

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

| | |
|----------------------------|--|
| Date of Incident: | January 4, 2020 |
| Time of Incident: | Approximately 3:39 p.m. |
| Location of Incident: | 2669-2701 E. 79 th Street (on the sidewalk) |
| Date of COPA Notification: | January 4, 2020 |
| Time of COPA Notification: | Approximately 4:11 p.m. |

Chicago Police Department (Department) Officer Antar Khan and Officer Bibiana Ruiz were on routine patrol and responded to a call of a robbery. While patrolling the area of incident, a citizen¹ flagged them down to report they were robbed at knife point while inside the store. Those individuals described the alleged perpetrator as a black male with a black fur coat and a knife, now known to be ██████████. Officers Khan and Ruiz drove around the area of the alleged robbery, looking for a man matching the description. As Officer Khan drove northbound on Marquette Avenue, he looked east onto 79th Street and observed ██████████ on the north sidewalk. Officer Khan approached ██████████ with the police vehicle and with their emergency lights activated. ██████████ ran east on 79th Street, north onto Burnham Avenue and then quickly turned back around to run west on 79th Street.

Subsequently, Officers Khan and Ruiz exited their vehicle² and engaged in a foot pursuit. ██████████ ran westbound on 79th Street with a knife in one hand and a glass bottle in the other. While in pursuit, Officer Khan pointed his firearm in the direction of ██████████ and both officers yelled verbal commands for ██████████ to stop, but he did not comply. ██████████ arrived at the southeast corner of 79th Street and Marquette Avenue in front of Margarita's Meat Market.³ ██████████ then began to waive his knife and glass bottle towards the officers. Officer Ruiz and Officer Khan positioned themselves at a distance from ██████████ while facing his direction. Officer Ruiz deployed her taser one time towards ██████████ but it was ineffective. At that time, ██████████ moved towards Officer Ruiz while waving the knife and bottle in her direction as she simultaneously moved backwards and ineffectively tased ██████████ a second time. ██████████ continued to advance towards Officer Ruiz, swinging the knife and bottle, at which time Officer Khan fired at ██████████ three (3) times, in a southeast direction, and struck him. ██████████ fell facedown onto the sidewalk while still holding up the knife and bottle. Officers removed both weapons from his person and Officer Khan provided medical aid. ██████████ was transported to University of Chicago Medical Center where he succumbed to his wounds, one (1) gunshot wound to his left chest and one (1) gunshot wound to his left back shoulder area.

¹ According to CPD Detective Supplementary Reports, CMS Atts. #101, 102 the citizen is ██████████. She did not witness the officer involved shooting incident.

² Their vehicle was stopped and left on Burnham Avenue, off of 79th Street and facing northbound.

³ 2701 E. 79th Street. This location was also identified as a corner store during statements taken throughout the course of this investigation.

II. INVOLVED PARTIES

| | |
|-------------------------|--|
| Involved Officer #1: | KHAN, Antar A.; star #15274, employee ID # [REDACTED], Date of Appointment: October 31, 2016, Police Officer, Unit 004 - Beat 400D, DOB: [REDACTED], 1979, Black male, On duty |
| Involved Officer #2: | RUIZ, Bibiana; star #17916; employee ID # [REDACTED]; Date of Appointment: October 31, 2016, Police Officer, Unit 004 – Beat 400D, DOB: [REDACTED], 1992; Hispanic female, On duty |
| Involved Individual #1: | [REDACTED] DOB: [REDACTED], 1993, Black male |

III. ALLEGATIONS

Pursuant to section 2-78-120(d) of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has the duty to investigate incidents, including those in which no allegation of misconduct is made, where a person dies as a result of police actions, such as during attempts to apprehend a suspect. COPA is also required to conduct investigations for all “officer-involved” deaths under the Police and Community Relations Improvement Act.⁴ “Officer-involved death,” as defined in that statute, “includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend.”⁵ As a result of its investigation, COPA made the following allegations and findings:

| Officer | Allegation | Finding / Recommendation |
|------------------------------|--|---------------------------------------|
| Officer Antar A. Khan #15274 | <p>It is alleged by the Civilian Office of Police Accountability that on or about January 4, 2020 at approximately 3:39 p.m., in the area of 2701 E. 79th Street:</p> <ol style="list-style-type: none"> Officer Antar A. Khan fired his weapon into a building occupied by one or more persons who would be at risk of injury or death. Officer Antar A. Khan used disrespectful language towards [REDACTED] including words to the effect of “come on mother fucker;” and/or “do you wanna get shot, get the fuck on the ground dude;” and/or “you can’t outrun me, mother fucker.” | <p>NOT SUSTAINED</p> <p>SUSTAINED</p> |

⁴ 50 Illinois Compiled Statutes (“ILCS”) 727.

⁵ 50 ILCS 727/1-5

IV. APPLICABLE RULES AND LAWS

General Orders⁶

1. G03-02: Use of Force (Eff. Oct. 16, 2017 to Feb. 28, 2020)
2. G03-02-02: Force Options (Eff. Oct. 16, 2017 to Feb. 28, 2020).
3. G03-02-03: Firearms Discharge Incidents Involving Sworn Members (Eff. Oct. 16, 2017 to Feb. 28, 2020)
4. G03-02-04: Taser Use Incidents (Eff. Oct 16, 2017 to Feb. 28, 2020).

V. INVESTIGATION⁷

a. Digital Evidence

i. Video Evidence

Portable Observation Device (POD) video #7159⁸ at the intersection of 79th Street and Marquette Avenue depicts a clear view of the incident. The video begins facing eastbound on 79th Street. At approximately 8 seconds, a male wearing all black, now known to be ██████ (█████ runs southbound on Marquette Avenue and eastbound on 79th Street. At 17 seconds into the video, a marked police vehicle drives northbound on the southside of Marquette Avenue and turns right, facing eastbound on 79th Street. The police vehicle activates its blue lights and appears to drive parallel alongside ██████ who is jogging on the north sidewalk. The police vehicle maneuvers around parked cars. ██████ turns northbound on Burnham Avenue and the police vehicle follows.

At 1 minute and 3 seconds into the video, the video depicts a distant view of ██████ running westbound on 79th Street on the north sidewalk. A male black plain-clothed officer and a female Hispanic plain-clothed officer, now known respectively as Officers Khan and Ruiz, run after ██████ holds a knife in his right hand and a glass object, now known to be a Hennessy glass bottle, in his left hand while running and at times looking behind him. Officer Ruiz holds a yellow taser in her right hand and Officer Khan holds a firearm with a flashlight in his right hand. At approximately 1 minute and 17 seconds into the video, while running on the north sidewalk ██████ turns the upper part of his body to his left and appeared to quickly point his knife towards Officer Khan in a swinging motion. Officer Khan responds by pointing his firearm in the direction of ██████

⁶ Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.” Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/directives/> (last accessed July 8, 2021).

⁷ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis. A list of non-material evidence that COPA reviewed in the course of its investigation is attached to this report as Appendix B.

⁸ Att. 97.



Figure 1: POD Video #7159. The video depicts a foot pursuit.

Subsequently, [REDACTED] ran in a southwest direction and crossed over to the south side of 79th Street. Officer Khan continued to point his firearm towards [REDACTED] while in pursuit. The video depicts [REDACTED] approaching the southeast corner, in front of Margarita's Meat Market.⁹ On several occasions [REDACTED] turned his body towards and then away from the officers, while at times pointing his knife or bottle in their direction (Figure 1). Officer Ruiz pointed her taser towards [REDACTED]

At approximately 1 minute and 49 seconds into the video, [REDACTED] stood in front of the entrance of Margarita's Meat Market while extending his left arm holding a bottle, in a northeast direction towards Officer Ruiz. He suddenly jumped back, reached both arms towards his chest¹⁰ and quickly took a few steps further southbound on the east sidewalk of Marquette Avenue. Officer Ruiz is observed in and out of camera view advancing towards [REDACTED] from a distance.

