



January 24, 2023

Mr. Max A. Caproni
Executive Director, Chicago Police Board
30 North LaSalle Street, Suite 1220
Chicago, Illinois 60602

Via Email

RE: Request for Review, Log #1088719: Officer Shawn Bryant # 4142

Dear Mr. Caproni,

Pursuant to the Municipal Code of Chicago Section 2-78-130 and Police Board Rules of Procedure Section VI, please consider this letter a Request for Review of a non-concurrence between the Civilian Office of Police Accountability (COPA) and the Superintendent of the Chicago Police Department (CPD) in Log # 1088719.¹

As set forth in detail in COPA's Final Summary Report dated August 29, 2022 (FSR), there is a compelling legal and evidentiary basis to support COPA's disciplinary recommendations against Officer Shawn Bryant.

I. BACKGROUND

A. Relevant Factual Background²

On March 9, 2018, partner Officers Bryant and Enahora and partner Officer Hernandez and Ramirez were attempting to stop two juvenile males near 72nd Street and S. Merrill Avenue where multiple aggravated robberies had occurred in prior recent days. Officers Bryant and Enahora drove north on S. Merrill Avenue, Officer Ramirez exited the vehicle and proceeded south in the east alley of S. Merrill Avenue, while his partner Officer Hernandez drove south on S. Merrill Avenue. The two juveniles, [REDACTED] and [REDACTED] appeared to see the squad cars and fled on foot. [REDACTED] fled down a driveway and [REDACTED] ran southbound on S. Merrill Avenue. Officer Hernandez pursued [REDACTED] down the driveway. Officers Bryant and Enahora exited their squad car to pursue [REDACTED]

[REDACTED] ran southbound on S. Merrill Avenue towards the officers and a United States Postal Carrier Ahamad Anderson, while manipulating and/or holding something on his side/inside his pocket. Anderson reported

¹ As required by the Police Board Rules of Procedure, enclosed are copies of COPA's FSR, CPD's non-concurrence letter, and the certificate of meeting.

² A more detailed factual summary can be found in the FSR.

that [REDACTED] was clutching his right side. Officer Bryant reported that [REDACTED] was holding his left side. Officer Enahora could not recall which side [REDACTED] was holding.

After Officers Bryant and Enahora exited their squad car, they positioned themselves in the path of [REDACTED] flight. Officer Bryant stood on the sidewalk in front of 7221 S. Merrill Avenue. Officer Enahora stood on the parkway, approximately 8 feet southwest behind Officer Bryant. Officer Bryant had his weapon out. At this time, [REDACTED] was approximately one-and-a-half houses north of the officers and moving southbound on the sidewalk towards them.

[REDACTED] quickly approached Officer Bryant. When [REDACTED] was within arm's reach of Officer Bryant and to apparently avoid colliding with Officer Bryant, he angled west towards the street and away from Officer Bryant. Anderson reported that Officer Bryant turned in [REDACTED] direction, ran no more than three feet, and then fired two shots.³ [REDACTED] was shot in the left buttock and fell in the street. Officers Bryant and Enahora recovered a gun from [REDACTED] left pocket. Neither officer saw the gun prior to Officer Bryant's firearm discharge.

B. Disputed Findings and Recommendations

The Superintendent disagrees with the Sustained finding against Officer Bryant for violation of the CPD's use of force policies and concurred that a 15-day suspension on the remainder of the sustained allegations against Officer Bryant is appropriate.

C. Applicable CPD Policy

1. Use of Deadly Force.

CPD 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."⁴ Thus, a CPD 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.⁵ "A threat is imminent when it is objectively reasonable to believe that:

- 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."⁶

CPD policy prohibits the use of deadly force "on a fleeing person unless the subject poses an imminent threat."⁷ During all use of force incidents, CPD members will strive to use de-escalation techniques to prevent or reduce the need for force, based on the totality of the circumstances.⁸

³ Att. 31.

