



Log # 2022-5240

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On December 10, 2022, the Chicago Police Department's Crime Prevention and Information Center (CPIC) notified the Civilian Office of Police Accountability (COPA) of an officer-involved shooting that occurred at approximately 7:33 pm.² The incident, captured on body worn camera, began when ██████ took multiple people hostage at two different locations located at ██████ and ██████. Following multiple 911 calls, Officer Emmanuel Garcia and Officer Wilmer Hernandez arrived at the scene where they eventually encountered ██████ inside ██████. ██████ who was holding a woman hostage inside ██████, lunged at Garcia with a large kitchen knife, stabbing him multiple times. Garcia discharged his firearm, striking and wounding ██████

Upon review of the evidence, COPA served no allegations for Officers Garcia and Hernandez. However, COPA did serve an allegation on responding Officer Kevin Taylor for failing to render medical aid to ██████. Following its investigation, COPA reached a **Not Sustained** finding for Officer Taylor.

II. SUMMARY OF EVIDENCE³

On the evening of December 10, 2022, the occupants of ██████ held a party at their house. At some point, one of the participants, ██████ barricaded himself inside a bedroom with the homeowner, ██████⁴ ██████ eventually exited the house through the bedroom window, then ran across the street. ██████ briefly attempted to gain entry of ██████ before eventually breaking through the front window into the living room.⁵ Inside, ██████ brandishing a large knife, encountered ██████ and relocated to the back bedroom where he held ██████ hostage.⁶

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 Pursuant to §2-78-120 of the Chicago Municipal Code, COPA has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm. Therefore, COPA determined it would be the primary administrative 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 BWC footage, neighborhood surveillance cameras, 911 calls and radio transmissions, Chicago Police Department (CPD) official reports, ISP reports, Inventoried Evidence Reports, witness interviews, and Department member statements.

⁴ Att. 4, Interview with ██████ and Att 6. Interview with ██████

⁵ Att. 33, Interview with ██████

⁶ Att. 33.

At approximately 7:31 pm, FTO Garcia and Officer Hernandez arrived outside ██████████ following several 911 calls for service.⁷ Officers spoke with ██████████ son outside of ██████████ who said ██████████ was “tweaking out ... going crazy in his head,” and he had jumped out a window and broken into the house across the street.⁸ While talking to the people at ██████████ officers heard loud calls for help from across the street and were flagged down by a man in a white jacket who informed them someone broke into ██████████.⁹ Officers entered through an open front door and moved to the back bedroom.¹⁰ Officer Hernandez was able to see through an opening in the closed bedroom door that ██████████ was holding a young woman, ██████████ hostage.¹¹ Officer Hernandez attempted to open the door but there was a dresser barricading it.¹² Both Officers Hernandez and Garcia repeatedly announced their presence and commanded ██████████ to open the door, but ██████████ refused.¹³ Officer Hernandez pushed the door open and with his taser drawn he directed ██████████ to release the woman.¹⁴ After several failed attempts to order ██████████ to release the woman, Officer Hernandez successfully pulled her away from ██████████. At this point, officers realized ██████████ was hiding a large knife underneath ██████████.¹⁵

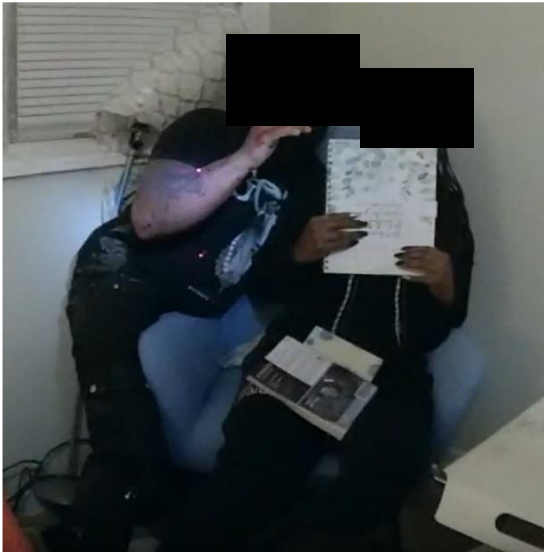


Figure 1: ██████████ at 5:18 in Hernandez BWC with knife concealed under ██████████



Figure 2: ██████████ at 5:25 in Hernandez BWC with knife visible.

Officers removed ██████████ from the room and ordered ██████████ to drop the knife.¹⁶ At this point, Officer Garcia had drawn his firearm and Officer Hernandez still had his taser out. As ██████████ continued to ignore the officers’ commands, Officer Hernandez announced “taser, taser, taser,”

⁷ Att. 4, OEMC Event Query.