At approximately 1 minute and 51 seconds, [REDACTED] faced Officer Ruiz, with both the knife and bottle raised and pointed in her direction. He ran towards her while simultaneously swinging both the knife and bottle in her direction. Officer Ruiz took steps backwards while still pointing the taser towards [REDACTED]. While running, [REDACTED] appeared to use his raised right arm in a blocking motion.¹¹ As [REDACTED] runs towards Officer Ruiz, Officer Khan pointed his firearm, in a southeast direction, towards [REDACTED] as he ran past the front entrance of Margarita's. Officer Khan appeared to slightly advance towards [REDACTED] who continued to run towards Officer Ruiz while swinging a knife and bottle in each hand. At approximately 1 minute and 53 seconds into the video, [REDACTED] is observed falling to the ground face down.¹²

⁹ Also identified as the corner store located at 2701 E. 79th Street.

¹⁰ It appears to COPA that this was response to Officer Ruiz deploying her Taser.

¹¹ It appears to COPA that this was in response to Officer Ruiz' second taser deployment.

¹² It appears to COPA that this was in response to being struck by Officer Khan's firearm discharge.



Figure 2: POD video #7159. [REDACTED] running towards Officer Ruiz as she deployed her taser and Officer Khan fires in the direction of [REDACTED]

After [REDACTED] fell to the ground, a male Hispanic, plain-clothed officer, now known as Officer Delgado, appeared in the camera view. All three officers surrounded [REDACTED] had his chest slightly lifted off the ground while propped up on his elbows and/or forearms. While looking at the officers, [REDACTED] slightly swung the knife with his right hand and held up the bottle with his left hand. After a few seconds, [REDACTED] chest and head lay closer to the ground. A male black officer in plain-clothes, now known as Officer Charles Turnage, approached the scene and is observed holding back an unknown, black male civilian who appeared to come out of the front entrance of Margarita's.

Subsequently, the officers place [REDACTED] in custody. Officer Khan attempts to render aid to [REDACTED]. Unknown civilians begin to converge into the area and multiple responding police units arrive to the scene. An ambulance arrives and scene and officers cordon off the area with red tape.

Video Surveillance Footage¹³ from Margarita's Meat Market at 2701 E. 79th Street and **Margarita's Pizzeria,¹⁴** at 2709 E. 79th Street, which is a separate entrance from the Meat Market, shows multiple angles inside and outside the premises.

Interior Camera 7 depicts the inside of the front glass door and a partial view of the front store area of Margarita's Meat Market. An unknown Hispanic male clerk, now known to be [REDACTED] and an unknown large black male were speaking to each other near the front desk area. [REDACTED] feet can be seen moving past the doorway, but initially [REDACTED] and the other man seem

¹³ Video Surveillance Footage from **Dollar General**, Att. 105-108, and **Family Dollar**, Att. 145-147 do not depict the incident. However, the video surveillance depicts event surrounding the incident including, but not limited to, responding police vehicles after the incident. In addition, video surveillance from **Sudz Coin Laundromat**, Att. 109-115, does not depict the incident with the exception of Camera 13, between 15:34 and 15:41 hours which captures a distant view of the incident which corroborates what is depicted in the POD video and BWCs of the involved officers

¹⁴ Att. 116 – 144. Information obtained throughout the investigation is incorporated in the video summarization to identify parties and actions that are not available solely from the video.

unaware of what is going on outside. As Officer Ruiz comes into view, with her Taser pointed, the men seem to become aware. The unknown black male slowly takes 2-3 steps towards the door. As he approaches, [REDACTED] quickly moves into view moving from left to right, and the glass door shatters after being hit by Officer Khan's gunshot.¹⁵ At the time the glass shattered, the unknown black male was standing a few feet away from the inside of the front door and slightly to the west of the door, while looking outside.¹⁶ Following the shot, the male ran further inside of the store. A few seconds later, he goes outside, speaks to an officer, and does not return.

COPA received and reviewed **Body Worn Camera (BWC)**¹⁷ from seventy-two CPD members depicting the aftermath of the incident or unrelated video footage. The BWC of Officer Khan and Officer Ruiz depicts the moments directly before and during the taser discharge and shots fired incident and is consistent with the POD video.

The **BWC of Officer Khan**¹⁸ began with the officers riding in the vehicle westbound on 79th Street. They stopped in front of the Horizon Plaza shopping center (which contains the Family Dollar at 79th and Marquette). After being stopped for about ten seconds, Officer Khan activated his BWC, and his audio began with him asking someone outside the vehicle who cannot be seen (now known to be [REDACTED]) "he went south?", and their vehicle accelerated.¹⁹ They drove as police dispatch informed them of the reports of a robbery at the dollar stores. After this report, Officer Khan said to Officer Ruiz, "...he said he's kinda slow, maybe mentally but you be like well what the fuck does that mean."²⁰

As the vehicle appears to be returning to 79th and Marquette, Officer Khan says, "right here," and speeds east on 79th Street. They begin to pull up next to [REDACTED] and Officer Khan says, "he's got a knife in his hands." At T21:34:51z²¹, upon encountering [REDACTED] Officer Khan opened the driver's side door of his vehicle while coming to a stop but then proceeded to drive. Officer Khan announced that [REDACTED] had a knife in his hand. Seconds later, while slowly driving, Officer Khan slightly opened his driver's side door and stated, "let me see your fucking hands." At T21:35:24z, Officer Khan stopped the vehicle, exited and began chasing [REDACTED] who was now running back westbound on 79th Street. At T21:35:30z, Officer Khan stated, "come on motherfucker, let's go," While running after [REDACTED] with his weapon drawn, Officer Khan stated, "do you wanna get shot? get the fuck on the ground dude." At T21:35:53z, as the foot pursuit continued westbound, Officer Khan stated, "you can't outrun me, mother fucker." Nearly the entire time Officer Khan was chasing [REDACTED] westbound, he had his arms fully extended with his gun pointed at [REDACTED]. In addition, upon arriving to the southeast corner of 79th Street and Marquette Avenue, the video partially depicts [REDACTED] at times pointing his knife towards the direction of Officer Khan. The video captures Officer Ruiz commanding [REDACTED] to get down and then deploying her taser at [REDACTED] which appeared ineffective.

¹⁵ Att. 125, at 15:39:40, as time-stamped in the video.

¹⁶ At 15:39:41 hours as time-stamped in the video.

¹⁷ Att. 82, 149.

¹⁸ Att. 98.

¹⁹ Att. 98 @ 2:00.

²⁰ *Id.* at 3:10.

²¹ This timestamp is depicted on the video and is known as "zulu" time or Universal Coordinated Time (UTC), which is six hours ahead of Central Standard Time.



Figure 3: BWC from Officer Khan. [REDACTED] observed facing eastbound in front of Margarita's Meat Market, 2701 E. 79th Street.



Figure 4: BWC from Officer Khan that depicts time of first shot fired. Partial view of person inside of Margarita's Meat Market.

At T21:36:15z, the video depicts [REDACTED] running towards Officer Ruiz while swinging his knife and bottle. (Figure 3). One second later, At T21:36:16z, the video depicts Officer Khan pointing his weapon at [REDACTED] with a two-hand grip as the sound of three rapid gunshots are heard. (Figure 4). Officer Khan's gun is raised slightly above the view of the camera and therefore, no muzzle flashes are observed, however, the video captures the sound of shots being fired as [REDACTED] ran past the front entrance of Margarita's Meat Market towards Officer Ruiz. At the time of the first shot, a partial view of a person's leg can be seen inside Margarita's Meat Market. (Figure 4).



Figure 5: BWC from Officer Khan. Partial view of person inside of Margarita's Meat Market.

As [REDACTED] moved further eastbound past the front glass door of Margarita's, the video depicts what appears to be a partial view of an unknown person inside of the store. (Figure 5). Subsequently, [REDACTED] fell face down to the ground. Officer Khan calls over the radio for EMS.

