [REDACTED] to come out with their hands up.<sup>12</sup> Both men complied.<sup>13</sup> The officers explained that they were investigating a person with a gun call and that they fit the description.<sup>14</sup>

Officers Bullington and Kirkel entered the garage and searched it.<sup>15</sup> Officer Kirkel recovered a firearm from a car seat on the south side of the garage and a firearm from the north side of the garage in a toolbox.<sup>16</sup> Officer Kirkel stated both weapons were in plain view.<sup>17</sup> Officer Kirkel explained that as part of his duties as a police officer, he believed they were in hot pursuit of two armed offenders, giving him reason to enter the garage and for the officer's safety as well as [REDACTED] and [REDACTED].<sup>18</sup>

Officer Kirkel explained that the side door to the backyard was open, and since he recovered two handguns and had two subjects matching the description, he entered the backyard. Also, he was looking for more offenders or subjects with more handguns. And, for officer safety, to ensure they were not surprised by anybody dangerous.<sup>19</sup>

Officer Bullington said the officers performed a cursory search,<sup>20</sup> because they reasonably believed that the two males had committed a crime after speaking to the victim,<sup>21</sup> and due to the time, place, and location. Then, the two males fled into the garage when the officers entered the alley in a police vehicle.<sup>22</sup> He further stated that the officers had probable cause and it was a hot pursuit into the garage.<sup>23</sup>

Shortly after that, at approximately 17:05 into the video, Officer McDonnell met with the victim in a different location to get the details of the incident.<sup>24</sup> The officers relocated the victim to the incident location and conducted a show-up, and he positively identified [REDACTED] as the man

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<sup>10</sup> Att. 29, Pages 11-11, Lines 18-24, 1-9.

<sup>11</sup> Att. 24, Page 7, Lines 13-20.

<sup>12</sup> Att. 25, Page 18, Lines 13-16

<sup>13</sup> Att. 29, Page 7, Lines 6-7.

<sup>14</sup> Att. 24, Page 8, Lines 2-4.

<sup>15</sup> Att. 29, Page 7, Lines 21-22.

<sup>16</sup> Att. 29, Page 7-8, Lines 21-24, 1-2.

<sup>17</sup> Att. 24, Page 8, Lines 5-15.

<sup>18</sup> Att. 24, Page 19, Lines 12-5.

<sup>19</sup> Att. 24, Page 19-20, Lines 18-24, Line 1.

<sup>20</sup> Att. 29, Pages 13-14, Lines 23-24, 1-10.

<sup>21</sup> Att. 29, Page 14, Lines 5-14.

<sup>22</sup> Att. 29, Page 12, Lines 14-17

<sup>23</sup> Att. 29, Pages 14-15, Lines 10-24, Lines 1-4.

<sup>24</sup> Att. 5, Body-worn Camera of Officer McDonnell.

who pointed a gun at him.<sup>25</sup> [REDACTED] was placed into custody on signed complaints.<sup>26</sup> Officer Bullington said there was probable cause for an arrest once the victim<sup>27</sup> positively identified [REDACTED]<sup>28</sup> ISR reports were completed for [REDACTED] and [REDACTED]<sup>29</sup>

### III. ALLEGATIONS

#### Officer Martin Kirkel

1. Entering the garage located at [REDACTED] without justification.
  - Exonerated
2. Searching the garage located at [REDACTED] without justification.
  - Exonerated
3. Entering the backyard area at or about [REDACTED] without justification.
  - Exonerated
4. Conducting a search of the backyard area at or about [REDACTED] without justification.
  - Exonerated.

#### Officer Thomas McDonnell

1. Failing to activate his body-worn camera in a timely manner in violation of Special Order S03-14.
  - Sustained

#### Officer Bradley Bullington

1. Entering the garage located at [REDACTED] without justification.
  - Exonerated
2. Searching the garage located at [REDACTED] without justification.
  - Exonerated

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<sup>25</sup> Att. 29, Page 9, Lines 2-11. Show-up meaning defined.

<sup>26</sup> Att. 29, Page 8, Lines 4-11.

<sup>27</sup> Att. 29, Page 22, Lines 6-8. Identified as [REDACTED].

<sup>28</sup> Att. 29, Page 15, Lines 5-10.

<sup>29</sup> Atts. 11-12, Investigatory Stop Reports for [REDACTED] and [REDACTED]

#### IV. CREDIBILITY ASSESSMENT

COPA's investigation did not reveal evidence questioning Officers Kirkel, McDonnell, and Bullington's credibility. Their statements were essentially the same, and the available evidence corroborated their version of events.

#### V. ANALYSIS

##### Officer Martin Kirkel

COPA finds that **Allegations 1, 2, 3, and 4** against Officer Kirkel, that he committed misconduct by entering the garage located at [REDACTED] without justification, searching the garage located at [REDACTED] without justification, entering the backyard without justification, and conducting a search of the backyard area at or about [REDACTED] without justification, are **Exonerated**.

COPA finds that Officer Kirkel did not commit misconduct when he entered the garage, searched the garage, entered the backyard, and searched the backyard at [REDACTED]. Officer Kirkel responded to a man with a gun call. Once he arrived on the scene, [REDACTED] and [REDACTED] ran into the garage. At that point, Officer Kirkel and his partners pursued them. In entering the garage, Officer Kirkel stated he had probable cause that a person has committed, is about to commit, or is in the commission of a crime.

