

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 10, 2020
Time of Incident:	4:31 a.m.
Location of Incident:	70 E. Lake Street
Date of COPA Notification:	August 10, 2020
Time of COPA Notification:	4:41 a.m.

On August 10, 2020, at approximately 4:30 a.m., fifteen Chicago Police Department (CPD) members (1 sergeant and 14 police officers) from the Critical Incident Response Team (Unit 715) were patrolling the downtown area, in 5 separate vehicles, due to the looting that was occurring in the area. Upon turning westbound onto Lake Street from Michigan Avenue, the officers observed a group of individuals on Lake Street, between Michigan and Wabash Avenues. The officers observed one of the individuals carrying a cash register, moving north toward Garland Court. As the officers were attempting to apprehend that individual, they heard gunfire coming from the east on Lake Street. The officers observed muzzle flashes emanating from the front passenger side of a dark colored sedan as it turned southbound onto Michigan Avenue. The sergeant and two officers returned fire. The individual(s) firing at the officers drove away, south on Michigan Avenue while continuing to fire. It is also possible the subjects fired in the air as they were fleeing because there was a bullet hole in a 7th floor window of a building¹ near the casings. Additionally, CPD vehicle #9580 sustained bullet damage to the rear window and a bullet fragment was recovered from the center of the vehicle passenger compartment partition.

Moments prior to the officer-involved shooting (OIS) incident, officers in the group were responding to looting that was occurring in the immediate area. Video evidence recovered as part of this investigation revealed multiple use of force incidents precipitated by the looting.

II. INVOLVED PARTIES

Involved Sergeant #1:	Jose Rojas, Star #932, Employee ID # [REDACTED], Date of Appointment: October 27, 2003, Rank: sergeant, Unit of Assignment: 715, DOB: [REDACTED], 1980, male, Hispanic
Involved Officer #1:	Eduardo Paez, Star #18691, Employee ID # [REDACTED], Date of Appointment: March 25, 2002, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1979, male, Hispanic

¹ Surge Transportation, which is located on the 7th floor, Suite #700, of 180 N. Michigan Avenue.

Involved Officer #2: Emmanuel Espinoza, Star #6071, Employee ID # [REDACTED], Date of Appointment: December 18, 2006, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1980, male, Hispanic

Involved Officer #3: Robert Yapdiangco, Star #17618, Employee ID # [REDACTED], Date of Appointment: May 1, 2013, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1984, male, Hispanic

Involved Officer #4: Antonio De Los Santos, Star #10405, Employee ID # [REDACTED], Date of Appointment: October 26, 2015, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1989, male, Hispanic

Involved Officer #5: Ronald Ayala, Star #19896, Employee ID # [REDACTED], Date of Appointment: March 5, 2013, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1984, male, Hispanic

Involved Officer #6: Kevin Greenwald, Star #17921, Employee ID # [REDACTED], Date of Appointment: November 25, 2013, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1982, male, White

Involved Officer #7: Jeffrey Dohnal, Star #13529, Employee ID # [REDACTED], Date of Appointment: June 29, 2015, Rank: police officer, Unit of Assignment: 715, DOB: [REDACTED], 1990, male White

Involved Individuals: Several Unknown Subjects

III. ALLEGATIONS

Officer	Allegation	Finding
Sergeant Jose Rojas	1. It is alleged that on or about August 10, 2020, at approximately 4:31 am, in the vicinity of 70 E. Lake Street, Sergeant Rojas, #932 discharged a firearm in violation of G03-02-03.	Exonerated
	2. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or about 200 N Garland Court., Sergeant Jose Rojas, #932, attempted to strike an unknown male, without justification.	Not Sustained

	<p>3. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Sergeant Jose Rojas, #932, committed misconduct by failing to ensure that Department members under his supervision sufficiently completed Tactical Response Reports (TRRs) for use of force against civilians at/or near the location of incident in violation of G03-02-02(V).</p> <p>4. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Sergeant Jose Rojas, #932, committed misconduct by failing to ensure that Department members under his supervision recorded use of force against civilians at/or near the location of incident on a Mass Arrest Card or TRR in violation of S06-06(VIII).</p>	<p>Sustained</p> <p>Sustained</p>
<p>Officer Eduardo Paez</p>	<p>1. It is alleged that on or about August 10, 2020, at approximately 4:31 am, in the vicinity of 70 E. Lake Street, Officer Paez, #18691, discharged a firearm in violation of G03-02-03.</p> <p>2. It is alleged that on or about August 10, 2020, at approximately 4:31 am, in the vicinity of 70 E. Lake Street, Officer Paez, #18691, failed to comply with U04-02 by failing to fully load his firearm.</p> <p>3. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Officer Paez, #18691, committed misconduct when he struck an unknown male about the body with an impact weapon without justification.</p> <p>4. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Officer Paez, #18691, failed to make the proper notification for the force used in accordance with General Order G03-02-07.</p>	<p>Not Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

	<p>5. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Officer Paez, #18691, committed misconduct when he failed to complete a Tactical Response Report documenting his use of force against the unknown male.</p>	<p>Not Sustained</p>
<p>Officer Emmanuel Espinoza</p>	<p>1. It is alleged that on or about August 10, 2020, at approximately 4:30 am., at or near 70 E. Lake Street, Officer Espinoza, #6071, committed misconduct when he discharged Oleoresin Capsicum (OC) spray at an unknown male without justification.</p> <p>2. It is alleged that on or about August 10, 2020, at approximately 4:30 am., at or near 70 E. Lake Street, Officer Espinoza, #6071, failed to make proper notification of the OC spray discharge in accordance with General Order G03-02-05.</p> <p>3. It is alleged that on or about August 10, 2020, at approximately 4:30 am., at or near 70 E. Lake Street, Officer Espinoza, #6071, committed misconduct when he failed to complete a Tactical Response Report documenting his use of force against the unknown male.</p> <p>4. It is alleged that on or about August 10, 2020, at approximately 4:30 am., at or near 70 E. Lake Street, Officer Espinoza, #6071, committed misconduct when he pointed his firearm at an unknown male without justification.</p> <p>5. It is alleged that on or about August 10, 2020, at approximately 4:30 am., at or near 70 E. Lake Street, Officer Espinoza, #6071, committed misconduct when he failed to make proper notification of his weapon pointing in accordance with Department Notice D19-01.</p>	<p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p> <p>Sustained</p>

<p>Officer Antonio De Los Santos</p>	<p>1. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or about 200 N Garland Court., Officer Antonio De Los Santos, #10405, pulled an unknown male out of a white vehicle and pushed him to the ground.</p>	<p>Not Sustained</p>
<p>Officer Ronald Ayala</p>	<p>1. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or about 200 N Garland Courtt., Officer Ronald Ayala, #19896, struck an unknown male, without justification.</p>	<p>Not Sustained</p>
<p>Officer Robert Yapdiangco</p>	<p>1. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or about 70 E. Lake Street, Officer Robert Yapdiangco, #17618, threw an unknown object at unknown males/females multiple times as they exited the 7-Eleven, located at 58 E. Lake Street, without justification.</p> <p>2. It is alleged that on August 10, 2020, at approximately 4:30 a.m., at or about 70 E. Lake Street, Officer Robert Yapdiangco, #17618, struck a dark colored SUV multiple times with an impact weapon without justification.</p>	<p>Not Sustained</p> <p>Not Sustained</p>
<p>Officer Kevin Greenwald</p>	<p>1. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m. at or near 70 E. Lake Street, Officer Greenwald, #17921, committed misconduct when he pushed an unknown male's head towards the ground without justification.</p> <p>2. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m. at or near 70 E. Lake Street, Officer Greenwald, #17921, committed misconduct when he failed to complete a Tactical Response Report documenting his use of force against the unknown male.</p>	<p>Sustained</p> <p>Not Sustained</p>

Officer Jeffrey Dohnal	<ol style="list-style-type: none"> <li data-bbox="527 199 1136 409">1. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 58 E. Lake Street, while inside of 7-Eleven, Officer Dohnal, #13529, committed misconduct when he pointed his firearm at unknown person(s) without justification. <li data-bbox="527 451 1136 745">2. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 58 E. Lake Street, while inside of 7-Eleven, Officer Dohnal, #13529, committed misconduct when he failed to make proper notification of his weapon pointing in accordance with Department Notice D19-01. <li data-bbox="527 787 1136 1039">3. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 58 E. Lake Street, while inside of 7-Eleven, Officer Dohnal, #13529, committed misconduct when he struck multiple people about the body with a baton, as they exited the 7-Eleven, without justification. <li data-bbox="527 1081 1136 1333">4. It is alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 58 E. Lake Street, while inside of 7-Eleven, Officer Dohnal, #13529, committed misconduct when he failed to complete a Tactical Response Report documenting his use of force against each unknown person. <li data-bbox="527 1375 1136 1585">5. It is also alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Officer Dohnal, #13529, committed misconduct when he struck an unknown male about the body with a baton without justification. <li data-bbox="527 1627 1136 1879">6. It is also alleged that on or about August 10, 2020, at approximately 4:30 a.m., at or near 70 E. Lake Street, Officer Dohnal, #13529, committed misconduct when he failed to complete a Tactical Response Report documenting his use of force against the unknown male. 	<p data-bbox="1153 199 1421 231">Exonerated</p> <p data-bbox="1153 451 1421 483">Sustained</p> <p data-bbox="1153 787 1421 819">Sustained</p> <p data-bbox="1153 1113 1421 1144">Not Sustained</p> <p data-bbox="1153 1365 1421 1396">Sustained</p> <p data-bbox="1153 1659 1421 1690">Not Sustained</p>
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
3. . Rule 5: Failure to perform any duty.
4. Rule 6: Disobedience of a directive, whether written or oral.
5. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
6. Rule 9: Engaging in any unjustified any verbal or physical altercation with any person, while on or off duty.
7. Rule 10. Inattention to duty.
8. Rule 38: Unlawful or unnecessary use of a weapon.