The **BWC of Officer Ruiz**²² depicts the incident similarly to that of Officer Khan. In addition, during the foot pursuit portion of the incident, Officer Ruiz repeatedly yelled "put it down." When he reached the southeast corner of 79th and Marquette Avenue, [REDACTED] stopped, and turned back to face Officer Ruiz. At this time, she shouted for him to "get down" multiple times.²³ at T21:36:12z [REDACTED] walked closer towards Officer Ruiz and pointed a bottle in her direction while at times slightly swinging his knife with his right hand near his lower right side. Officer Khan stood on and near the southeast corner of the intersection while facing [REDACTED] with his firearm pointed in [REDACTED] direction while at a distance. At this time, Officer Ruiz deployed her taser at [REDACTED] who responded by slightly retreating south onto Marquette Avenue.

²² Att. 99.

²³ Att. 99 at 5:20.



Figure 6: BWC from Officer Ruiz. [REDACTED] moving towards Officer Ruiz at approximately the moment Officer Khan fired his first shot.

At T21:36:16z, [REDACTED] moved back onto 79th Street and began to run east towards Officer Ruiz while swinging his knife and bottle at her. Officer Ruiz simultaneously retreated with her taser extended towards [REDACTED] and repeatedly yelled “taser deployed.”²⁴ As [REDACTED] ran towards Officer Ruiz three shots are heard.²⁵ [REDACTED] then fell face down onto the sidewalk.

In a CPD **Electronic Recorded Interview (ERI)**²⁶ of witness [REDACTED] she stated that on the date, time, and location of incident, she had witnessed [REDACTED] rob a white female, now known to be [REDACTED] inside of the Dollar General. [REDACTED] was holding a bottle during the time of the robbery and threatened to use it on the female. [REDACTED] then exited the store and two employees followed him out. [REDACTED] called 911 and reported the robbery. She also heard an employee state that [REDACTED] had a knife. [REDACTED] completed her purchase at the store and proceeded to walk towards the bus stop at which time she observed a police vehicle pull up to the corner of 79th and Marquette Avenue, near Margarita’s store. [REDACTED] observed [REDACTED] with the knife, which she described as large and believed it to be a “machete.”²⁷ She heard the officers, described as one male officer and one female officer, tell [REDACTED] to drop the weapon. She observed the female officer tase [REDACTED] but it was ineffective. [REDACTED] still had his weapons and advanced towards the female officer as the male officer was telling him to drop the weapon. [REDACTED] stated that the male officer pulled out his weapon and had to shoot [REDACTED]

In a CPD **ERI**²⁸ of witness [REDACTED] she stated that on the date of incident, she was inside of the Dollar General store when she was robbed by a black male, now known to be [REDACTED] who grabbed money out of her hand while she was at the cash register. She attempted to reach for her money back and [REDACTED] threatened her with an empty liquor bottle. [REDACTED] proceeded to leave,

²⁴ While it is not clearly depicted on the video, it was about this time that Officer Ruiz deployed her taser a second time.

²⁵ The shots fired by Officer Khan are not clearly observed as Officer Ruiz was moving.

²⁶ Att. 86.

²⁷ Att. 86, 6:42 into ERI.

²⁸ Att. 85.

and two employees followed him out. She learned that he displayed a knife at the employees. [REDACTED] also exited the store and flagged down CPD officers, now known to be Officers Khan and Ruiz, to tell them she was robbed; she provided a description of [REDACTED] and his direction of flight. She reentered the store and shortly thereafter came back outside. She observed [REDACTED] in front of Margarita's store with officers telling him to "get down on the ground, put the knife down."²⁹ She described that [REDACTED] was "swinging"³⁰ the knife around. She then heard three (3) gunshots and [REDACTED] fell to the ground. She went back inside of the store. She did not witness the shots being fired and only heard them.

ii. Audio Evidence

Office of Emergency Management Communication (OEMC) 911 calls, Radio transmissions³¹ and Event Queries³² document the following relevant and material communications. At 3:25 p.m.,³³ a female 911 caller requested police assistance at the Family Dollar to report that the male who robbed a lady, approximately one-hour prior, was outside in the parking lot. She described the male as wearing a black coat with fur around the hood and he had a knife. At 3:30 p.m., a second female caller reported that a man robbed a woman at the Dollar General at 79th and Marquette. He walked out of the store with an empty Hennessey bottle and a knife.

In a Zone 8 CPD Transmission, beginning at 3:32 p.m., Officer Ruiz announced Beat 400D and requested dispatch to put them on the job at the Family Dollar on 79th. Dispatch reported a male black robbed the dollar store with an empty Hennessey bottle and was armed with a knife. At approximately 2 minutes and 49 seconds into the audio, Officer Ruiz announced "emergency," "...79th and Burnham, male running eastbound, northbound, he's got a knife in his hand." Officer Ruiz continued to provide direction of travel. At approximately 4 minutes and 15 seconds into the audio, Officer Ruiz was yelling indecipherably. At approximately 4 minutes and 20 seconds, a male voice, now known to be Officer Khan, was heard repeatedly yelling "shots fired" and was overlapped by a second male voice who stated, "shots fired by the police." A request for EMS was made. The remainder of the audio consisted of police response and scene management.

b. Interviews

i. Police Officers

In separate statements to COPA on January 23, 2020, witness **Officers Enrique Delgado-Fernandez³⁴ and Charles Turnage³⁵** stated that on the date and time of incident they were on-

²⁹ Att. 85, 3:42 into ERI.

³⁰ Att. 85, 3:55 into ERI.

³¹ Att. 87-93.

³² Att. 17.

³³ The times depicted in the 911 calls and CPD transmissions were in military time and have been modified for consistency throughout the report.

³⁴ Att. 28, 29.

³⁵ Att. 30, 31.

duty, assigned to Unit 312 Area South Gangs,³⁶ Beat 6726, were in plain-clothing and assigned an unmarked police SUV.

The statements of Officer Delgado and Officer Turnage are consistent with each other and are consistent with the video footage of the shooting incident. Both officers stated that while on routine patrol of the 4th district, they heard a radio call from a female officer announcing a male with a knife at 79th and Marquette Avenue. Officer Turnage stated that he also heard a male officer over the radio, and simultaneously Officers Khan and Ruiz announced the path of flight of [REDACTED] as he was running. Officers Delgado and Turnage drove to the location of incident with their emergency equipment activated. Upon arriving at the location of incident, while driving eastbound on 79th Street, both officers stated that they observed [REDACTED] with a knife in his right hand and a bottle in his left hand. [REDACTED] was running westbound on 79th Street and arrived at the southeast corner of 79th Street and Marquette Avenue, where [REDACTED] turned south, as Officers Khan and Ruiz were behind him.

According to Officer Delgado, [REDACTED] was running southbound on Marquette Avenue when Officer Delgado exited his police vehicle at which time it appeared that [REDACTED] saw him, turned around, ran northbound and then east on 79th Street towards Officer Ruiz. As Officer Delgado began to run towards [REDACTED] he described that [REDACTED] was “moving toward [Officer Ruiz] in an aggravating manner, swinging the knife, and right before she gets cut, I hear a firearm being discharged.”³⁷ Officer Delgado did not see Officer Khan fire his weapon. Officer Delgado did not recall seeing Officer Ruiz deploy her taser, but he recalled hearing her repeatedly yell “stop” and “taser.”³⁸ After the shots were fired, [REDACTED] fell to the ground while still swinging his bottle and knife. As Officer Khan attempted to handcuff [REDACTED] Officer Delgado unsuccessfully attempted to kick the knife out of [REDACTED] hand. Officer Delgado placed his foot on his hand and [REDACTED] released the knife at which time Officer Delgado stepped on the knife and dragged it away from [REDACTED] with his foot. Subsequently, Officer Delgado picked up the knife while wearing a glove, placed it in a blue bag and held onto the knife in the glove compartment of his police vehicle until an Evidence Technician took possession of it.

