



Log # 2022-0003489

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY²

On August 17, 2022, the Civilian Office of Police Accountability (COPA) received a district-initiated complaint from Sergeant (Sgt.) Tramell Henderson, reporting alleged misconduct by a member of the Chicago Police Department (CPD). Sgt. Henderson alleged that on August 17, 2022, Officer Fidel Legorreta struck [REDACTED] legs and stomach area with a knee without justification.³ Upon review of the evidence, COPA served additional allegations that Officer Fidel Legorreta and Officer Gabriel Garcia stated words to the effect of, “You fled motherfucker.” Following its investigation, COPA reached sustained findings of both allegations against Officer Legorreta, and unfounded regarding the profanity allegation against Officer Garcia.

II. SUMMARY OF EVIDENCE⁴

On August 17, 2022, Officer Gabriel Garcia was responding to a call for an attempted armed robbery near 2015 W 65th St when he was flagged down by the victim, who provided a description of the offenders, one of whom was a black male wearing a red sweater.⁵ Officer Garcia then surveyed the surrounding area and observed [REDACTED] walking nearby in a red zip-up lightweight jacket.⁶

Officer Garcia conducted an investigatory stop on [REDACTED]. Officer Garcia reached out to “conduct a protective pat-down for weapons because of the nature of the call.”⁷ After Officer Garcia felt a gun in [REDACTED] jacket in the armpit area, [REDACTED] turned and fled from Officer Garcia, but was almost immediately captured by assisting officers.⁸ At approximately the same time as Officer Garcia initiated the investigatory stop, Officer Legorreta arrived on scene. He pursued [REDACTED] as [REDACTED] began to run, and arrived to assist with the arrest shortly after [REDACTED] was caught. [REDACTED] thrashed and continuously moved while the officers attempted to place him in handcuffs.

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 This log was initially closed on January 26, 2024 under COPA’s Timeliness Initiative. However, after received a Request to Re-open from the Office of the Inspector General on September 16, 2024, this case was reopened.

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 the arrest report, tactical response reports, BWC footage, and officer interviews.

⁵ Att. 31, pg. 7.

⁶ Att. 1 at 3:40.

⁷ Att. 31, pg. 8, lns. 5-6.

⁸ Att. 1 at 3:40-3:55.

Officer Legorreta moved in to help get ██████ under control, and was able to retrieve ██████ handgun from his jacket.⁹ After securing the firearm, while ██████ was in the process of being handcuffed, Officer Legorreta delivered a knee strike to ██████ leg.¹⁰ ██████ reacted in surprise, exclaiming, “You hitting me?”¹¹ Officer Legorreta responded, “Fuckin’ resisting, motherfucker.”¹² Shortly thereafter, the victim arrived on scene and identified ██████ as one of the people who had attempted to rob him.

Officers Garcia and Legorreta each gave statements to COPA in the course of this investigation. Officer Garcia gave his statement first, on November 30, 2022. In it, he denied the one allegation against him, that he had used profanity, and told COPA that he believed Officer Legorreta had used the language in question.¹³ Officer Legorreta gave his statement to COPA on December 14, 2022. He told COPA that he delivered a knee strike to the back of ██████ leg because ██████ was still trying to escape, and the strike was intended to take away ██████ ability to escape.¹⁴ Officer Legorreta confirmed that he had already secured ██████ weapon at the time Officer Legorreta delivered the knee strike.¹⁵ Officer Legorreta admitted he used words to the effect of, “Oh, you’re resisting, mother fucker,” which he attributed to the high stress of the situation.¹⁶

III. ALLEGATIONS

Officer Gabriel Garcia:

1. Stating words to the effect of you fled motherfucker.
 - Unfounded

Officer Fidel Legorreta:

1. Stating words to the effect of you fled motherfucker.
 - Sustained, Violation of Rules 2, 3, 8, 9.
2. Striking ██████ on or about the legs or stomach with a knee without justification.
 - Sustained, Violation of Rules 2, 3, 6, 8, 9.

IV. CREDIBILITY ASSESSMENT

The credibility of an individual depends primarily on two factors: 1) the individual’s truthfulness and 2) the reliability of the individual’s account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual’s ability

⁹ Att. 2 at 2:23-2:26.