Officer Kirkel said that the weapons he recovered were in plain view; therefore, he only conducted a cursory search of the garage, and the backyard door was open and for officer safety, he entered the backyard and looked around. Officer Kirkel explained that he did not need a warrant and could enter and conduct a search of the nearby area because he was in hot pursuit. Officer Kirkel explained that when an officer reasonably believes that a subject he is attempting to interview flees and has committed a crime and tried to escape, he has reasonable grounds to pursue the subject, which is what he did. The victim positively identified [REDACTED] and he was arrested on signed complaints.

COPA finds that **Allegations 1-4** against Officer Kirkel, in which he committed misconduct when he entered the garage, searched the garage, entered the backyard, and searched the backyard at [REDACTED] are **Exonerated**.

##### Officer Thomas McDonnell

COPA finds that **Allegation 1**, that Officer McDonnell failed to activate his body-worn camera in a timely manner at the beginning of this incident, is **Sustained**. 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.”<sup>30</sup> Officer McDonnell activated his body-worn camera at 1:59 into the video after his contact with ██████ had begun.

Officer McDonnell said that he activated their body-worn camera when it was safe and feasible to do so.<sup>31</sup> Still, the evidence depicts that Officer McDonnell seemingly had ample opportunity to activate his body-worn camera before engaging with ██████. For these reasons, COPA finds that Officer McDonnell failed to activate his 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.

### **Officer Bradley Bullington**

COPA finds that **Allegations 1 and 2** against Officer Bullington, that he committed misconduct when he entered and searched the garage at ██████ Ave, are **Exonerated**. Officer Bullington was dispatched to a report of a person with a gun in the alley behind ██████ Ave. Officer Bullington stated had probable cause when he entered the garage and performed a cursory search due to the time, place, and location and the subjects matching the description fleeing into the garage.

Officer Bullington stated that he had reason to believe they were trying to conceal contraband or weapons. Officer Bullington explained that his actions were based on those factors. The victim positively identified ██████ and he was subsequently arrested on signed complaints. Based on these factors and Officer Bullington’s belief that a person has committed, is about to commit, or is in the commission of a crime, Officer Bullington’s actions are therefore not violative.

COPA finds that **Allegations 1-2** against Officer Bullington, in which he committed misconduct when he entered and searched the garage at ██████ Ave, are **Exonerated**.

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<sup>30</sup> Att. 30, S03-14(III)(A)(2).

<sup>31</sup> Att. 29, Page 25, Lines 19-20.

**VI. DISCIPLINARY RECOMMENDATION**

**a. Officer Thomas McDonnell**

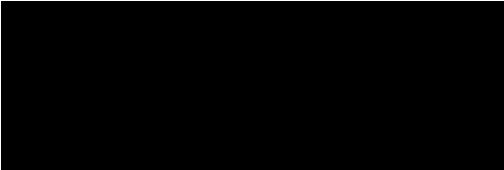
**i. Complimentary and Disciplinary History<sup>32</sup>**

As of July 9, 2024, Officer McDonnell has received a total of 118 awards, including seven Department Commendations, one Problem Solving Award, one Honorable Mention Ribbon Award, and ninety-nine Honorable Mention. In the last five years, Officer McDonnell has received a Reprimand for Non-Compliance with Motor Vehicle Pursuit Requirements. In the last five years, Officer McDonnell has had one Sustained Complaint History (2022-0004337).

**ii. Recommended Discipline**

COPA has found that Officer McDonnell violated Rules 5, 6, and 10 when he failed to timely activate his BWC. Officer McDonnell’s failure to timely activate his BWC deprived the COPA investigation and any other reviewer of valuable information. Based on the above information, COPA recommends a Violation Noted for Officer McDonnell.

Approved:



7/29/2024

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*Matthew Haynam*  
*Deputy Chief Administrator*

\_\_\_\_\_  
Date

<sup>32</sup> Att.

**Appendix A**

**Case Details**

Date/Time/Location of Incident:	October 28, 2022 / 11:00 pm / [REDACTED] Avenue.
Date/Time of COPA Notification:	October 31, 2022 / 5:52 pm
Involved Member #1:	Officer Martin Kirkel, Star# 13946, Employee ID # [REDACTED], DOA: February 2, 2015, Unit of Assignment: 008, Male, White.
Involved Member #2:	Officer Thomas McDonnell, Star# 16859, Employee ID # [REDACTED], DOA: April 28, 2014, Unit of Assignment: 008, Male, White.
Involved Member #3:	Officer Bradley Bullington, Star #8684, Employee ID # [REDACTED], DOA: April 25, 2016, Unit of Assignment: 008, Male, White
Involved Individual #1	[REDACTED] / Date of Birth: [REDACTED], 1969 / [REDACTED] [REDACTED]
Involved Individual #2	[REDACTED] / Date of Birth: [REDACTED], 1984 / [REDACTED] [REDACTED]

**Applicable Rules**

- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 10:** Inattention to duty.

## **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.<sup>33</sup> 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.”<sup>34</sup>

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<sup>33</sup> 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).

<sup>34</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4<sup>th</sup> 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