According to Officer Turnage, when he exited the vehicle and approached Marquette Avenue, he heard verbal commands from both officers to include “Drop your weapon. Drop the knife.”³⁹ He described [REDACTED] as moving back and forth. He observed Officer Ruiz tase [REDACTED] which had no effect on him. [REDACTED] “started to move toward her with the knife and bottle...And then Officer Khan, protecting his partner, fired the three shots and struck the subject.”⁴⁰ Officer Turnage described that [REDACTED] continued to move before falling to the ground.

In a statement to COPA on January 24, 2020, **Officer Bibiana Ruiz**⁴¹ stated that on the date and time of incident, she was on-duty, in plainclothes, assigned to Beat 400D and partnered with Officer Khan. Her statement is materially consistent with the video footage that depicts the

³⁶ CPD Gang Investigation officers were not assigned Body Worn Cameras at the time of this incident.

³⁷ Att. 29, p. 26, lines 10-12.

³⁸ Att. 29, p. 26, line 8.

³⁹ Att. 31, p. 31, lines 8-9.

⁴⁰ Att. 31, p. 35, line 9 – 14.

⁴¹ Att. 32, 33.

shooting incident. In addition, Officer Ruiz stated that throughout the course of the incident she and Officer Khan used de-escalation techniques to include repeated verbal commands and she deployed her taser twice towards ██████. Officer Ruiz explained she is Crisis Intervention trained (CIT) in which she has been trained to deescalate encounters involving individuals with mental health issues. She had she had no indication that ██████ was mentally ill. Officer Ruiz described ██████ demeanor as aggressive throughout the entire encounter. Officer Ruiz stated that ██████ “closed distance. He approached me really fast. And I kept moving back, but there was nowhere else for me to go.”⁴² In addition, when asked if Officer Khan had any other options other than to fire his weapon, she stated “I was going to die if [Officer Khan] didn’t do that. There was no distance. My partner, like, probably saved my life.”⁴³

In a statement to COPA on March 11, 2020, **Officer Antar Khan**⁴⁴ stated that on the date and time of incident, he was on-duty, in plainclothes, assigned to Beat 400D and partnered with Officer Ruiz. His statement corroborates the video footage that depicts the shooting incident. Officer Khan stated that while on routine patrol prior to the incident, he was driving westbound on 79th Street, towards Saginaw Avenue, and was waved down by a “victim”⁴⁵ and some employees in front of the Dollar General. They informed him that they had been robbed, described the offender, his path of travel and one of the individuals described ██████ as “slow.”⁴⁶ Officer Khan stated that he took “slow” to mean that ██████ was possibly moving in a slow manner. He did not take that to mean that ██████ was mentally ill or disabled. None of the radio communications described the offender of the reported robberies as mentally ill. Officer Khan is CIT trained.⁴⁷ He explained that there were no indications to him that ██████ may have been mentally ill or disabled. He explained that he encountered ██████ with an empty alcohol bottle and had no knowledge if he had drunk that bottle. He stated, “I don’t know and believe that mental health has a particular face.”⁴⁸

Subsequently, he observed ██████ and a foot pursuit ensued. Officer Khan issued verbal commands to include “Let’s go, M-F”⁴⁹ or “mother fucker”⁵⁰ as ██████ continued to run with a knife and bottle in hand. Officer Khan asked ██████ “does he want to get shot and to get the fuck on the ground or something to get on the ground or get the fuck down or something like that.”⁵¹ Officer Khan stated that such profanity could be deemed as disrespectful. He explained that at the time he used such language it was in the moment and used as a means to get ██████ to listen and to stop rather than as a use of force. However, he learned during the encounter that “[n]o language, whether aggressively verbal or otherwise, was going to stop him and that’s proved by what happened.”⁵² Officer Khan does not normally used such language during encounters with citizens.

⁴² Att. 33, p. 59, lines 9-11.

⁴³ Att. 33, p. 60, lines 4-6.

⁴⁴ Att. 95, 96.

⁴⁵ Att. 96, p. 18, line 4. The victim is now known as ██████

⁴⁶ Att. 96, p. 23, line 3.

⁴⁷ The CIT Program serves to improve the Chicago Police Department's competency and capacity to effectively respond to individuals in crisis; de-escalate crises to reduce the need to use force against individuals in crisis; and improve the safety of officers, individuals in crisis, family members, and community members. *See* S05-14.

⁴⁸ Att. 96, p. 75, line 21-22.

⁴⁹ Att. 96, p. 32, line 11.

⁵⁰ Att. 96, p. 32, line 15.

⁵¹ Att. 96, p. 32, line 22-24.

⁵² Att. 96, p. 82, lines 10-12.

There was no specific reason as to why he called [REDACTED] a “mother fucker” but that in the moment he tried to use whatever tools could get [REDACTED] to stop. When Officer Khan asked [REDACTED] “do you want to get shot?” he explained that at the time of incident he meant that statement as a rhetorical question that would possibly elicit a response of [REDACTED] coming to a stop.⁵³ Office Khan believed that he initially used other words as a verbal control techniques but that “stop” and “let me see your hands” did not work.

[REDACTED] ran westbound on 79th Street to the corner of Marquette. While at the southeast corner of 79th Street and Marquette, Officer Khan described that from his position, he observed [REDACTED] Officer Ruiz, and the south sidewalk. Just prior to Officer Ruiz discharging her Taser he described his observations: “I see the entranceway to the [Margarita’s] store and I don’t see anyone and/or a silhouette coming in or out of the store.”⁵⁴ After Officer Ruiz attempted to tase [REDACTED] the first time, “he charges at her with really a full sprint it seemed like, and in that, he’s taking the knife and he is slashing towards her in an attempt to really end her life and kill her.”⁵⁵ Officer Khan described that he maintained clear observation of [REDACTED] as well as [REDACTED] background which was the doorway into Margarita’s store and “no one is still coming in or out of there.”⁵⁶ While [REDACTED] was moving eastbound Officer Khan fired one (1) shot and did not notice any change in [REDACTED] movement at which time he maintained his firearm pointed at [REDACTED] and fired two (2) more times. He stopped firing because he observed [REDACTED] body movement change in a way that he believed [REDACTED] may have been shot. Officer Khan fired his weapon at [REDACTED] because he was an imminent threat to the life of his partner as he “charged at her in a manner swinging his knife that would do great bodily harm or kill her...”⁵⁷ and he fired his weapon to save her life. Officer Khan had no other option to eliminate the threat as he believed that he and his partner exhausted verbal commands, Officer Ruiz used non-lethal force that was ineffective and, [REDACTED] “attack[ed]”⁵⁸ with deadly weapons.

Officer Khan explained that at the time he fired at [REDACTED] “it was in defense of another life”⁵⁹ and that he fired at a “moving target”⁶⁰ that was crossing the doorway to Margarita’s. He described that he was aware of his surroundings when he fired and never observed either an individual in the doorway or a silhouette of a person in the foreground. Officer Khan stated that he was aware that there was a building in the background, and while he had reason to believe that there could have been people inside, he did not see anyone in the building at the time he fired. He further explained that he intended to strike [REDACTED] and stop the threat.

ii. Civilian Witnesses

In a statement to COPA on January 17, 2020, witness [REDACTED] provided information consistent with video evidence. In addition, [REDACTED] stated that upon first sight, [REDACTED]

⁵³ Att. 96, p. 83, lines 10-18.

⁵⁴ Att. 96, p. 37, line 1-3.

⁵⁵ Att. 96, p. 43, line 15-18.

⁵⁶ Att. 96, p. 45, line 7.

⁵⁷ Att. 96, p. 63, lines 11-12.

⁵⁸ Att. 96, p. 64, line 24.

⁵⁹ Att. 96, p. 79, lines 4-5.

⁶⁰ Att. 96, p. 79, line 6.