⁸ Att. 10, Garcia BWC at 5:10.

⁹ Att. 10, at 5:10 to 6:10.

¹⁰ Att. 10, at 6:10 to 6:16.

¹¹ Att. 11, Hernandez BWC at 4:57.

¹² Att. 11, at 5:05.

¹³ Att. 11, at 5:05.

¹⁴ Att. 11 at 5:15.

¹⁵ Att. 11, 5:17 to 5:26.

¹⁶ Att. 11, at 5:30.

and discharged his taser in the direction of ██████¹⁷ ██████ largely unaffected, got up and immediately lunged at Officer Garcia with the knife in his right hand.¹⁸ ██████ narrowly missed Officer Garcia's face, broke Officer Garcia's glasses, and stabbed him three times, once in the ear, shoulder, and arm.¹⁹ Simultaneously, Officer Garcia discharged his firearm four times, neutralizing the threat and protecting himself, his partner, and ██████ in the other room.²⁰

Officer Garcia secured ██████ on the ground and handcuffed him while Officer Hernandez provided cover.²¹ Officer Hernandez called for an ambulance for ██████ and informed OEMC that Officer Garcia may have been stabbed.²² Officer Hernandez told ██████ help was on the way and asked him where he was hit.²³ Officers Hernandez and Garcia then checked on ██████ to make sure she was unharmed.²⁴ At approximately 7:35 pm, Officer Taylor arrived to the back bedroom where he found Officer Garcia wounded and in shock outside of the back bedroom.²⁵ He also found Officer Hernandez "in shock, just ... frozen."²⁶ Officer Taylor reported seeing two loose knives on the floor of the back bedroom near ██████²⁷

As one of the first officers on scene, Officer Taylor told COPA his first priority was to secure the scene and ensure everyone was okay.²⁸ Officer Taylor's partner, Officer Gabriel Rodriguez, attended Officer Garcia while Officer Taylor helped Officer Hernandez secure ██████²⁹ Officers Taylor and Hernandez repeatedly told ██████ that an ambulance was on the way and attempted to clear a path so EMTs could get to ██████³⁰ ██████ called out for CPR but with gunshot wounds to his abdomen, officers opted to wait for the ambulance to arrive.³¹ Indeed, Officer Taylor told COPA he had not received training from CPD on how to treat gunshot wounds to the abdomen.³² Furthermore, Officer Taylor was only equipped with a chest seal and tourniquet that night; neither can be used to address a gunshot wound to the abdomen.³³ Three minutes later, at approximately 7:38 pm, Sgt. Michael Malinowski arrived and took control of the scene.³⁴ Sgt.

¹⁷ Att. 11, at 5:34; Att. 63, Taser Download PO Hernandez.

¹⁸ Att. 11, at 5:34.

¹⁹ Att. 11, at 5:30 to 5:44.

²⁰ Att. 11, at 5:30 to 5:44.

²¹ Att. 11, at 5:40 to 5:50.

²² Att. 11, at 6:04.

²³ Att. 11, at 6:27.

²⁴ Att. 11, at 6:50.

²⁵ Att. 15, Taylor BWC at 2:30; and Att. 66, Taylor Transcript, Pg. 9, Lns. 7-11.

²⁶ Att. 15, Taylor BWC at 2:30; and Att. 66, Taylor Transcript, Pg. 9, Lns. 7-11.

²⁷ Att. 66, Pg. 8, Lns. 19-21.

²⁸ Att. 66, Pg. 9, Lns. 16-17. Note: Officer Taylor's partner that night was PO Gabriel Rodriguez #12737.

²⁹ Att. 15, at 2:20 – 5:30.

³⁰ Att. 11, at 8:47.

³¹ Att. 11, at 9:36.

³² Att. 66, Pg. 12, Lns. 3-18.

³³ Att. 66, Pg 10, Lns. 10-14, and Pg. 12, Lns. 3-4.

³⁴ Att. 15, at 5:30 to 12:24.