⁴ G03-02(III)(C)(3).

⁵ *Id.*

⁶ *Id.* at (III)(C)(2).

⁷ *Id.* at (III)(C)(4).

⁸ G03-02-01.II.B

II. ARGUMENT

A. Officer Bryant's use of deadly force violated CPD policy.

The Superintendent contends that Officer Bryant's use of deadly force complied with CPD policy and that Allegation #1 should have been Unfounded. COPA disagrees. The preponderance of the evidence shows that ██████ posed no imminent threat of death or great bodily harm to Officer Bryant or to anyone else when Officer Bryant shot him.

First, a preponderance of the evidence supports the conclusion that ██████ was fleeing from Officers Bryant and Enahora when he was shot. Anderson, a neutral third-party witness, reported observing ██████ angling his body towards the street and Officer Bryant moving approximately three feet towards ██████ and *then* firing two shots.⁹ Officer Enahora likewise reported that Officer Bryant shot ██████ *after* he darted towards the parkway.¹⁰ Officer Enahora's account undermines and Anderson's account contradicts Officer Bryant's claim that ██████ turned towards the street at the same time as he fired the two shots. Additionally supporting the conclusion that ██████ was fleeing when he was shot is the fact that he was shot in his left buttock, indicating that the left rear side of his body faced Officer Bryant.

Second, there is no evidence that ██████ was holding a gun when Officer Bryant shot him. The eyewitness accounts indicate that ██████ was fidgeting with something in his pocket while running. Moreover, there is no evidence that ██████ was looking in Officer Bryant's direction when he was shot. ██████ reported that he did a "Football move" or "juke" to avoid colliding with Officer Bryant, and then heard two shots.¹¹ COPA finds from this evidence that it is more likely than not that ██████ was not facing the officer when he was shot. Based on the totality of the evidence, it was objectively unreasonable for Officer Bryant to believe that ██████ posed an imminent threat or that he had the means, instruments, ability or opportunity to cause death or great bodily harm at the time he shot him.

For these reasons, COPA's sustained finding on Allegation #1 against Officer Bryant should stand along with the recommended penalty of separation.

⁹ Att. 31.

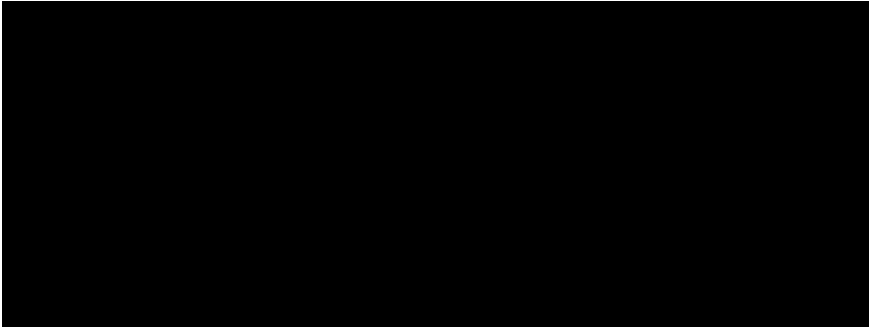
¹⁰ Att. 50, pg. 29, lines 1-23; Att. 50, pg. 30, lines 1-6. Officer Enahora later claimed that ██████ had not passed Officer Bryant when Officer Bryant shot at ██████ Att. 50, pg. 32, lines 9-16. COPA finds this statement unsupported by the evidence which shows that ██████ had changed direction and darted towards the street prior to being shot.

¹¹ Att. 72 at p. 42.

III. CONCLUSION

For these reasons, COPA maintains that the Superintendent has failed to meet the affirmative burden of overcoming COPA's recommendation. Accordingly, COPA respectfully requests that the Chicago Police Board reject the Superintendent's non-concurrence in this matter and accept COPA's recommended penalty of separation for Officer Bryant.

Respectfully,



Andrea Kersten
Chief Administrator
Civilian Office of Police Accountability