⁶¹ Att. 36, 38.

was eastbound on 79th Street, on the south side of the street and jogging in her direction, in front of Margarita's Meat Market. He had an empty Hennessy bottle in one hand and an approximate 10-inch knife in his other hand. Seconds later, she observed a white or Asian female officer and a white male officer⁶² behind him. She then looked to her left, facing westbound, and observed an unmarked police vehicle drive up along the sidewalk near where she was standing. A black male officer exited the vehicle⁶³ with a taser. She looked back facing eastbound and heard the two officers behind █████ yelling words to the effect of "drop the knife."⁶⁴ █████ stood on the southeast corner as she was in shock. █████ did not speak. █████ stated that as █████ was approaching Marquette Avenue, at some point he had the Hennessey bottle under his left arm. █████ was in front of Margarita's when it appeared that upon seeing the officer that arrived in the police vehicle, █████ turned around to go back east. █████ faced the female officer and white male officer at which time "they pulled their guns out."⁶⁵ █████ was blocked off by the officers. They were approximately 15 feet away from █████ held his knife out in a manner that appeared to be touching his forearm. When █████ "...turned around...like he was going to run, that's when the blade came up."⁶⁶ █████ described that it appeared █████ was going to charge at the officers, in a "running stance"⁶⁷ and with his arm up. █████ stated that the female officer fired at █████ when █████ raised his arm with the knife. █████ did not observe █████ get tased.

Attempts made to interview █████ were unsuccessful.⁶⁸

c. Physical Evidence
i. Forensic Evidence

The **Crime Scene Processing Reports**,⁶⁹ **Evidence Plat**,⁷⁰ **Inventory Sheets**⁷¹ and **Evidence Technician (ET) Photographs** and **Video**⁷² document the crime scene and the recovered evidence. Three (3) fired cartridge casings head stamped Winchester Luger +P; and two taser barbs with attached wires were recovered from the south sidewalk at 2701 E. 79th Street, near Margarita's Meat Market. A fired bullet was recovered inside of Margarita's Meat Market from the floor area under a cooler along the east wall and, photos depict a suspected bullet hole to the inside east wall. An empty 750 ml glass "Hennessy" bottle was recovered along the curb of the south sidewalk at 2701 E. 79th Street. ET photos depict views of a shattered glass front door to Margarita's Meat Market.

After the scene was processed and photographed, ETs relocated to Area South⁷³ and recovered a wooden handle knife with a 7 ½ inch blade, inside of a plastic bag, from Officer

⁶² Now known as Officer Bibiana Ruiz and Officer Antar Khan.

⁶³ Now known as Officer Enrique Delgado and Officer Charles Turnage.

⁶⁴ Att. 38 p. 7, line 8-9.

⁶⁵ Att. 38, p. 25, line 1-2.

⁶⁶ Att. 38, p. 35, line 12-14.

⁶⁷ Att. 38, p. 35, line 18.

⁶⁸ Att. 156 COPA staff had telephone contact with █████ on January 9, 2020 and he indicated that he did not wish to be interviewed for COPA's investigation.

⁶⁹ Att. 47, 48.

⁷⁰ Att. 81.

⁷¹ Att. 49.

⁷² Att. 83, 84.

⁷³ 727 E. 111th Street.

Delgado-Hernandez.⁷⁴ While at Area South, ETs photographed Officer Khan and Officer Ruiz. They cleared and recovered Officer Khan's Glock 17 firearm, serial # [REDACTED], that was loaded with one (1) live cartridge in the chamber and fourteen (14) live cartridges in the magazine. The magazine was documented to have a 17-round capacity.⁷⁵ The ETs relocated to University of Chicago Medical Hospital⁷⁶ where they photographed [REDACTED] to include his injuries and his property bag.

The **Illinois State Police (ISP) Laboratory Report**, titled **Firearms/Toolmarks**⁷⁷ documents the examination of Officer Khan's Glock model 17 pistol. The pistol was tested and determined to be operable. It was determined that three (3) Winchester 9mm Luger +P fired cartridge casings recovered from the scene and three (3) spent bullets⁷⁸ were fired from Officer Khan's firearm.

The **Illinois State Police (ISP) Laboratory Report titled Latent Prints**⁷⁹ documents the examination of a wooden handled 7.5-inch knife and an empty glass bottle labeled "Hennessy Very Special Cognac 750 ml" in which there were no suitable prints identified.

ii. Medical Evidence

The **Chicago Fire Department (CFD) Ambulance Report**⁸⁰ for [REDACTED] documented that Ambulance 9 responded to a dispatch for a gunshot victim at 3:38 p.m. They arrived on scene at 3:41 p.m. Upon their arrival they observed [REDACTED] lying on his back and a CPD officer administering CPR. [REDACTED] was not breathing and had no pulse. CFD observed an apparent gunshot wound to his left chest. [REDACTED] was handcuffed from behind and there was a taser wire stuck to his jacket that had not penetrated his body. While en-route to University of Chicago Hospital they continued to administer medical aid. [REDACTED] was transferred to the care of the medical trauma center at 4:06 p.m.

The **Medical Records from the University of Chicago Medicine**⁸¹ document that [REDACTED] arrived at the trauma center with gunshot wounds on January 4, 2020, at 4:05 p.m. His time of death was pronounced at 4:08 p.m. by [REDACTED]. [REDACTED] arrived under traumatic cardiac arrest with a GSW to the left chest. "He was down 10 minutes prior to EMS arrival,"⁸² then administered medical treatment to include a king airway and cardiopulmonary resuscitation, and there was no "cardiac activity"⁸³ nor palpable pulses for approximately 30 minutes.

The **Medical Examiner's (ME) Report**⁸⁴ for [REDACTED] documents his date of death as

⁷⁴ According to Officer Delgado-Hernandez he secured the weapon in his vehicle.

⁷⁵ Refer to Inventory Sheets, Att. 49, p. 11.

⁷⁶ 5656 S. Maryland Avenue.

⁷⁷ Att. 63.

⁷⁸ This includes one spent bullet recovered inside of Margarita's Meat Market and, two spent bullets that were lodged in [REDACTED] and recovered at the Medical Examiner's office.

⁷⁹ Att. 64.

⁸⁰ Att. 51.

⁸¹ Att. 78.

⁸² Att. 78, p. 3.

⁸³ Att. 78, p. 4.

⁸⁴ Att. 74.

January 4, 2020, and he was examined on January 5, 2020, by Dr. Hyejong Marshall. The evidence of injury was multiple GSW to the torso in which there were a total of two (2) and superficial injuries to include lacerations and abrasions. The entrance wounds were found to be one entrance GSW on the left side of the chest in which a projectile was lodged in the muscle layer on the right side of the chest; one entrance GSW on the left side of the back in which the projectile was lodged in the right upper lobe of the lung. The cause of death was determined to be multiple GSWs and the manner of death, homicide.

Toxicology results were positive for cocaine and benzoylecgonine.⁸⁵ In a case report by ME Investigator Santoro, reported he observed and took photographs of the crime scene and of [REDACTED] while at the University of Chicago Hospital.

d. Documentary Evidence

Original Case Incident Reports⁸⁶ and Detective Supplementary Reports⁸⁷ for RD # [REDACTED] and related RD # [REDACTED] document the date, time, location of incident and all involved parties.

The reports document interviews taken of the witness and involved officers which are consistent with what was reported to COPA. Detectives interviewed the following civilian witness interviews who did not witness the shooting incident but did witness the related events.

[REDACTED] in essence stated that she was robbed at knife point by [REDACTED]⁸⁹ in the parking lot of the Family Dollar Store, prior to the incident. [REDACTED] was interviewed. She witnessed the aftermath of the robbery but did not witness the shooting incident.

[REDACTED], an employee at Margarita's Meat market, was also a witness to the aftermath of the robbery. He recalled seeing [REDACTED] in his store earlier that day. During the time of the shooting incident, he had observed an individual run past his store's front glass door in a "shooting stance."⁹⁰ He could not tell if it was a male or female due to the speed of movement. He described this person to be on the sidewalk and bent at the knees, with both arms extended holding a firearm, that was pointed in the direction of the store. Suddenly, he heard one gunshot that shattered the glass to his front door and struck the high wall above the ATM machine. At the time the shot was fired, there was an "unknown customer"⁹¹ using the ATM machine. [REDACTED] stated that he believed he may have heard a total of two (2) gunshots. Neither [REDACTED] nor the customer were

⁸⁵ According to the ME report, benzoylecgonine is an "inactive metabolite and chemical breakdown product of cocaine."