Malinowski helped ██████ get comfortable while he waited for the ambulance.³⁵ At approximately 7:45 pm, EMTs arrived to the scene and took over care for ██████³⁶

██████████ was transported to University of Chicago Hospital for treatment by CFD Ambulance #60.³⁷ ██████ sustained two gunshot wounds to the upper abdomen, two gunshot wounds to the right elbow, and an abrasion to the right chest from the Taser prongs.³⁸ ██████ ██████ was arrested and charged with attempted murder of a Chicago Police Officer.³⁹

Officer Garcia sustained lacerations to his left shoulder and left ear. He was transported to Christ Medical by CFD Ambulance #29.⁴⁰ Officer Hernandez was transported to Christ Medical by CPD Beat 561A after he experienced trouble breathing.⁴¹

Evidence Technicians (ETs) recovered the following from the back bedroom of ██████ ██████ one (1) 9-inch-long carving knife, one (1) 8-inch-long bread knife, four (4) Win 9mm Luger +P casings, and one spent Taser cartridge, one live Taser cartridge, and Taser wires.⁴²

ETs processed Officer Garcia's firearm at the Area Two Detective Division.⁴³ Officer Garcia's Glock 17 Gen 4, 9mm semi-automatic handgun, appeared to have malfunctioned as it had not fully cycled after discharge.⁴⁴ ETs recovered two rounds jammed in the chamber, and 12 in the magazine, all Win 9mm Luger +P.⁴⁵

III. ALLEGATIONS AND FINDINGS

Officer Kevin Taylor

1. Failing to render medical aid to ██████
- **Not Sustained**

Officers Emmanuel Garcia and Wilmer Hernandez

Pursuant to section 2-78-120 of the Municipal Code of Chicago, COPA has a duty to investigate all incidents in which a CPD member discharges their firearm. During its investigation of this incident, COPA did not find evidence to support allegations related to Officer Garcia's firearm discharge or Officer Hernandez's use of a Taser.

³⁵ Att. 15, at 5:30 to 12:24.

³⁶ Att. 15, at 12:24.

³⁷ Att. 62, Case Supplementary Report.

³⁸ Att. 62; See also Att. 64, UChicago's Denial of COPA's medical records request.

³⁹ Att. 20, ██████ Arrest Report.

⁴⁰ Att. 62.

⁴¹ Att. 62.

⁴² Att. 62.

⁴³ Att. 53, COPA OIS Notification Email.

⁴⁴ Att. 62; see also Att. 53.

⁴⁵ Att. 62; see also Att. 53.

IV. CREDIBILITY ASSESSMENT

The credibility of an individual relies 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 to accurately perceive the event at the time of the incident and then accurately recall the event from memory. The investigation did not reveal evidence that caused COPA to question the credibility of any of the involved individuals.

V. ANALYSIS AND CONCLUSION

a. Officer Garcia's Use of Force was within Policy

COPA finds by a preponderance of the evidence that the use of deadly force by FTO Garcia was objectively reasonable, necessary, and proportional to the circumstances he faced. COPA further finds that both Officers Garcia and Hernandez engaged in de-escalation tactics as required by CPD policy prior to using deadly force. Specifically, officers communicated extensively with ██████ and attempted to stabilize the situation by using as much time, distance, and tactical positioning as possible given the circumstances. COPA further finds that FTO Garcia used deadly force as an option of last resort as ██████ was charging him brandishing a large knife. COPA thus concludes by a preponderance of the evidence that FTO Garcia's use of deadly force complied with CPD policy.

CPD's stated highest priority is the sanctity of human life. In all aspects of their conduct, CPD expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.⁴⁶ CPD members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack, make an arrest, control a subject, or prevent escape.⁴⁷ This means that CPD members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.⁴⁸ Furthermore, the use of deadly force is permitted only as a "last resort" when "necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."⁴⁹ Indeed, CPD members may use deadly force in only two situations: (1) to prevent "death or great bodily harm from an imminent threat posed to the sworn member or to another person;" or (2) to prevent "an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay."⁵⁰

⁴⁶ Att. 68, G03-02(II)(A), De-escalation, Response to Resistance, and Uses of Force (effective April 15, 2021 to June 28, 2023).

⁴⁷ Att. 68, G03-02(III)(B).

⁴⁸ Att. 68, G03-02(III)(B)(3).

⁴⁹ Att. 68, G03-02(IV)(C).

⁵⁰ Att. 68, G03-02(IV)(C)(1-2).

In this case, FTO Garcia resorted to the use of deadly force only after officers attempted to de-escalate, removed the civilian from any danger, and even used a less deadly option (Officer Hernandez deploying his Taser) to resolve the issue. However, ██████ refused to comply with the officers and chose to escalate the situation by charging FTO Garcia with a large knife in his hand. FTO Garcia responded the only way he could, by using his service weapon to prevent “death or great bodily harm from an imminent threat” to himself and likely his partner, Officer Hernandez. Officers Garcia and Hernandez acted heroically that night, ensuring the safety of themselves, ██████ and other innocent civilians in the area. Therefore, COPA finds Officers Garcia and Hernandez’s use of force was within CPD policy.