General Orders

1. G03-02, Use of Force (eff. February 29, 2020 to April 15, 2021).
2. G03-02-01, Force Options (eff. February 29, 2020 to April 15, 2021).
3. G03-02-02, Incidents Requiring the Completion of a Tactical Response Report (eff. February 29, 2020 to April 15, 2021).
4. G03-02-03, Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures (eff. February 29, 2020 to April 15, 2021).
5. G03-02-05, Oleoresin Capsicum (OC) Devices and Other Chemical Agent Use Incidents (eff. February 29, 2020 to April 15, 2021).
6. G03-02-07, Baton Use Incidents (eff. February 29, 2020 to April 15, 2021).

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7. G03-06, Firearm Discharge and Officer-Involved Death Incident Response and Investigation (eff. February 29, 2020 to April 15, 2021).
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Special Orders

1. S06-06, Mass Arrest Procedures (eff. September 27, 2018 to present).
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Uniform and Property

1. U04-02, Department Approved Weapons and Ammunition (eff. February 29, 2020 to May 7, 2021).
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Department Notice

1. D19-01, Firearm Pointing Incidents (eff. November 1, 2019 to present).
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Federal Laws

1. The Fourth Amendment to the United States Constitution
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State Laws

1. 720 ILCS 5/7-5, Peace officer's use of force in making arrest.
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V. INVESTIGATION²

i. Interviews³

In a statement to COPA on September 24, 2020, Sergeant Jose Rojas, #932, stated that on the date of incident, he supervised a team of approximately 14 officers.⁴ He worked Beat 7552, dressed in full uniform, which included a helmet due to the riots and looting occurring in the downtown area. Sgt. Rojas stated that during the night, he rode in an unmarked SUV with Officers Ronald Ayala and Antonio De Los Santos.⁵ Sgt. Rojas further explained that their duties for the evening were to patrol the 001 and 018 districts, responding to in-progress calls. Sgt. Rojas described the night to be very chaotic responding to rioters. He further explained that people spat on them and threw objects at them throughout the night.

Leading up to the incident, Sgt. Rojas and his team were driving on Michigan Avenue and turned westbound onto Lake Street, responding to a “10-1”⁶ incident. As they turned onto Lake Street,⁷ they observed a group of individuals running with what appeared to be stolen goods. Sgt. Rojas stated that one of the individuals was carrying a cash register. According to Sgt. Rojas, his vehicle turned north onto Garland Court. He and the officers in his vehicle exited to approach the subject with the cash register. As they were interacting with that subject, Sgt. Rojas heard a commotion, some screaming coming from Lake Street. Sgt. Rojas stated that he then heard a call over the radio of an officer needing assistance. Sgt. Rojas stated that he heard words to the effect of, “We need help now. Get us help now. Get us 10-1 now. Now. Now.” I think somebody’s like, ‘Officer down.’ It was something where an officer was hurt, not exactly sure.”⁸ Sgt. Rojas stated that Officers Ayala and De Los Santos entered their vehicle in order to respond to the officer in need of assistance call, while he moved toward Lake Street waiting for the officers to turn the vehicle around.

Sgt. Rojas explained that as he approached the building on the northeast corner of Lake Street and Garland Court on foot, he heard one to two gunshots. Sgt. Rojas stated that he moved back to take cover near the glass building on the corner but was still able to see through the glass. Sgt. Rojas then saw a dark colored four-door sedan driving east on Lake Street toward Michigan Avenue. As the vehicle was turning south onto Michigan Avenue, Sgt. Rojas could see the entire passenger side of the vehicle. He saw the front passenger window of the vehicle down then saw muzzle flashes coming from that window, in their direction. Sgt. Rojas then heard glass break⁹ west of his location, at which time he returned fire, discharging his firearm five times. According

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ The officers involved in this incident were not equipped with body worn cameras (BWCs) on the date of the occurrence. Since the date of incident, Unit 715 officers have been assigned BWCs.

⁴ Attachments 125, 127.

⁵ Sgt. Rojas stated that there was a fourth officer in the vehicle, but he could not recall the officer. In a subsequent interview, Sgt. Rojas stated that he believed the fourth officer to be Officer Nicole Holstrom.

⁶ 10-1 is police code for officer in need of assistance.

⁷ The vehicle Sgt. Rojas was riding in was leading the other four vehicles on his team.

⁸ Attachment 127, Page 19, lines 3-6.

⁹ A CPD SUV, vehicle #9580, sustained gunfire to the rear window. A suspect bullet fragment was located on the center of the vehicle passenger compartment partition.

to Sgt. Rojas, he stopped firing once the vehicle turned south onto Michigan Avenue, but he could still hear gunfire on Michigan Avenue. Once the gunfire ceased and it was safe to re-holster his firearm, Sgt. Rojas did so and then checked to make sure the officers on his team were okay. At this time, he also learned the other officers on his team had also discharged their firearms. Sgt. Rojas then went over the radio to report a 10-1, shots fired at and by the police and he gave the location of incident. Sgt. Rojas added that he directed his team to complete separate Tactical Response Reports for the OIS incident and for all other incidents that occurred during their shift that day.

Sgt. Rojas was shown video from 73 E. Lake Street¹⁰ and video from a third-party individual.¹¹ While reviewing footage from 73 E. Lake Street, Sgt. Rojas identified himself and Officers Eduardo Paez and Emmanuel Espinoza. Sgt. Rojas also identified the dark colored sedan that the muzzle flashes came from. Sgt. Rojas identified hearing gunfire at approximately 46:03 of the video and returning fire at the dark colored sedan at approximately 46:04 of the video.

On November 2, 2020, Sgt. Rojas, #932, provided a subsequent statement to COPA personnel.¹² Sgt. Rojas was presented with an allegation that on the date of incident, he attempted to strike an unknown subject. Officer Rojas explained that upon arriving at Lake Street and Garland Court, he and the officers in his vehicle observed the individual carrying a cash register. As he and his team were interacting with the subject and the vehicle he was running toward, an individual came around the corner (off Lake Street, running north on Garland Court). According to Sgt. Rojas, he told the subject, “not to come this way. Do not come this way. Cross the street.”¹³ According to Sgt. Rojas, the subject failed to comply with his verbal directions and continued to run toward him with his fists clenched. Believing the subject to be an assailant toward him, Sgt. Rojas swung his baton to apply a direct mechanical strike to the subject’s upper right arm, but he missed. Sgt. Rojas stated that the subject continued to run northbound on Garland Court.

Sgt. Rojas was presented third party video that showed the attempted use of force incident.¹⁴ He described his actions and denied the allegation made against him. Sgt. Rojas explained that he attempted to use force because the subject failed to comply with his verbal commands to cross the street, and he became an assailant when he continued to run in Sgt. Rojas’s direction with clenched fists. Believing the subject was a threat to him and/or members of his team, he attempted to apply a direct mechanical strike to his upper right arm but missed.

On June 3, 2021, Sgt. Rojas, #932, provided a third statement to COPA personnel.¹⁵ Sgt. Rojas was presented with an allegation relating to his involvement in directing officers assigned to his team on August 10, 2020, to improperly document their use of force on a blanket Tactical Response Report (TRR). Sgt. Rojas stated that he made the decision himself to direct the officers assigned to him on the night of incident to document their force used throughout the night on a blanket (one) TRR, instead of an independent TRR for each incident, because he believed due

¹⁰ Attachment 30.

¹¹ Attachment 27.

¹² Attachments 129-130.

¹³ Attachment 130 Page 10, lines 2-3.

¹⁴ Attachment 97.

¹⁵ Attachments 172, 173.

to the chaos of the night it was the best manner. Sgt. Rojas explained that if the officers were to document each use of force, he and each individual officer would be pulled off the street in order to go to a district to complete paperwork regarding each specific incident. Sgt. Rojas added that during the NATO riots, assigned as a police officer at the time, he was directed by supervisory personnel to fill out blanket TRRs. On the night of incident, based on past practice, he directed his team to follow the same procedure. Sgt. Rojas acknowledged that going forward, he would consult with a supervisor of higher rank if placed in a similar situation.

In a statement to COPA on September 24, 2020, Officer Eduardo Paez, #18691, stated that on the date of incident he was assigned to Unit 715, the Critical Incident Response Team.¹⁶ Officer Paez stated that he was dressed in full uniform, operating a white unmarked SUV. According to Officer Paez, he worked as part of a team of approximately ten officers but in his vehicle was himself, Officer Espinoza and a third officer [Matt] who he had just met that day.

Officer Paez stated that they were responding to officers needing assistance when they turned onto Lake Street from Michigan Avenue and observed a large group of individuals looting in the area. Officer Paez's vehicle was the last vehicle of approximately four vehicles in the group. Officer Paez drove around the other vehicles and parked on the north side of the street, near the 7-11 or Billy Goat restaurant. Officer Paez exited his vehicle and heard approximately 4-5 gunshots moving in his direction. According to Officer Paez, he was unsure exactly where the gunshots were coming from, but they sounded as if they were coming from an area east of their location. Officer Paez looked through the glass windows of one of the buildings and saw the window of one of their police vehicles break as well as one of the windows of a building. He then saw an SUV flee east on Lake Street.