⁸⁶ Atts. 2, 5.

⁸⁷ Att. 3, 4, 6, 101, 102.

⁸⁸ The case report for # [REDACTED] is related to the Law Enforcement Officer Involved Shooting for tracking purposes and documents that "this is a bureau of detectives investigative response team [IRT] suspended report" and will remain as such until "the findings of COPA, Cook County State's Attorney's Office and the Illinois Appellate Court have been received by the reporting detective."

⁸⁹ Refer to RD # [REDACTED] for further details regarding the robbery incident.

⁹⁰ Att. 102, p. 9.

⁹¹ Att. 102, p. 9. According to interior video of Margarita's Meat Market, this customer is an unknown larger black male.

struck by gunfire. The customer was upset after he realized that a bullet struck the wall near the ATM where he was standing. The customer refused to go to the back of the store with [REDACTED] as he was concerned for his wife who was outside sitting in a car. The customer exited the store and [REDACTED] stayed inside. [REDACTED] did not witness the shooting incident.

[REDACTED] was interviewed by detectives and stated that he was exiting the Beauty Supply Store⁹³ when he observed people exiting the Dollar General store. He then observed the subject in front of Margarita's store "with a liquor bottle in his left hand attempting to put the bottle on the ground." He then observed an Asian female officer deploy a taser at the subject who began to fall to the ground when a black male officer "fired his weapon as soon as he exited his squad car."⁹⁴

The **Taser Download Report**⁹⁵ documents that Officer Ruiz deployed one cartridge from Taser No. X30005DMH at 3:38:56 p.m. and a second cartridge at 3:38:58 p.m.

Tactical Response Reports (TRRs)⁹⁶ completed by **Officers Khan and Ruiz**, documented that they responded to a call for service. [REDACTED] was armed with a knife and a glass bottle that were used in an attempt to attack. [REDACTED] did not follow verbal direction, fled, was an imminent threat of battery with a weapon and used force likely to cause death or great bodily harm. In addition, Officer Ruiz documented that [REDACTED] physically attacked with a weapon. Officer Khan and Officer Ruiz responded with force mitigation efforts to include member's presence, verbal direction/control techniques, movement to avoid attack, tactical positioning and then handcuffs. Officer Ruiz also used zone safety and additional unit members. The reason for the response was for defense of self, defense of department member, defense of member of public, to overcome resistance or aggression, due to a fleeing subject and the subject was armed with a weapon. In addition, Officer Khan responded with his firearm, and he fired three (3) times and struck [REDACTED] Officer Ruiz responded with her taser in that she discharged two (2) taser cartridges. Medical treatment was performed by Officer Khan and by CFD EMS.

It is further documented in Officer Ruiz's TRR that she was a victim of an aggravated assault in that [REDACTED] was armed with a knife and glass bottle. She deployed her taser once which had no effect on [REDACTED]. He advanced towards her, and she deployed her taser a second time which was also ineffective.

⁹² COPA obtained and reviewed several Facebook live videos posted by [REDACTED] during the time of incident. His commentary on the videos, Att. 104, suggests that he had not witnessed the incident as he is heard asking others what took place. Therefore, the statement by [REDACTED] to CPD detectives does not appear to be credible. In addition, COPA's Public Information Officer, Ephraim Eaddy, had spoken to [REDACTED] via phone within a few weeks after the incident and [REDACTED] refused to provide a statement to COPA. [REDACTED] statement to CPD contradicts multiple views of video footage of the incident.

⁹³ 2560 E. 79th Street.

⁹⁴ Att. 102, p. 10.

⁹⁵ Att. 16.

⁹⁶ Att. 12, 14.

LEGAL STANDARD**a. Use of Force**

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable, necessary, and proportional in light of the totality of the circumstances faced by the officer.⁹⁷ Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; and (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.⁹⁸

The Department's "Force Options" directive divides subjects into categories based upon the amount of force the subject is using and provides for what types of force members are permitted to use against those subjects. These categories are (1) cooperative subjects who are compliant without the need for force; (2) passive resistors who fail to comply, via non-movement, with verbal or other direction; (3) active resistors who attempt to create distance between themselves and members' reach with the intent to avoid physical control and/or defeat arrest; and (4) assailants who use or threaten the use of force which is likely to cause physical injury.⁹⁹

Department policy recognizes that Department members must "make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight."¹⁰⁰

b. Use of Deadly Force

The Department's "highest priority is the sanctity of human life."¹⁰¹ Discharging a firearm is deadly force under Department policy.¹⁰² Department policy dictates that "[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."¹⁰³ Thus, a Department member may use deadly force in only two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used 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.¹⁰⁴ "A threat is imminent when it is objectively reasonable to believe that:

⁹⁷ General Order G03-02(III)(B)(1)(effective Oct. 16, 2017 to Feb. 28, 2020).

⁹⁸ Id.

⁹⁹ G03-02-01 (IV).

¹⁰⁰ G03-02(II)(D).

¹⁰¹ Id. at (II)(A).

¹⁰² Id. at (III)(C)(1).

¹⁰³ Id. at (III)(C)(3).

¹⁰⁴ Id.

- a. the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm."¹⁰⁵

c. Firing into Buildings

Department policy expressly prohibits a member from firing into a building or through doors or windows when the person lawfully fired at is not clearly visible, unless directed at a specific location and such force is reasonably necessary to prevent death or great bodily harm.¹⁰⁶ Under those circumstances only, a Department member may fire into a building if the member has identified the appropriate target before firing.¹⁰⁷ Department members must also take reasonable precautions to ensure that people other than the target will not be hit by the member's gunfire.¹⁰⁸

d. Taser Use

General Order G03-02-04 outlines the Department's policy governing the deployment of Taser devices. A member's use of a Taser must be objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by a subject.¹⁰⁹ Members may use a Taser only against a subject who is an assailant or an active resistor.¹¹⁰

Moreover, the policy provides requirements for the "Authorized Manner of Use," including: (1) giving verbal commands and warnings prior, during, and after deployment; (2) aiming for the back, whenever possible; (3) discharging probes at an ideal distance of 7-15 feet; and (4) using only one five-second cycle then reassessing the situation before any additional cycles are given or cartridges are discharged.¹¹¹

a. De-Escalation Principles

When using any force, Department members are required to use de-escalation techniques to prevent or reduce the need for force, when it is safe and feasible under the totality of the circumstances.¹¹² This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety.¹¹³ The requirement to continually assess the situation means they must determine (1) if any use of force is necessary; (2) the authorized force option based on the totality of the circumstances; (3) if the seriousness of the situation requires an immediate response or whether the member can deploy other force options or the "Force Mitigation Principles;" and (4) if the level of force employed should be modified.¹¹⁴

¹⁰⁵ Id. at (III)(C)(2).

¹⁰⁶ General Order G03-02(III)(D)(5).

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ General Order G03-02-04(II)(C).

¹¹⁰ Id.

¹¹¹ G03-02-04 (III)(B).

¹¹² Id. at (II)(B).

¹¹³ Id.

¹¹⁴ Id. at (II)(F).

