



Log # 2023-0000812

FINAL SUMMARY REPORT

I. EXECUTIVE SUMMARY

On February 26, 2023, the Civilian Office of Police Accountability (COPA) received a social media video reporting alleged misconduct by a member of the Chicago Police Department (CPD). It is alleged that on February 24, 2023, Officer Colleen Gardner made physical contact/pushed [REDACTED] without justification, failed to use de-escalation techniques during her interaction with [REDACTED] and failed to activate her Body-Worn Camera (BWC) in a timely manner. Upon review of the evidence, COPA served the allegations to Officer Gardner. Following its investigation, COPA reached a sustained finding regarding the allegations.

II. SUMMARY OF EVIDENCE

Per [REDACTED] he was notified of a traffic accident via the Citizen Application¹ on his telephone. [REDACTED] responded to the scene and began recording. Officer Gardner observed [REDACTED] and walked toward him, yelling, “Back away!”² When Officer Gardner came within arm’s length of [REDACTED] Officer Gardner immediately began pushing³ [REDACTED] on the chest with both hands. [REDACTED] pushed Officer Gardner’s arms away, at which time multiple Officers placed [REDACTED] in custody.⁴ [REDACTED] was charged with Aggravated Battery/Peace Officer and Disorderly Conduct/failure to obey police⁵.

Officer Gardner completed a Tactical Response Report regarding this incident.⁶ Officer Gardner related that [REDACTED] was obstructing the path of an ambulance and Emergency Medical Technicians (EMT) providing aid to officers involved in a single-car accident. [REDACTED] ignored Officer Gardner’s verbal commands to back away from the scene, at which time Officer Gardner attempted to physically redirect [REDACTED] by extending her arms toward him. [REDACTED] struck Officer Gardner on her arm and thrust himself toward Officer Gardner, at which time he was placed in custody.

¹ Personal safety network that provides real-time 911 alerts, instant help from crisis responders and safety for tracking friends and families.

² Att. 26 Officer Gardner’s BWC – 1:04 mark.

³ Att. 26 – 1:07 mark.

⁴ Att. 26 – 1:14 mark.

⁵ Att. 1

⁶ Att. 70

III. ALLEGATIONS

Officer Colleen Gardner:

1. Making physical contact/pushing [REDACTED] without justification.
-Sustained, Violation of Rules, 2, 6, 8, 9.
2. Failed to use de-escalation techniques during your interaction with [REDACTED] in that you pushed [REDACTED] without justification.
-Sustained, Violation of Rules 2, 6, 8, 9.
3. Failure to activate Body Worn Camera in a timely manner.
-Sustained, Violation of Rules 2, 6, 8, 9.

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to question the credibility of [REDACTED]

Officer Gardner's account of the incident with [REDACTED] is not corroborated by her BWC. [REDACTED] was not obstructing the path of any ambulance or Emergency Medical Technician (EMT), and there was ample opportunity for Officer Gardner to de-escalate the matter without using force on [REDACTED]

V. ANALYSIS

COPA finds Allegations #1 and 2 against Officer Gardner that she made physical contact/pushed [REDACTED] without justification and failed to use de-escalation techniques **Sustained**. Per General Order G02-02, De-escalation, Response to Resistance, and Use of Force⁷, Department members may only use force that is objectively reasonable, necessary, and proportional under the totality of the circumstances in order to ensure the safety of a member or third person, stop an attack, make an arrest, bring a person or situation safely under control, or prevent escape.

The BWC depicted Officer Gardner approaching [REDACTED] yelling "Back away," and immediately pushing him on the chest several times. [REDACTED] was observed putting his hands up and backing away and subsequently being arrested. [REDACTED] actions did not meet the criteria for Officer Gardner to use force and push [REDACTED] Officer Gardner failed to provide a warning or exercise persuasion and advice before using force on [REDACTED] furthermore, no Department member or anyone else was in immediate harm based on [REDACTED] actions.

⁷ Att. 77

COPA finds Allegation #3 against Officer Gardner, that she failed to activate her Body Worn Camera in a timely manner **Sustained**. Per Special Order S03-14, Body Worn Cameras⁸, Department members will activate the system to event mode at the beginning of an incident and will record the entire incident for all law-enforcement-related activities, and Department members will not deactivate event mode unless the entire incident has been recorded and the member is no longer engaged in a law-enforcement-related activity. Officer Gardner's explanation for deactivating her BWC does not fall within the guidelines of the Special Order. Officer Gardner was still at the scene, engaged in law-enforcement-related activity, when she came into contact with [REDACTED] Officer Gardner BWC should have been activated from the time she arrived at the scene until she was no longer engaged in law enforcement activity.

VI. DISCIPLINARY RECOMMENDATION

a. Officer Colleen Gardner

i. Complimentary and Disciplinary History

1 2019 Crime Reduction Award, 2 Department Commendations, 18 Honorable Mention, and 2 Life Saving Awards. Officer Gardner has no disciplinary history.

ii. Recommended Discipline

COPA has considered Officer Gardner's complimentary and disciplinary history. COPA has considered the totality of the circumstances in this case. Officer Gardner related that she was knowledgeable of the General Orders pertaining to this case. However, Officer Gardner still failed to adhere to the General Orders and Department Rules and took no accountability for her actions. COPA recommends a suspension of up to 30 days and De-escalation Training.

Approved:

[REDACTED]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

February 26, 2024

Date

⁸ Att. 76

Appendix A**Case Details**

Date/Time/Location of Incident:	February 24, 2023, 3:00 PM, 2731 W. 72 nd Street
Date/Time of COPA Notification:	February 26, 2023, 11:21 AM
Involved Member #1:	Colleen Gardner, Star #6115, employee # [REDACTED] Date of Appointment: June 25, 2018, Unit of Assignment, 007 th District Station, Female/White
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

- G03-02, De-escalation, Response to Resistance, and Use of Force, April 15, 2021, to June 28, 2023.
- Special Order S03-14, Body Worn Cameras, April 30, 2018, 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.⁹ 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.”¹⁰

⁹ 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).

¹⁰ *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