Officer Paez then came out from between the two vehicles, onto the street to assess the situation. Officer Paez saw Officer Espinoza running eastbound toward where he heard the shots emanating. Officer Paez also ran east on Lake Street. As he was running east in the middle of the street, he saw a dark color sedan turning south onto Michigan Avenue. He then saw multiple muzzle flashes from the front passenger area of the dark colored sedan as it turned south on Michigan Avenue. Officer Paez explained that at that moment he discharged his firearm one time in the direction of the vehicle, expanding that his target was the subject who was firing multiple times at him. Officer Paez stated that he did not continue to fire because the vehicle was out of his sight, yet he continued to hear gunfire emanating from the direction the vehicle turned. Officer Paez stated that when he discharged his firearm, the distance between him and the subject vehicle was approximately 25 yards. Officer Paez explained that he was closer to the south side of Lake Street, near Garland Court when he fired his weapon and that no officers or civilians were in his line of fire at the time he discharged.

According to Officer Paez, once he stopped firing, he moved toward his partner, Officer Espinoza, who was on the southside of the street, further east from where he discharged his firearm. He made sure his partner was not injured. Officer Paez stated that he attempted to go over the radio to report the incident, but he was not sure if it went through because the radio traffic was extremely busy. Officer Paez was asked to explain the reason for the discrepancy in the ammunition he had

¹⁶ Attachments 132, 134.

in his firearm on the date of incident.¹⁷ Officer Paez explained that he thought he had fully loaded his firearm but believed that he miscounted.

Officer Paez was presented video retrieved from 73 E. Lake Street¹⁸ as well as video recovered from a third-party individual.¹⁹ Officer Paez was unable to identify what vehicle he fired upon. He stated that based on the videos, he could not determine what vehicle he saw the muzzle flashes emanate from but was certain that he was fired upon from a dark colored sedan.

On September 26, 2020, Officer Paez submitted a To/From Memorandum Report to COPA.²⁰ Officer Paez explained that on the date of his previous statement, he believed that the dark colored sedan had proceeded eastbound on Lake Street and as it was turning southbound on Michigan Avenue, the passenger began to fire. At the end of the statement, COPA investigators allowed him to view a video he had not seen before. Based upon that previously unseen video, Officer Paez believed that he was mistaken as to the path of the dark colored sedan. According to Officer Paez, he attempted to articulate this after seeing the video but after reviewing his audio statement, Officer Paez recalled hearing other officers on scene stating that a dark colored sedan was firing, and officers returned fire. Officer Paez assumed that he was firing at the same vehicle, and he thought this was confirmed due to the marked squad car that began to pursue the vehicle that he fired at. After reflection and viewing the video for the first time at COPA, Officer Paez now believes that he was firing at a different dark colored sedan. According to Officer Paez, he is still positive that the vehicle he was firing at was shooting at police officers from the passenger side and then proceeded south bound on Michigan.

On October 21, 2020, Officer Paez provided a subsequent statement to COPA personnel.²¹ Officer Paez was presented with allegations of excessive force stemming from contact with a male subject while on Lake Street on August 10, 2020. Officer Paez explained that upon arrival at Lake Street, prior to the officer-involved shooting incident, he saw a male standing near a dark colored SUV, which was parked on the northside of the street, facing westbound. The male subject was loading what appeared to be beer into the rear of the vehicle. Officer Paez stated that he and his partners²² exited the vehicle and approached the male subject,²³ who dropped the beer and moved toward the sidewalk. Officer Paez stated that the male subject had his hands near his shirt, and he could not see what he was doing. Officer Paez told the male subject words to the effect of, “Hey, what the are you doing? Get the hell out of here”²⁴ and shoved him.²⁵ Officer Paez explained that his right hand made contact with the male’s elbow area. Officer Paez denied that he had his asp in his hand when he exited his vehicle.

¹⁷ Attachment 1, 4. During the officer’s weapon breakdown on the date of incident, it was determined that his firearm was missing one live round.

¹⁸ Attachment 30.

¹⁹ Attachment 27.

²⁰ Attachment 135.

²¹ Attachments 137-138.

²² Officer Paez identified the third officer in the vehicle as “Mike.” In his previous statement, Officer Paez identified the officer as “Matt.”

²³ Officer Paez described the individual as a Hispanic male, approximately 5’8” to 5’9”, in his late 20s or early 30s.

²⁴ Attachment 138, page 9, line 24.

²⁵ Attachment 138, page 10, line 17.

According to Officer Paez, as he was talking to the male subject, his attention was diverted toward the vehicle because he saw the rear passenger door was open. For officer safety he looked inside of the vehicle and saw that there were multiple occupants moving around inside of the vehicle. He told them to show their hands, which they complied, and he told them to “Get the hell out of here”²⁶ and he got back into his vehicle. He then moved his vehicle closer toward 7-Eleven because he saw looters exiting the store.

Officer Paez was shown video,²⁷ which depicts the interaction with the unknown male subject. At approximately 41 seconds of the video clip, Officer Paez described his interaction with the male subject as “smacking him, shoving him, the forearm to move him along.”²⁸ When asked to answer to the allegations made against him, Officer Paez stated that he did not strike the subject with a weapon or object. He also stated that he was directed by Sgt. Rojas to fill out a Tactical Response Report to cover the entire night.

In a statement to COPA on September 24, 2020, Officer Emmanuel Espinoza, #6071, stated that on the date of incident, he was dressed in full uniform, assigned to Unit 715, the Critical Incident Response Team.²⁹ Officer Espinoza explained that he worked as part of a team and rode with Officer Paez and an officer who he could not identify since it was his first time working with him. Officer Espinoza stated that he was the front seat passenger, Officer Paez was the driver, and the third officer was seated in the rear of the white unmarked SUV they were assigned. According to Officer Espinoza, their duties on the date of incident were to patrol the downtown area.

Officer Espinoza stated that the evening was extremely chaotic and explained that he had never seen downtown Chicago as he did that night. Officer Espinoza stated that he was attacked throughout the night. People spat on him and threw rocks at him, which broke his helmet. Officer Espinoza explained that their main duty was member presence due to the looting in the downtown area. Officer Espinoza stated that throughout the evening they were outnumbered by the looters in the area. He added that they responded to multiple “10-1” incidents throughout the night.

According to Officer Espinoza, while patrolling the downtown area, they were traveling southbound on Michigan Avenue and turned westbound on Lake Street. Officer Espinoza stated that his vehicle went around the other vehicles on his team, and they parked near 7-Eleven, which was located on the northside of the street, west of Garland Court. Officer Espinoza explained that once they exited their vehicles, there were several looters in the area running with stolen goods, entering vehicles that were parked in the area. Officer Espinoza described the area to be chaotic. Officer Espinoza and his team attempted to apprehend some of the looters, but they were unsuccessful. As the officers were trying to apprehend the looters, Officer Espinoza heard approximately 4-5 gunshots. His attention was immediately directed east on Lake Street, but he was not sure where exactly the gunfire was emanating from due to echoing off the buildings.

²⁶ Attachment 138, page 10, lines 23-24. It is to be noted that the transcription has an error in which it states that the officer said “here” but the audio confirms he said “there.”

²⁷ Attachment 96.

²⁸ Attachment 138, page 16, lines 8-9.

²⁹ Attachments 140-141.

Officer Espinoza moved toward the middle of the street and started to run eastbound toward where he had heard the first volley of gunfire. As he was running eastbound, Officer Espinoza was looking around to see who was firing at them since there were still looters running in the area, entering vehicles. As Officer Espinoza approached Garland Court, he saw a dark colored four-door sedan driving slowly toward Michigan Avenue. Officer Espinoza stated the vehicle had tinted windows, which prevented him from seeing inside of the vehicle. As he continued to run eastbound toward Michigan Avenue, the dark colored sedan began to fire in his direction. Officer Espinoza stated that he discharged his firearm twice at the vehicle as he continued being fired upon. He explained that he stopped firing to take cover and to reassess the situation.

Officer Espinoza explained that he was located just west of Garland Court, closer to the south side of the street but still in the street when he discharged his firearm. He further explained that the vehicle was near the corner of Lake Street, making a southbound turn onto Michigan Avenue when he saw muzzle flashes coming from the passenger side of the vehicle, approximately 20-25 yards from where he was located. Officer Espinoza stated that although he could not recall exactly how many muzzle flashes he saw coming from the subject vehicle, he heard more than eight gunshots. Officer Espinoza explained that he continued running toward the southside of Lake Street, taking cover behind a planter. Officer Espinoza stated that the vehicle continued to fire after it turned southbound on Michigan Avenue and explained that there were shell casings that were located in that area. According to Officer Espinoza, after the gunfire ceased, he as well as other officers moved toward Michigan Avenue to clear the area. Officer Espinoza stated that he went over the radio to provide a description of the vehicle and the direction of travel. He also heard Sgt. Rojas report shots fired by the police.

Officer Espinoza was provided the opportunity to view video recovered from 73 E. Lake Street.³⁰ Officer Espinoza was able to identify himself on the video as well as the dark colored sedan that fired at him. At approximately 45:54 of the recording, Officer Espinoza described the dark colored sedan to be to the left of him, driving eastbound toward Michigan Avenue. As the vehicle moved past Officer Espinoza he extended his right arm in front of his body, which he described was where the first gunshot came from. At approximately 46:03 of the recording, the vehicle turned south on Michigan Avenue and Officer Espinoza stated this was approximately the moment he discharged his firearm.

On October 21, 2020, Officer Espinoza provided a follow-up statement to COPA personnel.³¹ Officer Espinoza was presented with additional allegations of excessive force that stemmed from contact with a male subject on Lake Street. Officer Espinoza provided a statement consistent with that of Officer Paez as it relates to their arrival on Lake Street. Officer Espinoza added that when he exited his vehicle, there was a huge commotion; there was a lot of screaming and officers were yelling at the occupants of the vehicle to show their hands. When confronted, the male subject made some fidgeting movements with his right hand, and that led Officer Espinoza to take out his OC spray and discharge it one time. Officer Espinoza explained that based on his experience as an officer, people hold weapons in their waistband. After discharging the burst of OC spray, the male subject ran eastbound out of his sight.

³⁰ Attachment 30.