The policy provides the following Force Mitigation Principles:

Continual Communication: Members are required to attempt to use verbal control techniques to avoid or minimize confrontations prior to, during, and after the use of physical force, when feasible and safe, including persuasion, advice, instruction, and warning prior to the use of physical force. Members should establish and maintain verbal communication and continually evaluate the effectiveness of that communication including maintaining one-on-one communication. Members should also adjust verbal communication and allow a different member to initiate verbal commands (but refrain from giving simultaneous directions).¹¹⁵ When encountering noncompliance to directions, officers are not required to immediately use force, and when safe and feasible to do so, officers should consider adjusting their verbal communication, allow a different officer to initiate communications, and request additional personnel or make use of special units or equipment.¹¹⁶

Tactical Positioning: When it is safe and reasonable to do so, members should make advantageous use of positioning, distance, and cover by isolating and containing a subject and continuously evaluating the member's positioning, the subject's actions, and available force options. This includes creating a "zone of safety" to continually monitor the subject and the scene, contain the subject, and ensure the subject does not pose a continuing threat to Department members or the public.¹¹⁷

Time as a Tactic: When it is safe and reasonable to do so, officers should use time as a tactic by establishing a zone of safety for security of responding members and the public. This may (1) permit the de-escalation of the subject's emotions and allow the subject an opportunity to comply; (2) allow for continued communication and adjustment of verbal control techniques; and (3) allow for the arrival of additional members.¹¹⁸

e. Standard 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.

¹¹⁵ G03-02-01(III)(A).

¹¹⁶ G03-02-01(III)(A).

¹¹⁷ G03-02-01(III)(B).

¹¹⁸ G03-02-01(III)(C).

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy.¹¹⁹ 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.¹²⁰ Clear and convincing evidence 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.”¹²¹

VII. LEGAL ANALYSIS

a. COPA finds that Officer Khan’s use of deadly force was objectively reasonable.

COPA finds that a preponderance of the evidence demonstrates that Officer Khan’s use of deadly force was objectively reasonable in light of the totality of the circumstances he faced in at the time of his firearm discharge. His use of deadly force was a last resort and was necessary to prevent the imminent threat of death or great bodily harm presented by ██████ to Officer Ruiz. Moreover, COPA finds that Department policy authorized Officer Khan’s firearm discharge into an occupied building because Officer Khan was able to clearly see ██████ his discharges were aimed at ██████ and it was necessary for him to shoot at that time.

1. COPA finds that ██████ posed an imminent threat of death or great bodily harm.

First, it was objectively reasonable for Officer Khan to believe that ██████ actions were immediately likely to cause death or great bodily harm to Officer Ruiz. Officer Khan stated that he did not use deadly force until ██████ was charging at Officer Ruiz with a knife in his hand. Video evidence corroborates that statement, and further shows that ██████ was swinging the knife at Officer Ruiz’ head height. It was not until ██████ charged Officer Ruiz, making that threat more imminent, that Officer Khan used deadly force.¹²²

Second, it was objectively reasonable for Officer Khan to believe that ██████ had the means or instruments to cause death or great bodily harm. ██████ was carrying a knife, which appeared on video to be large and capable of inflicting serious harm.¹²³ Officer Khan had ample time to observe the weapon as they ran down 71st Street, and in the approximately ten seconds that ██████ was in front of Margarita’s Market waving the knife. ██████ also possessed a large, empty liquor bottle.

¹¹⁹ 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 has found to be more probably true than not.”).

¹²⁰ See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹²¹ *Id.* at ¶ 28.

¹²² Officer Khan did not use deadly force moments earlier, when ██████ appeared to threaten Officer Ruiz with a bottle, despite ██████ being an assailant (*see* section c below).

¹²³ CPD later determined the knife to have a 7.5-inch blade.

Officer Khan was aware ██████ had threatened to hit people with it in the course of robbing them and could reasonably believe ██████ was capable of causing great bodily harm with the bottle.¹²⁴

Third, it was objectively reasonable for Officer Khan to believe that ██████ had the opportunity and ability to cause death or great bodily harm. ██████ was within feet of Officer Ruiz, and was quickly closing ground on her while she was forced to backup. She was also close to running out of room to back up, since she was approaching a line of parked cars. Officer Ruiz was likely incapable of protecting herself, as she was holding only the Taser that had already proven to be ineffective.

2. Officers Khan and Ruiz did not effectively de-escalate the encounter.

COPA finds that Officer Kahn's use of disrespectful language was not an effective de-escalation technique and was not appropriate under Department policy. Officer Kahn yelled at ██████ to "let me see your fucking hands." He continued to yell commands as they ran down 79th Street for ██████ to "get the fuck on the ground" in attempts, he told COPA, to get ██████ to comply. While there is no evidence that Officer Kahn's language escalated the situation, COPA finds it incredible that Officer Kahn could believe that swearing at a person would cause that person to comply. Department policy examples of verbal de-escalation techniques include persuasion, advice, and warnings. That does not include demeaning and provocative language.

COPA also find that the officers failed to effectively use tactical positioning in the lead-up to the shooting. Officers Khan and Ruiz initially encountered ██████ on the north side of 79th Street as he was moving away from the congested portion of that street. ██████ appears to have been isolated from any other bystanders once he turned onto Burnham Ave. However, instead of containing him here in order to use time as a tactic and await the backup that Officer Ruiz had just requested, Officer Khan instead cut ██████ off, turning him back towards 79th Street. This not only pushed ██████ towards bystanders but also put the officers in a position where they were chasing ██████ and could no longer control the situation to create a "zone of safety." Moreover, the officers were not coordinated with one another. As Officer Ruiz exited the car, she tried to tell Officer Khan to stay in the vehicle, but instead he got out thus eliminating any possibility that he could reverse and attempt to prevent ██████ from backtracking down 79th Street.

Once ██████ stopped in front of Margarita's Market, the officers did not take tactical positions that may have minimized the need to use force. Officer Ruiz put herself in a position where, after discharging her Taser, she had nowhere to retreat once the Taser was ineffective. Officer Khan, despite acknowledging that he was aware there was a store door behind ██████ did not take a position where the store door would not be in his line of fire.

Despite these deficiencies, COPA finds that at the time Officer Khan used deadly force, it was objectively reasonable to believe that further de-escalation would not be safe and feasible. Department policy does not require officers to use de-escalation techniques when it would be unsafe to do so. At the moment Officer Khan used force, ██████ approached Officer Ruiz in an aggressive manner while holding deadly weapons. Officer Ruiz yelled for ██████ to get down but

¹²⁴ See *People v. Garita*, No. 1-14-2794, slip op. at *P18 (Ill. Dec. 12, 2016) (assuming, without discussion, that a bottle is a deadly weapon).

he did not comply. Further de-escalation attempts would have risked Officer Ruiz's safety in that moment.

COPA acknowledges that it is viewing this incident with 20/20 hindsight, and the benefit of multiple camera angles as opposed to in the rapidly unfolding situation faced by the officers. However, COPA suggests the Department ensures that officers are properly trained in effective de-escalation techniques to ultimately reduce the need for use of force.

3. COPA finds Officer Khan reasonably believed that deadly force was necessary, proportional, and a last resort.

Moreover, COPA finds that under the totality of the circumstances faced by Officer Khan, it was reasonable for him to believe that deadly force was a necessary last resort. At the time he used deadly force, [REDACTED] was charging Officer Ruiz while swinging his knife towards her. Officer Khan reasonably believed that Officer Ruiz was not only in imminent danger, but that she had no opportunity to escape. Officer Ruiz had already attempted to tase [REDACTED] with no effect, and Officer Khan was not in position to use any other type of non-lethal force. Under these circumstances, Officer Khan reasonably believed that it was necessary to resort to using deadly force as no other options appeared viable.

Moreover, Officer Khan reasonably believed that discharging his firearm was proportional to the threat posed by [REDACTED]. Policy expressly states that a use of force can still be proportional if officers use a greater amount of force than the subject, so long as the officer's use of force is proportional to the threat posed by the subject. In this case, [REDACTED] used a knife and liquor bottle, which posed a threat of great bodily harm. Thus, Officer Khan reasonably believed his use of deadly force was proportional to that threat.

4. A preponderance of the evidence establishes that Officer Khan's firearm discharge into an occupied building was permissible under Department policy.

