



Log # 2023-0004822

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On October 12, 2024, the Civilian Office of Police Accountability (COPA) received a CPD initiated complaint from Lt. Meghan McCauley of the 11th District on behalf of ██████████ reporting alleged misconduct by a member of the Chicago Police Department (CPD). Lt. McCauley alleged that on October 3, 2024, Officer Edward Garcia used excessive force while attempting to arrest ██████████ by striking the back of ██████████ head with a knee and having a firm grip on the back of ██████████ neck.²

II. SUMMARY OF EVIDENCE³

COPA obtained available BWC footage from the officers involved with this incident, reports, and obtained an audio recorded statement from Officer Garcia. Based on the obtained evidence, ██████████ (██████████) was stopped for a valid reason, consumption of alcohol on a public way.⁴ As Officer Garcia approached, ██████████ fled on foot until he was ultimately taken down by Officer Garcia and assisting officers on scene.⁵ While on the ground, officers worked to get ██████████ in handcuffs, but he continued resisting by keeping his arms under his stomach and bit an assisting officer's hand.⁶

After ██████████ continued trying to bite the officer's hands, Officer Garcia can be seen placing his hand at the back of ██████████ head and neck to keep him from biting him and his fellow officers.⁷ Officer Garcia's foot appeared to slip causing him to make contact with ██████████ in the upper back/shoulder with a knee.⁸ ██████████ was ultimately placed in handcuffs and taken into custody following this use of force.

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 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.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including TRRs, BWC, and Officer Garcia's Statement; Drinking in a public way (Municipal Code of Chicago 8-4-030).

⁴ Available evidence for review: TRRs, BWC, and Officer Garcia's Statement; Drinking in a public way (Municipal Code of Chicago 8-4-030).

⁵ Att. 14 at 13:40 – 14:12

⁶ Att. 15 at 0:37-0:45

⁷ Att. 15 at 0:37-0:45

⁸ Att. 15 at 0:45-0:50

III. ALLEGATIONS

Edward Garcia:

1. Forcefully gripping the back of ██████████ neck without justification.
 - Exonerated
 -
2. Striking ██████████ head with a knee 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. ANALYSIS⁹

a. Force Allegations

COPA finds Allegations 1 and 2, using force against ██████████ without justification, are Exonerated. Department members may only use force that is “objectively reasonable, necessary, and proportional, under the totality of the circumstances.”¹⁰ When members encounter a citizen who attempts to create distance from a member with an intent to avoid physical control and/or defeat arrest, that citizen is an active resister.¹¹ Furthermore, when a member encounters a citizen who is using or threatening the use of force against another person or themselves which is likely to cause injury, that citizen is an assailant.¹² If the citizen’s actions are aggressively offensive with or without weapons,¹³ members are permitted to respond with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; taser deployment; direct mechanical strikes; and impact weapons and munitions.¹⁴ Members are permitted to respond to active resistance with presence; verbal directions; holding and compliance techniques; control instruments; deployment of oleoresin capsicum; stunning; takedowns; canine use; and taser deployment.¹⁵

In this case, ██████████ was stopped for a valid reason then fled on foot, classifying him as an active resister. Once officers detained ██████████ he continued resisting and bit an assisting officer’s hand, escalating him to an assailant. Here, officers effectively detained ██████████ using minimal amounts of force – despite having more options available to them. While Officer Garcia’s knee made contact with ██████████ Officer Garcia told COPA in his statement that his right foot slipped on

⁹ For a definition of COPA’s findings and standards of proof, *see* Appendix B.

¹⁰ G03-02(III)(B) , De-Escalation, Response to Resistance, and Use of Force

¹¹ G03-02-01 IV(B)(2), Response to Resistance and Force Options (effective April 15, 2021 to current).

¹² G03-02-01 IV(C), Response to Resistance and Force Options (effective April 15, 2021 to current).

¹³ The weapons can include a deadly weapon, but the citizen’s actions did not constitute an imminent threat death or great bodily harm.

¹⁴ G03-02-01 IV(C)(1), Response to Resistance and Force Options (effective April 15, 2021 to current).

¹⁵ G03-02-01 IV(B)(2)(c), Response to Resistance and Force Options (effective April 15, 2021 to current).

the curb while trying to get in a better position to maintain control of [REDACTED]¹⁶ Despite being permitted to use forced pressure strikes to gain control, Officer Garcia insisted he did not intentionally strike [REDACTED] with his knee. Importantly, Officer Garcia's explanation is supported by a review of all available BWC.¹⁷ COPA finds that the force options used by Officer Garcia do not appear to violate department policy and were proportional for the circumstances.¹⁸ Therefore, COPA finds Allegation 1 and 2 against Officer Garcia are **Exonerated**.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

October 30, 2024

Date

¹⁶ Att. 23, Officer Garcia Transcript, Pg. 17, Lns. 15-22.

¹⁷ Atts. 14, 15, 16, and 18.

¹⁸ The knee strike to [REDACTED] upper back/shoulder is still within policy and justified despite Officer Garcia stating it was accidental.

Appendix ACase Details

Date/Time/Location of Incident:	October 3, 2023 / 2:23 PM / 3855 W Division St.
Date/Time of COPA Notification:	October 12, 2023 / 7:45 PM
Involved Officer #1:	Edward Garcia, Star# 13694, Employee# [REDACTED], Date of Appointment: October 25, 2004, Male, Hispanic
Involved Individual #1:	[REDACTED] 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

- G02-01: Protection of Human Rights (effective June 23, 2022 – present)
- G03-02-01: Response to Resistance and Force Options (effective June 28, 2023 – present)
- Municipal Code of Chicago 8-4-030, Drinking in Public Ways

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.¹⁹ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department 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.”²⁰

¹⁹ 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).

²⁰ *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