³¹ Attachments 144-145. Officer Espinoza was shown video in attachment 96.

Officer Espinoza stated that his attention was then diverted to the black SUV because he heard officers yelling, "Show me your hands."³² According to Officer Espinoza, he looked inside of the vehicle and saw multiple occupants. He then moved toward the driver's side of the vehicle and told the occupants to leave. At that moment, other officers were yelling for officers to move toward the 7-Eleven, where he saw several looters exiting the store.

In a statement to COPA on October 20, 2020, Officer Robert Yapdiangco,³³ #17618, provided a similar account of the events, that led to the use of force incident resulting from subjects looting the businesses on Lake Street, as that of other involved officers.³⁴ Officer Yapdiangco added that his partner that evening was Officer Paul Matthews, and they were assigned a marked police SUV.

According to Officer Yapdiangco, as they were patrolling the downtown area, they observed a vehicle parked facing westbound at 70 E. Lake Street, near a 7-Eleven, and a male carrying proceeds from looting, which he loaded into the rear of the vehicle. Officer Yapdiangco also saw several people running out of the 7-Eleven, which had its windows shattered. Officer Yapdiangco saw an officer approach the vehicle and yell inside of the vehicle words to the effect of, "Let me see your hands," or, "Don't move."³⁵ As Officer Yapdiangco approached the vehicle, he saw multiple silhouettes of people moving around inside of the vehicle. Officer Yapdiangco struck the back of the vehicle with his baton to get the occupants attention, while also giving verbal commands for them to show their hands. Officer Yapdiangco recalled that there were other officers near the vehicle and when he saw that the officers did not feel threatened by the individuals in the vehicle, he stopped striking the vehicle and told them to leave the area. At that moment, his attention was diverted to the individuals exiting the 7-Eleven. Officer Yapdiangco re-entered the passenger side of his vehicle and they moved closer to the 7-Eleven.

Officer Yapdiangco stated that there were several individuals running out of the 7-Eleven. He exited his vehicle to enter the store and a male subject, big in stature, wearing a black hoodie ran out. Officer Yapdiangco explained that the male "bladed"³⁶ his stance toward him. At that moment, they were approximately four feet apart. The male turned toward him and looked him in the eye. According to Officer Yapdiangco, he believed he was going to receive a battery and felt threatened by the male's stature and demeanor. Officer Yapdiangco stated that he had his baton in his hand and gave the subject verbal commands to get back, in order to create distance. As he swung his baton to create distance, the male began to turn away from him. At the same time, he lost control of the baton and it fell to the ground. The male turned around and ran in the opposite direction.

According to Officer Yapdiangco, he picked up his baton and continued to see several people still running out of the 7-Eleven. Officer Yapdiangco saw a male run out with a silver object in his right hand and pointed it at him. Believing it was a weapon, possibly a firearm, Officer

³² Attachment 145, page 10, line 23.

³³ Officer Yapdiangco is an Asian male, approximately 5'4", 140 pounds.

³⁴ Attachments 147-148.

³⁵ Attachment 148, page 16, lines 14-15.

³⁶ Officer Yapdiangco described that the male subject turned towards him and put his hands up and balled his fists, somewhat in a fighting stance posture. Pages 28-29.

Yapdiangco threw his baton at the male in order to disarm him. Officer Yapdiangco further explained that he did not have enough time to draw his firearm and he also did not know if other officers or civilians were inside of the 7-Eleven that were not a threat. Officer Yapdiangco stated that he was unsure if he struck the male but as soon as he threw his baton, the individual jumped and continued to run.³⁷ According to Officer Yapdiangco, the individual dropped the silver item, which is when he realized that it was not a weapon.

Officer Yapdiangco stated that shortly thereafter, he heard gunshots and windows breaking. Officer Yapdiangco stated that he did not realize that it was gunfire until the rear window of his vehicle was shattered. He drew his firearm and moved toward the front of his vehicle to take cover. At that moment he could not see who was firing but he could hear a volley of gunfire coming from east of his location. Officer Yapdiangco heard several shots, a pause, then several more shots.

Officer Yapdiangco was presented third party videos³⁸ that showed the above related actions by the officer. Officer Yapdiangco provided a verbal explanation to what was presented in each of the videos. In addition, Officer Yapdiangco was presented with the allegations made against him. Officer Yapdiangco explained that his direct supervisor, Sgt. Rojas, instructed him that evening to fill out two separate TRRs; one TRR documenting the OIS incident and a separate TRR documenting use of force incidents that occurred throughout the evening. Officer Yapdiangco explained that the evening was very chaotic, and they were met with a lot of violence. According to Officer Yapdiangco, there were many occasions throughout their shift where they had to use force and were instructed to document their force as best as possible on one TRR.

In a statement to COPA on December 9, 2020, Officer Ronald Ayala, #19896, provided a similar account of the events that led to the use of force incident resulting from subjects looting the businesses on Lake Street, as that of other involved officers.³⁹ Officer Ayala stated that he was partnered with Officer De Los Santos, working as part of a bigger team. Also riding in his assigned vehicle, a black Tahoe, was Sgt. Rojas. Officer Ayala explained that given the events of the evening, they continuously switched vehicles in order to stay mobile. Officer Ayala added that throughout his shift, his position in his vehicle changed.

According to Officer Ayala, the first call of businesses getting looted came in between 10:30 p.m. and 11:00 p.m. on the date of incident. He explained that from then on, the looting incidents continued throughout the night. Hours later, as they were driving southbound on Michigan Avenue, they observed a male subject running with a cash register. Officer Ayala then turned westbound on Lake Street in order to try to stop the subject. Officer Ayala stated that he turned northbound onto Garland Court, where the subject was running toward a white vehicle, positioning his vehicle in front of the white car. Officer Ayala, yelled out of the window, “stop, stop.”⁴⁰ He then exited his vehicle and began to move toward the male subject who was carrying

³⁷ While watching the video footage, Officer Yapdiangco clarified that the subject who he believed to be armed was not in fact the person who jumped. He described the male he believed to be armed as wearing a light-colored hat and a darker sweatshirt and dark pants. (Page 54, at approximately 1:33 of the video)

³⁸ Officer Yapdiangco was presented with the videos posted on COPA’s website. The videos shown to Officer Yapdiangco included clips from 70 E. Lake Street (Attachment 96), ██████████ (Attachment 102) and 58 E. Lake Street (7-Eleven) Camera 13 (Attachment 99).

³⁹ Attachments 151- 152.

⁴⁰ Attachment 152, page 23, lines 13-14.

the cash register, yelling, “Drop it.”⁴¹ At some point, the subject dropped the cash register and tried to enter the vehicle. Officer Ayala attempted to take the subject to the ground as the subject was pulling away from him. Officer Ayala explained that they both fell forward and onto the ground. As they went to the ground, the male subject put his hands on the ground and started to push himself up off the ground, as if to get back up. Officer Ayala then heard someone yell, “go, go, go.”⁴² At that moment, Officer Ayala was unsure who was yelling but saw people running past, as his head was down, concentrated on the subject. As Officer Ayala was holding the subject down, searching him and preventing him from getting back up, he saw the white vehicle begin to move. According to Officer Ayala, he was unsure if the vehicle was going to move onto the sidewalk and run him over. He then heard Sgt. Rojas yelling, 10-1. Officer Ayala described the scene to be “pretty chaotic.”⁴³ He knew there were additional people inside of the vehicle upon arrival, but he could not see what they were doing in the vehicle.

Officer Ayala stated that he ran to Sgt. Rojas, looking for guidance. According to Officer Ayala, he and his partners re-entered his vehicle and were about to drive away when one of the officers yelled to stop. They realized that one of the individuals in the white vehicle was still on the ground. As Officer Ayala exited the vehicle to talk to the person, they heard a volley of approximately 5-6 gunshots coming from behind their vehicle (near Lake Street). Officer Ayala stated that he and his partners exited their vehicle. As he took cover near a pillar where Officer De Los Santos and Sgt. Rojas were located, he heard a second volley of gunfire. Almost simultaneously, Officer Ayala saw Sgt. Rojas discharge his firearm in the direction of the gunfire. According to Officer Ayala, he saw muzzle flashes reflecting off the glass of the buildings, but he could not see exactly where the gunshots were coming from.

Officer Ayala was presented with 3rd party video.⁴⁴ Officer Ayala described the video and explained his actions as they related to the allegation made against him. Officer Ayala stated that he did not strike the subject but rather held him down to control him from getting back up. He also explained that he searched the individual, specifically his waist area for any weapons, given that shots were fired in the area throughout their shift. Officer Ayala added that he completed two separate TRRs for that night. One documented the OIS incident and the other documented the force he used throughout his shift that day.⁴⁵

In a statement to COPA on December 9, 2020, Officer Antonio De Los Santos, #10405, provided a similar account of the events that led to the use of force incident resulting from subjects looting the businesses on Lake Street, as that of other involved officers.⁴⁶ Officer De Los Santos added that he started his tour of duty with Officer Ayala assigned an unmarked black Tahoe. Officer De Los Santos stated that throughout his shift, his position in the vehicle changed. Officer De Los Santos explained that due to the incidents occurring throughout the night, officers entered different department vehicles at different points. He stated that there were times where he was on

⁴¹ Attachment 152, page 23, line 19.

⁴² Attachment 152, page 24, lines 14-15.

⁴³ Attachment 152, page 25, line 7.

⁴⁴ Attachment 96.

⁴⁵ Officer Ayala explained that from previous riot/looting incidents, they were instructed to complete blanket TRRs to document their force used throughout their shift. It was his understanding that a command staff member gave the order.

⁴⁶ Attachments 154-155.

foot, walking blocks to meet back up with members of his team. Officer De Los Santos added that it was a very chaotic night.