¹⁰ Att. 2 at 2:30.

¹¹ Att. 2 at 2:31.

¹² Att. 2 at 2:32. It was not immediately clear who had spoken these words, so corresponding allegations were brought against both Officers Garcia and Legorreta. However, during his interview with COPA, Officer Legorreta admitted he had made the statement.

¹³ Att. 31, pgs. 11-13.

¹⁴ Att. 30, pg. 7.

¹⁵ Att. 30, pg. 11.

¹⁶ Att. 30, pg. 8, lns. 2-5.

to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

COPA questions the accuracy of certain portions of Officer Legorreta's reporting in this incident. In the aftermath of the arrest, Officer Legorreta completed a Tactical Response Report (TRR) to document his use of force. In it, he indicated that he used a knee strike to overcome ██████ resistance and aggression, and in defense of department members and the public.¹⁷ Additionally, Officer Legorreta told Sgt. Tramell Henderson "that he applied the knee strike because he believed he was authorized to do so for an active resistor."¹⁸ As stated below, the evidence establishes that Officer Legorreta's belief as to the necessity and propriety of his use of a knee strike in this case was not objectively reasonable. COPA recognizes Officer Legorreta's candor in admitting to directing profanity at ██████

V. ANALYSIS¹⁹

a. Verbal Abuse

COPA finds Allegation #1 against Officer Legorreta, that he stated words to the effect of you fled motherfucker, is **Sustained**. In Officer Legorreta's BWC footage, ██████ makes a comment about being hit shortly after Officer Legorreta conducts an apparent knee strike to ██████ upper leg. Initially, it was difficult to conclude which officer responded by calling ██████ a motherfucker, however, this profane response came as an apparent response to Officer Legorreta's use of force. For this reason, COPA alleged that Officer Legorreta was the officer to use this profanity. In his interview, Officer Legorreta was provided his BWC footage to review and would ultimately admit to being the officer who called ██████ a motherfucker.²⁰

Because there was no clear video evidence of which officer used profanity toward ██████ Officer Garcia was also initially served the same allegation. With Officer Legorreta claiming responsibility for using the profanity against ██████ Allegation #1 against Officer Garcia is **Unfounded**.

b. Use of Force

COPA finds Allegation #2 against Officer Legorreta, that he struck ██████ on or about the legs or stomach with a knee is **Sustained**.

A knee strike like the one delivered by Officer Legorreta is defined as a direct mechanical strike under G03-02-01.²¹ Officer Legorreta told COPA he believed he was authorized to use a knee strike on an active resistor. ██████ was an active resistor at the time Officer Legorreta struck him, based on his continued efforts to escape officers as they attempted to place handcuffs on him, after

¹⁷ Att. 21, pgs. 2, 5.

¹⁸ Att. 21, pg. 7.

¹⁹ For a definition of COPA's findings and standards of proof, see Appendix B.

²⁰ Att. 30, pg. 8 and Att. 2 at 2:32. Specifically, Officer Legorreta admitted to stating words to the effect of "oh, you're resisting, mother fucker," while the BWC appears to capture the words "fuckin' resisting, motherfucker."

²¹ G03-02-01: Response to Resistance and Force Options (IV)(C)(1)(a) (eff. Apr. 15, 2021 to June 27, 2023).

Appendix ACase Details

Date/Time/Location of Incident:	August 17, 2022 / 12:05 PM / 6312 S Seeley Ave.
Date/Time of COPA Notification:	August 17, 2022 / 2:05 PM
Involved Officer #1:	Fidel Legorreta, Star# 5902, Employee# [REDACTED] Date of Appointment: September 27, 2018, PO, Unit of Assignment: 007, DOB: [REDACTED], 1995, Male, Hispanic
Involved Officer #2:	Gabriel Garcia, Star# 17602, Employee# [REDACTED] Date of Appointment: July 15, 2013, PO, Unit of Assignment: 007, DOB: [REDACTED], 1984, Male, Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 2003, 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

- G01-01: Vision, Mission Statement, and Core Values (May 21, 2019 – Present)
- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021 – June 27, 2023)

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.²⁶ 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.”²⁷

²⁶ 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).

²⁷ *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