COPA finds that Officer Khan's firearm discharge in the direction of an occupied building was permissible under Department policy. [REDACTED] was visible to Officer Khan, as demonstrated by available video evidence. In addition, Officer Khan identified [REDACTED] as a target prior to discharging his weapon. Although COPA believes Officer Khan could have taken better steps to ensure that others would not be struck, COPA accepts that Officer Khan did survey the scene and believed no one other than [REDACTED] was in his line of fire.¹²⁵ Finally, and as discussed above, COPA finds it was reasonable for Officer Khan to believe firearms discharge was necessary to prevent death or great bodily harm to Officer Ruiz. Officer Khan told COPA that he was aware of the doorway to Margarita's Market, and of the fact that it may have been occupied at the moment he fired his weapon. He also stated he looked at the glass door and did not see anyone just before Officer Ruiz discharged her Taser. He also stated that he did not notice anyone in the doorway as [REDACTED] was running past it.

¹²⁵ COPA has no evidence to contradict Officer Kahn's statement on this point. The video evidence does not clearly contradict his statements and no eyewitness disputed his version of events. COPA therefore found Officer Kahn to be credible.

The video from the incident supports Officer Khan's statement. At the time Officer Khan fired his first shot, the unknown man was only a few feet from the glass door and could even be seen through the glass on Officer Khan's BWC footage. However, the footage also shows that the man took multiple steps forward just before the shooting. At the time Officer Ruiz discharged her Taser, it appears that the man was further inside the store, and not obviously visible from the exterior. COPA finds that it plausible that Officer Khan did not observe the man at this moment. After Officer Ruiz discharged her Taser, the man took two large steps towards the door, which coincided with ██████ charging towards Officer Ruiz, and he was still moving forward when Officer Khan fired his first shot. At this time, it was reasonable for Officer Khan to be focused on ██████ in order to assess the threat he posed and, once he decided to shoot, to ensure that he acquired ██████ as a target.¹²⁶

For these reasons, COPA finds that the preponderance of the evidence does not establish that it was unreasonable for Officer Kahn to discharge his weapon at or into a building. Therefore, **Allegation 1** against Officer Kahn is **Not Sustained**.

b. Officer Khan used disrespectful language towards ██████

COPA finds that Officer Khan used disrespectful language towards ██████. The video from Officer Khan's body worn camera establishes that each sentence Officer Khan used towards ██████ contained profanity. Not only did he resort to profanity, but his words could objectively be construed as taunting ██████ rather than as an attempt to control the situation. Officer Kahn told COPA that he said, "do you wanna get shot?" as a rhetorical question to get ██████ to stop. He further explained his other language as attempts to get ██████ to listen, in order to avoid using force. However, his language and word choices are far more likely to inflame, than to de-escalate the situation.

For these reasons, Officer Khan violated Department Rules 2 and 8 by using disrespectful language with ██████. COPA does not accept the proposition that the use of profanity was necessary or appropriate in this communication, and therefore **Allegation 2** against Officer Kahn is **Sustained**.

VI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Antar Khan #15274

i. Complimentary and Disciplinary History

Officer Khan has no disciplinary history. His complimentary history includes: 1 – 2019 Crime Reduction Award, 1 – Attendance Recognition Award, 3 – Emblem of Recognition - Physical

¹²⁶ COPA's Digital Forensic Analyst prepared a quad box video, saved as Attachment 155, which synched Officer Khan and Ruiz' BWC's, POD 7159, and the interior of Margarita's Market. COPA reviewed this synched video to analyze the timing or the man's movements with the taser and shots outside.

Fitness, 58 – Honorable Mentions, 1 – Life Saving Award, and 1 – Unit Meritorious Performance Award.

ii. Recommended Penalty, by Allegation

1. Allegation No. 2

COPA recommends that Officer Khan receive 10 days of Suspension for using disrespectful language towards ██████████ in a manner that is inconsistent with Department training and stated mission. Furthermore, Officer Khan’s language certainly did not serve to de-escalate the situation or demonstrate an appropriate level of concern for ██████████

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

| Officer | Allegation | Finding / Recommendation |
|---------------------------|---|---------------------------------------|
| Officer Antar Khan #15274 | <p>It is alleged that on January 4, 2020, on or about 3:39 p.m., Officer Antar A. Khan #15274:</p> <ol style="list-style-type: none"> 1. fired his weapon into a building occupied by one or more persons who would be at risk of injury or death. 2. used disrespectful language towards ██████████ including words to the effect of “come on mother fucker;” and/or “do you wanna get shot, get the fuck on the ground dude;” and/or “you can’t outrun me, mother fucker” in violation of Rule 2. | <p>NOT SUSTAINED</p> <p>SUSTAINED</p> |

Approved:



10-7-2021

Angela Hearts-Glass
Deputy Chief Investigator

Date:



10-7-2021

Andrea Kersten
Interim Chief Administrator

Date:

Appendix A

Assigned Investigative Staff

| | |
|------------------------------------|---------------------|
| Squad#: | 8 |
| Major Case Specialist: | Caterina Oliveri |
| Supervising Investigator: | Sherry Daun |
| Deputy Chief Administrator: | Angela Hearts-Glass |

APPENDIX B

- The exterior video footage of Margarita’s Meat Market, Camera 10 facing northeast onto the south sidewalk and Camera 12 facing west onto the south sidewalk, depict essentially the same exterior video footage that is depicted in POD video #7159.
- Interior video footage from Margarita’s Meat Market, to include Camera 5, the lobby area of Margarita’s Pizza, and Camera 7, does not depict the incident but captures a limited view of the exterior, as observed through the front glass door and/or window, to include ██████ and the involved officers running past during the foot pursuit. Interior Camera 5 further depicts a view of ██████ falling to the ground¹²⁷ and subsequently being detained.
- Video Surveillance Footage¹²⁸ from Dollar General^{129, 130} and Family Dollar^{131, 132} do not depict the incident.
- Sudz Coin Laundromat video footage^{133, 134} does not depict the incident with the exception of Camera 13, between 15:34 and 15:41 hours which captures a distant view of the incident which corroborates what is depicted in the POD video and BWCs of the involved officers.
- Twenty-two In-Car camera (ICC)¹³⁵ video clips from police units that did not capture the shooting incident.
- ICC video from Officers Khan and Ruiz’s assigned police vehicle #9361, begins at 3:28 p.m. and depicts partial views of the moments directly before the incident, not during.
- Facebook live video clips¹³⁶ recorded by ██████ and ██████ via their cellular phones.
- Telephone conversation with witness ██████ on March 27, 2020.
- Cook County Medical Examiner (ME) Photographs¹³⁸ depict photos of ██████ during the course of his autopsy.
- CPD’s Bureau of Internal Affairs (BIA) Synoptic Report¹³⁹ documents that a breathalyzer test was administered to Officer Khan with 0.00 BrAC.
- Online Court Docket for Northern District of Illinois Federal Court and Cook County Circuit Court. As of June 2, 2021 no lawsuits had been filed in the names of ██████ or Antar Khan.
- A Major Incident Notification (MIN) Report¹⁴⁰ documents the date, time, location of incident, involved parties and a secondary RD # ██████. In addition, weapons recovered were documented as ██████ knife and Officer Khan’s Glock 17 pistol. Officer Khan and

¹²⁷ At 15:39:41 hours as time-stamped in the video.

¹²⁸ Chicago Transit Authority (CTA) footage was not available after COPA’s requests. The CTA initially produced the wrong video footage. COPA made a subsequent request in which the CTA responded that the video was no longer retained. Refer to Att. 52-54.

¹²⁹ Att. 105 – 108.

¹³⁰ 2649 E. 79th Street.

¹³¹ Att. 145 – 147.

¹³² 2660 E. 79th Street in Horizon Plaza.

¹³³ Att. 109 – 115.

¹³⁴ 2660 E. 79th Street in Horizon Plaza.

¹³⁵ Att. 103, 151. There were six additional duplicate video clips for a total of twenty-eight ICC video clips.

¹³⁶ Att. 104, 148.

¹³⁷ Att. 94.

¹³⁸ Att. 75.

¹³⁹ Att. 50.

¹⁴⁰ Att. 40.

Officer Ruiz were both transported to Little Company of Mary Hospital in which they were evaluated for increased blood pressure and they were both treated and released.