According to Officer De Los Santos, at approximately 4:30 a.m., he, Officer Ayala, Sgt. Rojas, and a fourth officer, who he could not identify by memory, were in his vehicle.⁴⁷ Officer De Los Santos was the front passenger, Officer Ayala was the driver, Sgt. Rojas and the fourth officer were the rear passengers. As they were traveling south on Michigan Avenue and turned westbound onto Lake Street, they saw people running and vehicles parked near the 7-Eleven located on Lake Street. They also saw the windows of businesses on Lake Street broken and people looting. Officer De Los Santos stated that they then saw a male running southbound on Lake Street, toward the passenger side of a small white SUV that was parked on Garland Court, carrying a register. Officer De Los Santos explained that they made a right-hand turn onto Garland Court, which is a small side street.

Officer De Los Santos stated that multiple individuals occupied the small SUV. He and the other officers in his vehicle exited their vehicle to conduct a stop. Officer De Los Santos gave the driver verbal commands to show his hands and exit the vehicle. Officer De Los Santos stated that initially the driver was not compliant. The driver moved a lot while he gave him verbal commands to get out of the car and to show his hands. Officer De Los Santos described that the driver moved his right hand toward the center console and the back, as if he was reaching for something or hiding something, possibly a weapon, while his left hand remained on the steering wheel. Believing the driver to be armed or was going to drive away, Officer De Los Santos opened the door and grabbed the driver to have control of his arm and hand. The driver then willfully went to the ground. According to Officer De Los Santos, the driver then followed all his orders. At that point, Officer De Los Santos' attention was diverted to the vehicle because he saw it moving backwards. Officer De Los Santos stated that he rushed toward the vehicle but the fourth officer in his vehicle cut in front of him and placed the vehicle in park. Once the vehicle was secured, Officer De Los Santos looked back and saw the driver still on the ground.

According to Officer De Los Santos, he then saw his partners rushing toward their vehicle, saying, "Let's go. Let's go,"⁴⁸ believing a 10-1 was called. Officer De Los Santos stated that they entered the vehicle and were about to drive away when he realized the driver of the SUV was still on the ground, in front of their SUV. He yelled "Stop"⁴⁹ to alert Officer Ayala. They then told the driver that he could leave. At that moment, he heard gunfire. Officer De Los Santos stated that he initially heard a volley of approximately four shots, coming from Lake Street. Officer De Los Santos explained that they exited the vehicle, and he began to scan the area for any potential threats. Officer De Los Santos stated that he was right behind Sgt. Rojas, taking cover near a glass building on the northeast corner of Lake Street and Garland Court. As he turned around to see where his other partners were located, he heard a second volley of approximately four shots. Officer De Los Santos then saw Sgt. Rojas firing in a southeast direction. Officer De Los Santos added that he was approximately two feet behind Sgt. Rojas at this time. Realizing he was not in

⁴⁷ Based on the "Suspended" Detective Supplementary Report (Attachment 95), Officer Nicole Holstrom was the fourth officer in the vehicle.

⁴⁸ Attachment 155, page 26, line 21.

⁴⁹ Attachment 155, page 28, line 13.

the best covered position, Officer De Los Santos moved behind a pillar for better coverage. Once the scene appeared to be secure, Sgt. Rojas met him and called the incident over the radio.

Officer De Los Santos was presented third party video from 70 E. Lake Street.⁵⁰ Officer De Los Santos was asked to explain certain portions of the video because it appeared that the events he described occurred extremely fast. The video depicts the officer exiting his vehicle, immediately open the driver door of the SUV and pull the driver out. Officer De Los Santos maintained that he exited his vehicle and told the driver, “Show me your hands. Get out.”⁵¹ According to Officer De Los Santos, he opened the driver’s side door, he guided the driver out of the vehicle and the driver “just goes onto the ground, opens his hands.”⁵² When presented the allegation that he pulled an unknown male out of a white vehicle and pushed him to the ground, Officer De Los Santos stated that he pulled him out, escorted him out of the vehicle not using excessive force and the individual went to the ground. Officer De Los Santos stated that he was instructed to fill out two separate TRRs for the events of that date. According to Officer De Los Santos, it was his understanding that the instruction originated from a member of the command staff, and it was disseminated down the chain of command. Officer De Los Santos added that “blanket” TRRs have been used in mass arrest incidents, such as the Columbus Statue riots that occurred prior to the date of this incident.

In a statement to COPA on December 15, 2020, Officer Kevin Greenwald, #17921, provided a similar account of the events, that led to the use of force incident resulting from subjects looting the businesses on Lake Street, as that of other involved officers.⁵³ Officer Greenwald stated that he worked with Officers Jeffrey Dohnal, Ismael Mendez and John Peulecke, and they were assigned an unmarked SUV.

Officer Greenwald added that once they arrived on Lake Street, he observed several people running out of the 7-Eleven. He and his partners exited their vehicle and they tried to get people to leave the area. Officer Greenwald explained that the night was extremely chaotic. During prior incidents that evening, people were breaking windows with bats, rocks, and bottles. They also had objects thrown at them and he was almost hit by a car. According to Officer Greenwald, as they were telling people to leave the area on Lake Street, they were “fired upon.”⁵⁴

Prior to hearing the gunshots, Officer Greenwald was engaging a subject⁵⁵ that was running eastbound from Wabash Avenue. The subject reduced his pace and checked the left side of his waistband. Based on his experience as a police officer and the fact that there were multiple incidents of shots fired that night, Officer Greenwald believed the subject might have been armed. Officer Greenwald told the subject to get on the ground, lay down, and show his hands. The subject initially did not comply but then placed his hands in the air and got into a squatting position. Officer Greenwald stated that he asked the subject to lay down in order to create distance, get a better look at his waistband, and pat him down. Officer Greenwald added that he was concerned that the

⁵⁰ Attachment 97.

⁵¹ Attachment 155, page 40, lines 3-4.

⁵² Attachment 155, page 41, lines 4-5.

⁵³ Attachments 160-161.

⁵⁴ Attachment 161, pages 24, line 19.

⁵⁵ Officer Greenwald described the subject as a slender black male, approximately 5’10”, 25-30 years of age. Officer Greenwald described his own height as approximately 6’00”, 230 pounds.

subject would raise himself from the squatting position and cause harm to him. As Officer Greenwald was interacting with the subject, he heard gunfire, and he ran eastbound toward Michigan Avenue. After the first volley of approximately six shots, there was a pause followed by another six shots. Officer Greenwald stated that he did not see where the shots came from but stated that they sounded like they were coming from east near Michigan Avenue.

Officer Greenwald was presented with third party video,⁵⁶ which showed the incident. He viewed the video and provided an account of what he observed on the video. Officer Greenwald denied the allegation that he pushed the unknown male subject's head to the ground without justification and explained that any officer in his position would have believed his actions would be reasonable given the looting and shooting incidents that occurred throughout the night. He added that he was attempting to protect himself given that he believed the subject to be possibly armed and not fully compliant. Furthermore, Officer Greenwald explained that he was under the understanding that they were involved in a riot situation, which is why he completed a blanket TRR for the entire night.

In a statement to COPA on December 15, 2020, Officer Jeffrey Dohnal, #13529, provided a similar account of the events that led to the use of force incident resulting from subjects looting the businesses on Lake Street, as that of other involved officers.⁵⁷ Officer Dohnal worked with Officers Greenwald and Peulecke but also as part of a larger group. According to Officer Dohnal, they were not initially working as a larger group. It was not until the looting incidents started, approximately four hours into his shift, that the team came together. Officer Dohnal added that the evening was chaotic. He stated that the first incident occurred at either Nordstrom or Bloomingdale's on Michigan Avenue. During the looting, objects were thrown at them, and they were threatened with bats. After the first looting incident, several other incidents began to occur, which led them to Lake Street.

Officer Dohnal explained that upon turning westbound on Lake Street from Michigan Avenue, he observed an individual running with a cash register and a second male individual carrying looted merchandise toward a black SUV. According to Officer Dohnal, the male subject was at the rear of the SUV when they pulled their vehicle in front of the black SUV. When Officer Dohnal exited his vehicle, he could not see the subject, so he moved toward the passenger side of the vehicle. At approximately the same time, the male subject also moved toward the passenger side of the vehicle (onto the north sidewalk). Officer Dohnal stated that the male subject appeared agitated and stated words to the effect of, "What the fuck" or "Who the fuck are you."⁵⁸ Officer Dohnal replied, "Hey, stop."⁵⁹ Officer Dohnal explained that the subject turned away from him, at which point Officer Dohnal gave him verbal directions to show his hands. The subject then started to walk eastbound toward another officer, with his hands at waistband level, which he could not see since the subject's back was toward him. According to Officer Dohnal, he increased his pace toward the subject and delivered a mechanical strike to the "fleshy part of the back of his leg."⁶⁰

⁵⁶ Attachment 100.

⁵⁷ Attachments 157-158.

⁵⁸ Attachment 158, page 19, line 8.

⁵⁹ Attachment 158, page 19, line 9.

⁶⁰ Attachment 158, page 20, lines 20-21.

Officer Dohnal explained that given the totality of the circumstances,⁶¹ he believed the subject had the potential to become an assailant, which is the reason he used force against him. Officer Dohnal then assessed him and saw that he did not have anything in his hands and no longer posed a threat. He then focused his attention to the 7-Eleven, which was the area where the subject appeared to come from with the looted merchandise.