b. Rendering Medical Aid to ██████

COPA finds Allegation 1 that Officer Kevin Taylor failed to render medical aid is **Not Sustained**. CPD General Order G03-06 states in part, a CPD member responding to the scene of an officer-involved firearm discharge will request medical attention, “as soon as it is safe and feasible to do so,” provide “lifesaving aid consistent with their Department training.”⁵¹ It further states, CPD members “may provide appropriate medical care consistent with their training,” which may include “providing first aid and/or arranging for transportation to an emergency medical facility.”⁵² In this case, Officer Taylor arrived on scene approximately two minutes after Officer Garcia was stabbed and discharged his weapon.⁵³ When Officer Taylor arrived, he found Officer Garcia wounded and Officer Hernandez “in shock,” and “frozen.”⁵⁴ Officer Taylor told COPA his priority was to secure the scene and ensure everyone was okay. He also told COPA he heard over the radio that an ambulance had been called for ██████ so he knew one was en route. After securing the scene, Officer Taylor inspected where ██████ was wounded and announced it was a gunshot to his abdomen. Officer Taylor told COPA he’s received LEMART training but had not received specific training from CPD on how to treat a gunshot wound to the abdomen.⁵⁵ Furthermore, he was only equipped with a tourniquet and a chest seal that night, and neither option is appropriate for a wound to the abdomen. Approximately three (3) minutes later, Sgt. Malinowski arrived and took control of the scene.

Because Officer Taylor knew an ambulance was on its way, it’s likely he chose to let medical professionals attend to ██████ rather than rely on his limited or lack of training, potentially making matters worse. However, COPA lacks clear and convincing evidence to say whether Officer Taylor acted properly in not rendering medical aid to ██████. Therefore, COPA finds Allegation 1 is **Not Sustained**.

⁵¹ Att. 67, G03-06 (VI)(D)(1), Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective April 15, 2021 to present).

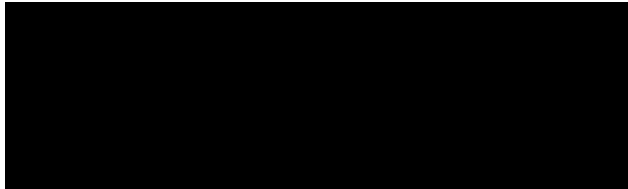
⁵² Att. 67, G03-06 (VI)(D)(1)(a).

⁵³ See Att. 10, Officer Garcia discharged at approx. 7:33:45 pm; and Officer Taylor arrived on scene at approx. 7:35:10.

⁵⁴ Att. 15, Officer Taylor BWC at 2:30; and Att. 66, Officer Taylor Transcript, Pg. 9, Lns. 7-11.

⁵⁵ Law Enforcement Medical and Rescue Training (LEMART) is an 8-hour course taught by CPD and CFD training personnel.

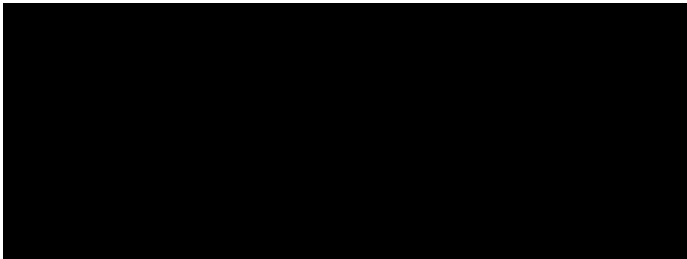
Approved:



5-31-2024

Angela Hearts-Glass
Deputy Chief Administrator- Chief Investigator

Date



5-31-2024

Andrea Kersten
Chief Administrator

Date

Appendix ACase Details

Date/Time/Location of Incident:	December 10, 2022 / 7:33 pm / [REDACTED], [REDACTED]
Date/Time of COPA Notification:	December 10, 2022, 7:55 pm
Involved Officer #1:	Emmanuel Garcia, Star #19038, Employee ID # [REDACTED], Date of Appointment: February 20, 2018, Unit 005, Male, White Hispanic
Involved Officer #2:	Wilmer Hernandez, Star #11216, Employee ID # [REDACTED], Date of Appointment: April 10, 2010, Unit 005, Male, White Hispanic
Involved Officer #3:	Kevin Taylor, Star #17121, Employee ID # [REDACTED] Date of Appointment: April 6, 2015, Unit 005, Male, 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

- General Order 03-02, De-escalation, Response to Resistance, and Use of Force (effective April 15, 2021, to June 28, 2023).
- General Order 03-02-01, Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023).
- General Order 03-06, Firearm Discharge and Officer Involved Death Incident Response and Investigation (effective April 15, 2021, 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 allegation 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.⁵⁶ 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.”⁵⁷

⁵⁶ 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).

⁵⁷ *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 Information**

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