According to Officer Dohnal, he then moved toward the 7-Eleven where he saw multiple people looting. He entered the store and observed several individuals at the rear of the store and two individuals, a male and a female, closer to the front.⁶² Officer Dohnal stated that he gave the female verbal commands to drop the merchandise she was carrying and leave but she just stood there, staring at him. As he was interacting with the male and female, Officer Dohnal observed the group of individuals in the rear, who appeared to be attempting to break into an area at the rear of the store. Based on previous events during the night, Officer Dohnal believed that the individuals might be armed. Officer Dohnal drew his firearm and pointed it over the two individuals and toward the group in the rear and gave them verbal directions to show their hands.⁶³ Officer Dohnal explained that he then put his gun in a low ready position and moved “off line”⁶⁴ so that he was not a sitting target. The female and male exited the store at that point. Officer Dohnal stated that he slowly started to gain compliance from the individuals at the rear of the store and they started to leave the store. Once the subjects in the rear started to comply, he re-holstered his firearm.

Officer Dohnal realized that he was the only officer inside of the store and felt that he had to place himself in an advantageous position to get the individuals out of the store, while maintaining a safe distance to prevent being attacked. According to Officer Dohnal, there was a male subject carrying a satchel, who was initially less compliant with putting his hands up. Officer Dohnal found concern with the subject carrying the satchel because he saw incidents where subjects carried weapons in similar satchels while working in the 011th district. Given that the subject did not initially comply, as he walked past, Officer Dohnal delivered a baton strike to the back of the subject’s leg in order to deter an attack on him and to create distance as the subject moved by him. Officer Dohnal added that the individual engaged in felony activity in the store, and he did not initially follow verbal commands to place his hands up in the air as he moved slowly out of the store. He was also concerned that the individual might have had the means to attack him if Officer Dohnal turned his back to him.⁶⁵

According to Officer Dohnal, there were still at least six individuals in the store, and he did not want to position himself in manner that would prevent him from exiting the store if the other individuals became a deadly threat, especially since he was the only officer inside. Officer

⁶¹ Attachment 158, page 21, lines 10-21. Officer Dohnal explained that given the fact that the male subject was carrying merchandise, he believed he was involved in felony activity and was then at that rear of the vehicle, he did not know what he was accessing at that point.

⁶² It is to be noted that the door to the 7-Eleven was locked. At some point during the evening, individuals broke the side window, next to the door, in order to gain access into the store.

⁶³ While watching video from inside 7-Eleven, Officer Dohnal explained that he held his firearm with one hand because he was holding his baton in his other hand. He added that he held his firearm at a slight cant because he was trained that in the event he had to engage in deadly force, the slight cant would control the recoil.

⁶⁴ Attachment 158, page 55, lines 13-14. Officer Dohnal explained that he stepped to his left as he oriented himself towards the people in the back of the store, allowing people in the foreground to egress out of the store.

⁶⁵ Officer Dohnal stated that in prior incidents that night, objects were thrown at them when they turned their backs.

Dohnal stated that there were two individuals that were walking toward him. One of the subjects moved closer toward Officer Dohnal, which caused him concern because the subject did not walk out in the same single file manner as the others. To create distance and prevent the subject from running at him, Officer Dohnal used his baton to push the individual as a control technique to move him out of the store. Officer Dohnal stated that the four individuals left in the store started to move toward the door at a faster pace. He then positioned himself closer to the door⁶⁶ and utilized his baton, not to strike the subjects but to create distance in order to move them out of the store as quickly as possible. Officer Dohnal noticed one of the individuals had an item in his hands. Similar to prior incidents that evening, where objects were thrown at them, Officer Dohnal used his baton to maintain distance without being assaulted.

Officer Dohnal stated that once all the individuals exited the store, he followed. As he exited the 7-Eleven and was moving toward his vehicle, he heard a volley of shots coming from the east. Officer Dohnal moved toward the front of his vehicle to gain coverage and heard a second volley of shots. He then moved toward another police vehicle and was able to see Sgt. Rojas in the distance, firing at what appeared to be in a southeast direction.

Officer Dohnal was presented 3rd party videos and described his actions captured in the clips.⁶⁷ Officer Dohnal denied the allegations made against him. Officer Dohnal stated that he was taught at the academy to use the baton to create distance. Officer Dohnal added that he was instructed to fill out two separate TRRs to document their use of force that evening. One TRR was for the OIS incident, and one was for the incidents that occurred throughout the night.

ii. Digital Evidence

Evidence Technician (ET) photographs⁶⁸ depict the area where the OIS occurred. Orange cones mark the evidence that was located, recovered, and inventoried by CPD. Evidence Technicians also photographed the three department members involved in the OIS.

The **Office of Emergency Management and Communications (OEMC)⁶⁹** 911 calls and radio transmissions document several incidents of looting and firearm discharges. The radio transmissions also document notification of shots fired at and by the police directly relating to this OIS incident. At approximately 4:30:54, an unidentified unit reported shots fired at the police, followed by reports of shots fired at and by the police at Lake Street and Garland Avenue. The units also report a dark colored sedan⁷⁰ traveling southbound on Michigan Avenue and advise other units to stop the vehicle. The radio transmissions document traffic stops of vehicles matching the description of the offending car but there is no confirmation of a positive identification.

⁶⁶ Although Officer Dohnal refers to the door here, he is still referencing the window that was broken prior to their arrival.

⁶⁷ Attachments 96, 98.

⁶⁸ Attachment 8.

⁶⁹ Attachment 14.

⁷⁰ A unit later reported that the vehicle was a dark colored Malibu.

Police Observation Device (POD) videos⁷¹ near the area of incident were identified and ordered. POD 6598 video depicts a portion of the incident. The POD is located on the northeast corner of Michigan Avenue and Lake Street. The POD faces in a westbound direction. At approximately 4:29:09, a person is seen running from the south side of Lake Street to the north side of Lake Street toward Garland Court. At approximately 4:29:12 of the recording, three unmarked SUVs and two marked SUVs are observed turning westbound onto Lake Street. The first SUV turns north onto Garland Court while the rest of the vehicles continue westbound on Lake Street, stopping just west of Garland Court. At approximately 9:30:25, several individuals are seen scattering throughout the area. At approximately 9:30:32, a silver Jeep is seen driving eastbound on Lake Street and briefly stops just west of the intersection. At approximately 4:30:41, a person is seen hanging out of the driver's side window before the vehicle rapidly continues toward the intersection, making a southbound turn onto Michigan Avenue. At approximately 4:30:50, a dark colored sedan is seen driving eastbound on Lake Street. At approximately 4:31:00, the vehicle makes a southbound turn onto Michigan Avenue. Due to the location of the POD, the officers are not clearly visible.

Multiple 3rd Party Videos⁷² were recovered from businesses surrounding the area of incident. These videos contain multiple camera views. The cameras that captured events directly related to this incident will be summarized below.

Video obtained from 70 E. Lake Street,⁷³ (70 e lake_01) clip 70 e lake_01_06_20200810_043033 depicts a southbound view onto Lake Street. At approximately 4:30:15, a grey SUV arrives on Lake St. At approximately 4:32:40, a marked CPD SUV is seen with its emergency equipment activated. At approximately 4:33:00, other CPD units arrive as two males are loading the back of a dark SUV with items. One officer appears to strike one of the male subjects on the leg with a baton, another strikes him in the upper body. Similarly, another officer appears to strike the vehicle with a baton. The officers enter their vehicles and leave the camera view. Several people are seen running in/out of camera view. One officer appears to strike an individual with a baton.

(70 e lake_02) Clip 70 e lake_01_08_20200810_043038 shows a southbound view on Garland Court. The video is of poor quality.⁷⁴ At approximately 0:14 of the recording, a male is seen running toward a white SUV that is parked on the west side of Garland Court, facing south. At approximately 0:18, the vehicle's break lights are activated, and the vehicle appears to move slightly forward. At about the same time, a dark SUV turns onto Garland Court and stops angled in front of the white SUV. Four individuals, now identified as police officers, exit the SUV. The officer who was seated in the front passenger seat moves toward the driver's side of the white SUV and appears to pull the driver out of the vehicle and pushes him to the ground. The driver officer moves toward the individual who was running toward the vehicle. The subject appears to drop a box before the officer gets to him. The officer and subject appear to have some type of physical interaction. It appears that the officer pulls the subject to the ground and while over the subject,

⁷¹ Attachments 20-26. It is to be noted that the other POD cameras in the area did not capture the area of incident and/or the incident itself.

⁷² Attachments 11, 27-37, 41, 149, 170.

⁷³ Attachment 28.

⁷⁴ Attachments 29, 97. Officer testimony helped to identify what was happening in the video.

another officer strikes the subject. The rear passenger, Officer Nicole Holstrom, is at the driver's side door of the white SUV when the vehicle appears to reverse. Officer Holstrom appears to enter the driver's side and stops the vehicle. The rear passenger, Sgt. Rojas, appears to observe the situation unfolding when a male subject turns onto Garland Court and catches the sergeant's attention. Sgt. Rojas appears to attempt to strike the individual with his baton but misses and the subject continues running northbound. Sgt. Rojas then diverts his attention back to the passenger side of the white SUV. The officers re-enter their vehicle and appear to start to drive away but the vehicle comes to a stop. Shortly thereafter, the officers exit their vehicle and divert their attention to Lake Street, where several people are seen running in different directions.

Video from 73 E. Lake Street, clip 03-45-00_Lake Entry 145,⁷⁵ depicts an east view of Lake Street, toward Michigan Avenue. The video shows at approximately 4:26:40 of the recording, a silver SUV, now identified as the offending jeep, arrives in camera view, driving east on Lake. At 4:27:47, the Jeep is seen turning south onto Michigan Avenue. There are also several males on the south side of the street, appearing to break a window to a business. At approximately 4:29:00, the two males exit the business and throw an object, appearing to be a box of some sort, out of the window. One of the males picks it up and runs north onto Garland Avenue. Several police SUVs (three marked/two unmarked) arrive, driving west on Lake Street. One police SUV turns north onto Garland Court. Several officers exit their vehicles and people are seen running in different directions. At approximately 4:30:33, the silver Jeep is seen driving eastbound on Lake Street. At approximately 4:30:42, the Jeep is seen turning south on Michigan Avenue. There is a black male running eastbound on the south side of Lake Street. He appears to put his hands up as two male officers approach him. One of the officers appears to order him to the ground and pushes him down by his head. At approximately 4:30:52, a black sedan matching the description of the second offending vehicle is seen driving east on Lake Street and also makes a southbound turn onto Michigan Avenue. A male officer, Officer Espinoza is seen running behind it with his arm extended and a firearm in his hand. Several officers appear to direct their attention toward Michigan Avenue at this point. A sergeant on the north side of the street, now identified as Sgt. Rojas, is seen in shooting stance directing his attention toward the same area. At about the same time, another male officer, now identified as Officer Paez, appears to fire in the area of the offending vehicles. Officers take cover and subsequently move toward Michigan Avenue.

Video obtained from 58 E. Lake Street (7-Eleven),⁷⁶ Camera 10, clip 20200810052312, shows an interior view, facing the front door. At approximately 5:29:52 of the recording, a bald-headed police officer, now identified as Officer Dohnal, enters the 7-Eleven and appears to tell the looters to get out. He draws his firearm and points it ahead of him then he re-holsters. As looters exit the store, Officer Dohnal is seen striking several individuals with his baton. The officer is then seen exiting the store. **Camera 13, clip 20200810052312,** shows an exterior view of the entry into 7-Eleven. At approximately 5:29:45, two police officers arrive at the 7-Eleven. Other officers appear to arrive on scene. Several people ran out of the 7-Eleven. An officer is seen throwing something at the looters exiting the store. At approximately 5:30:47, the officers appear to react to something, and they take cover behind an unmarked SUV. They stand back up, and at about 5:31:05, an officer is seen ducking back down behind the SUV. A civilian is seen taking cover

⁷⁵ Attachment 30.

⁷⁶ Attachment 34.

near the entrance of the 7-Eleven. At approximately 5:31:27, the officer gets back up and leaves the camera view.

Video was recovered from a news stringer, [REDACTED]⁷⁷ Clip [REDACTED] shows the individual recording arriving near 60 E. Lake Street. Several individuals are seen exiting a 7-Eleven. There are multiple police vehicles parked ahead of the vehicle belonging to the person recording the video. As the individuals run out of the 7-Eleven, an officer appears to throw something at them. It appears as if the officer picks up the item multiple times and throws it at the individuals. Additional police vehicles respond to the area. At approximately 1:08 of the video, several gunshots are heard. Officers appear to take cover. At approximately 1:28 of the video, several other shots are heard in separate volleys. **Clip Cops being shot at 8 10 20** captures shots fired at the beginning of the video. Several officers initially appear to take cover. The officers then move toward Michigan Avenue.

iii. Physical Evidence

The **Crime Scene Processing Reports** document that Evidence Technicians (ETs) were assigned to process the scene of this incident, which consisted of taking digital photographs and video of the scene and of the evidence that was identified.⁷⁸ The ETs recovered and inventoried the evidence under RD #JD326817.

ETs recovered four fired cartridge casings, head stamped Geco 9 mm Luger, (CSM⁷⁹ 1-4) located on the street near 180 N. Michigan Avenue, four fired cartridge casings and one live round, head stamped CBC 9 MM Luger, (CSM 6-10) located on the street, near 88 E. Lake Street, five fired cartridge casings, head stamped Hornady 9 MM Luger, (CSM 11-15) located on the sidewalk near 74 E. Lake Street, two fired cartridge casings, head stamped WIN 19 9mm Luger +P, (CSM 16-17) located on the street near 75 E. Lake Street and one fired cartridge casing, head stamped Winchester 45. Auto, (CSM 18) located on the street near 73 E. Lake Street. Several suspect bullet fragments (CMS 21-23) were recovered on the street near 100 E. Lake Street and 172 N. Michigan Avenue.

ETs also processed CPD vehicle #9580, located at 60 E. Lake Street, which sustained a shattered rear window, due to bullet damage (CSM 19). A suspect bullet fragment (CSM 20) was located on the center of the vehicle passenger compartment partition. ETs relocated to a conference room inside of Suite #700 at 180 N. Michigan Avenue to photograph a window on the east side of the building which had a suspect bullet hole in it.

A breakdown of the three involved members' firearms was conducted at Area 3.⁸⁰ Sergeant Rojas's Sig Sauer P226 semi-automatic firearm, serial number [REDACTED] contained one live, Hornady 9mm Luger, cartridge in the chamber and ten live, Hornady 9mm Luger, cartridges in the magazine. The firearm capacity was said to be sixteen live cartridges. Officer Paez's Springfield XD-45, .45 semi-automatic firearm, serial number [REDACTED] contained one live, Winchester 45-

⁷⁷ Attachment 27.

⁷⁸ Attachment 4.

⁷⁹ (CSM) Crime Scene Markers.

⁸⁰ Area 3 Detective Division is located at 2452 W. Belmont Avenue.

automatic, cartridge in the chamber and eight live, Winchester 45-automatic, cartridges in the magazine. The firearm capacity was said to be 11 live cartridges. Officer Espinoza's Sig Sauer, P229 semi-automatic firearm, serial number [REDACTED] contained one live, Win 19, 9mm +P, cartridge in the chamber and eleven live, Win 19, 9mm +P, cartridges in the magazine. The firearm capacity was said to be 14 live rounds.

iv. Documentary Evidence

The **COPA Preliminary Report, the CPD Major Incident Notification Report (MIN), and the Original Case Incident Report** contain information identified and obtained in the preliminary stages of the investigation, which is consistent with information gathered throughout the investigation.⁸¹

Sergeant Rojas's Tactical Response Report (TRR) documents that the unknown subject presented a physical attack with a weapon (semi-automatic pistol) and used force likely to cause death or great bodily harm during an ambush and disturbance.⁸² Sergeant Rojas responded with member presence, movement to avoid attack, tactical positioning and unit members presence. Sgt. Rojas discharged his semi-automatic firearm five times at the subject.

Officer Paez's Tactical Response Report (TRR) documents that the unknown subject presented an imminent threat of battery with a weapon (semi-automatic pistol), used force likely to cause death or great bodily harm during an ambush and disturbance and fled.⁸³ Officer Paez responded with member presence, movement to avoid attack, tactical positioning and unit members presence. Officer Paez discharged his semi-automatic firearm once.

Officer Espinoza's Tactical Response Report (TRR) documents that the unknown subject presented an imminent threat of battery with a weapon (semi-automatic pistol), used force likely to cause death or great bodily harm during an ambush and disturbance and fled.⁸⁴ Officer Espinoza responded with member presence, movement to avoid attack, tactical positioning and unit members presence. Officer Espinoza discharged his semi-automatic firearm twice at the subject.

Sgt. Rojas, Officers Paez, Espinoza, Yapdiangco, De Los Santos, Ayala, Greenwald, and Dohnal all completed **two separate Tactical Response Reports**.⁸⁵ One TRR documented the OIS incident and each individual's respective response, while the second TRR,⁸⁶ documented all use of force responses that occurred throughout the evening.

The **Chicago Police Department Reports**, to include the **Chicago Police Department Detective File**, document information about the events precipitating the OIS consistent with the evidence gathered throughout COPA's investigation.⁸⁷ The **Detective Supplementary Report-**

⁸¹ Attachments 1-3, 107.

⁸² Attachment 64.

⁸³ Attachment 60.

⁸⁴ Attachment 49.

⁸⁵ Attachments 42-47, 49-52, 60-61, 64-65, 68-69.

⁸⁶ The second TRR was referenced as a "blanket TRR."

⁸⁷ Attachment 162.

Suspended⁸⁸ documents several interviews of the involved shooting officers as well as witness officers. The interviews provided by the involved officers are consistent with the information provided by the officers to COPA personnel. The witness officers heard the gunfire but did not see who was firing. Additionally, multiple officers observed Sgt. Rojas in a shooting stance, appearing to fire in a southeast direction. The officers provided no further details. The report further documents that Sgt. Rojas was driven by Lt. Martin to I-94 and Irving Park Road to make a possible identification of the vehicle with negative results.

Detectives interviewed Officer Holstrom⁸⁹ who stated that she and her partners were on Lake Street and Garland Avenue disbursing looters when a call of a 10-1 came over the radio. She was entering her vehicle when she heard four gunshots. She exited the vehicle and proceeded to the northeast corner of Lake Street and Garland Avenue to take cover. She then heard another series of shots but was unsure as to who was shooting or where the gunshots were coming from. After the shooting ceased, she heard Officer De Los Santos and Sgt. Rojas report shots fired at and by the police over the radio.

VI. LEGAL STANDARD

For each Allegation, COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.⁹⁰ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal

⁸⁸ Attachment 95.

⁸⁹ Attachment 83, page 41.

⁹⁰ 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).

offense.⁹¹ 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.”⁹²

VII. ANALYSIS

I. LEGAL STANDARD

A. Applicable Department Policies

a) Use of Force⁹³

The Department’s highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved. Department members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.

The main issue in evaluating every use of force is whether the amount of force used by the member was objectively reasonable in light of the totality of the circumstances faced by the member on scene. Reasonableness is not capable of precise definition or mechanical application. Factors to be considered by the member include but are not limited to: whether the subject is posing an imminent threat to the member or others; the risk of harm, level of threat or resistance presented by the subject; and the subject’s proximity or access to weapons.

Department members will use only the amount of force that is required under the circumstances to serve a lawful purpose. The force must be proportional to the threat, actions, and level of resistance offered by a subject, which may include using greater force or a different type of force than that used by the subject. The greater the threat and more likely that the threat will result in death or serious physical injury, the greater the level of force that may be necessary to overcome it. When or if the subject offers less resistance, however, the member will decrease the amount or type of force accordingly as members are to use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances.

Deadly force is force by any means that is likely to cause death or great bodily harm, including the firing of a firearm in the direction of the person to be arrested. The 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; or to prevent an arrest from being defeated by resistance or escape, where the person poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.

⁹¹ See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

⁹² *Coan*, 2016 IL App (2d) 151036, ¶ 28.

⁹³ Attachment 163, G03-02.

A threat is imminent when it is objectively reasonable to believe that the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and the subject has the means or instruments to cause death or great bodily harm; and the subject has the opportunity and ability to cause death or great bodily harm.

b) Force Options⁹⁴

When safe and feasible to do so, department members will use the principles of Force Mitigation to ensure effective police-public encounters. The concepts of Force Mitigation include⁹⁵:

1. Continual Communication- to avoid or minimize confrontations, members will use continual communication, such as persuasion, advice, and instruction prior to the use of physical force.
2. Tactical Positioning-members should make advantageous use of positioning, distance, and cover by isolating and containing a subject, creating distance between the member and the potential threat, or utilizing barriers or cover.
3. Time As a Tactic-members should attempt to slow down the pace of an incident as it may permit the de-escalation of the subject's emotions and allow the subject an opportunity to comply and to allow for the arrival of additional officers.

The levels of resistance are categorized into the following categories⁹⁶:

1. Cooperative subject - a person who is compliant without the need for physical force. The authorized force options are police presence and verbal response.
2. Resister - a person who is uncooperative. Resisters are further subdivided into two categories:
 - i. Passive Resister - a person who is failing to comply with verbal or other direction. In addition to the force options for Cooperative Subjects authorized force options when dealing with a passive resister include holding techniques, compliance techniques, the use of Oleoresin Capsicum (OC) Spray, and the use of control instruments, such as a baton, applied to joints and pressure sensitive areas of the body with non-impact pressure.
 - ii. Active Resister - a person who attempts to create distance between himself and the member's reach with the intent to avoid physical control or arrest. In addition to the authorized force options for cooperative subjects and passive resisters, stunning, the use of OC spray, physical takedowns, tasers, and the use of canines are authorized.

⁹⁴ Attachment 164, G03-02-01.

⁹⁵ Attachment 164, G03-02-01(III).

⁹⁶ Attachment 164, G03-02-01(IV).

3. Assailant - a person who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury. Assailants are categorized into two categories: 1. A subject whose actions are aggressively offensive with or without weapons and 2. A subject whose actions constitute an imminent threat of death or great bodily harm to a department member or another person. When the person's actions constitute an imminent threat of death or great bodily harm to the Department member or another person, deadly force is authorized.

c) Firearm Discharge Incidents⁹⁷

All incidents will be resolved with the foremost regard for the preservation of human life and the safety of all persons involved.

Department members' use of a firearm must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a subject, under the totality of the circumstances. Department members are authorized to use a firearm against an assailant as a last resort that is only permissible when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.

Firing into buildings, through doors, windows, or other openings, or in any other circumstance when the person lawfully fired at is not clearly visible, unless directed at a specific location and such force is necessary, based on the specific circumstances confronting the sworn member, to prevent death or great bodily harm to the sworn member or another person. In such circumstances, the use of deadly force is permissible only if the member has identified the appropriate target prior to discharging the firearm and has taken precautions to minimize the risk that people other than the target will be struck.

d) Baton Use Incidents⁹⁸

Department members' use of a baton must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by the subject under the totality of the circumstances.

Batons are authorized force options against an assailant as an impact weapon. However, batons are only authorized against passive and active resisters as a control instrument placed mainly on the sensors of the skin covering bone or applied to joints and pressure sensitive areas of the body with non-impact pressure.

When a member's baton use is a reportable use of force,⁹⁹ the initial use of a baton and each subsequent use of a baton must be individually justified and documented on the Tactical Response Report as a separate use of force.

When safe and feasible to do so, a member who is utilizing a baton will give verbal commands and warnings prior to, during, and after use. They are to allow the subject a reasonable

⁹⁷ Attachment 166, G03-02-03.

⁹⁸ Attachment 169, G03-02-07.

⁹⁹ As defined in G03-02-02: Incidents Requiring Completion of a Tactical Response Report.

amount of time to comply with a warning prior to using or continuing the use of a baton, unless doing so would compromise the safety of an officer or another person.

e) Oleoresin Capsicum Devices and Other Chemical Agent Use Incidents¹⁰⁰

Department members' use of personal OC devices or other chemical agents must be objectively reasonable, necessary, and proportional to the threat, actions, and level of resistance offered by a subject, under the totality of the circumstances.

A personal OC device is an authorized force option against passive resisters only under two instances: 1. Occupants of a motor vehicle who are passively resisting arrest only after obtaining authorization from an on-scene supervisor the rank of sergeant or above and 2. Noncompliant groups, crowds, or an individual taking part in a group or crowd and only after obtaining authorization from the superintendent or his/her designee.

The initial application of a personal OC device or other chemical agent and each subsequent application must be individually justified and documented on the Tactical Response Report as a separate use of force.

When safe and feasible, a member discharging OC device or other chemical agent will: 1. give verbal commands and warnings prior to, during and, after discharge; 2. Allow a subject a reasonable amount of time to comply with a warning prior to using or continuing to use a Personal OC device, unless doing so would compromise the safety of the department member or another person; 3. For the use of personal OC devices, when possible, apply a single, two-second burst to the subject's facial area to affect the eyes, nose and lungs of the subject; 4. If the subject is incapacitated, immediately attempt to restrain the subject while he/she is incapacitated, when applicable.

Immediately upon gaining control and restraining the subject, the discharging member is to notify the Office of Emergency Management and Communications (OEMC) and request the appropriate medical aid. Discharging members are to complete a Tactical Response Report for the discharge as well as the appropriate case report and other required reports then submit the reports to their immediate supervisor for approval.

f) Incidents Requiring Completion of Tactical Response Report¹⁰¹

Department members are responsible for truthfully and completely reporting each reportable use of force incident outlined in the directive and describing the events and circumstances concerning any use of force. They are to articulate the specific facts that explain his/her decision to employ a particular use of force, detailing the reasonableness, necessity, and proportionality of the force used.

When a reportable use of force incident involves one or more reportable uses of force by a Department member against the same subject, the uses of force will be reported on one Tactical

¹⁰⁰ Attachment 167, G03-02-05.

¹⁰¹ Attachment 165, G03-02-02.

Response Report. Subsequent reportable uses of force by a Department member involving the same subject once the original Tactical Response Report has been completed and approved will be reported on a separate TRR.

The reviewing supervisor has a number of obligations when conducting a supervisory review of reportable use of force incidents including, but not limited to: ensuring the involved member completes and submits a TRR before the end of the involved member's tour of duty, ensuring the appropriate case report is completed and additional notifications are made consistent with the relevant department directives, reviewing the portion of the TRR completed by the member, and completing the "Reviewing Supervisor" section of the TRR.

g) Firearm Pointing Incidents¹⁰²

Whenever a department member points a firearm at a person while in the performance of his/her duties, the member is required to make the appropriate notification consistent with department policy. They are not required to make a notification for any unholstering or display of a firearm or having the firearm in "ready" position or any other position during the course of an incident, unless the firearm is pointed at a person.

Department members may only point a firearm at a person when it is objectively reasonable to do so under the totality of the circumstances faced by the member on the scene. Factors that department members may consider include but are not limited to, the nature of the incident, the risk of harm to the member/others, and the level of threat or resistance presented/maintained by the person.

Whenever a department member points a firearm at a person during the performance of their duties, they are to notify OEMC promptly after the incident has concluded and are to include the Radio Identification/Beat Number of the department member who pointed a firearm at a person.

h) Mass Arrest Procedures¹⁰³

A mass arrest card is to be used to record, in a mass arrest incident, all reportable uses of force concerning resisters. Uses of force which occur during a mass arrest incident involving an assailant, all weapons discharge incidents, canine use incidents, Long Range Acoustic Device (LRAD) use, or if a person is injured, alleges injury, or dies will follow the direction provided by the department directives entitled "Use of Force" and "Officer Involved Death Investigations," as appropriate. All other reportable uses of force concerning resisters in a mass arrest incident will be recorded on a Mass Arrest Card.

¹⁰² Attachment 168, D19-01.

¹⁰³ Attachment 187, S06-06.

i) Department Approved Weapon and Ammunition¹⁰⁴

Firearms will be fully loaded with only one manufacturer and style of prescribed ammunition (same bullet type and grain weight). Any member may obtain replacement ammunition for Department issued cartridges that are lost, stolen, damaged, defective, or expended in the line of duty. When the replacement of ammunition is necessary, the requesting member is to submit a copy of a Tactical Response Report and/or other related documentation to the designated unit supervisor from the district of occurrence.

j) Supervisory Duties

“Supervisory members will be responsible for adherence to the Department's Rules, Regulations, Policies, Orders and Procedures. They are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and continuing training and example to ensure the efficiency of unit operations. They have the responsibility to influence subordinate members and to motivate them to perform at a high level of efficiency. They have the responsibility for the performance of all subordinates placed under them and while they can delegate authority and functions to subordinates, they cannot delegate responsibility. They remain answerable and accountable for failures or inadequacies on the part of their subordinates.”¹⁰⁵

“Department supervisors are reminded that they remain bound by the duties and responsibilities as outlined in all Department directives, including the directives specifically referenced in this directive. Department supervisors will refer to the appropriate Department directives for the complete procedures and responsibilities for the specific incident, interaction, or activity.”

II. LEGAL ANALYSIS

Sergeant Jose Rojas

A. Sergeant Rojas did not violate department policy in discharging his firearm.

At the time that Sergeant Rojas discharged his firearm, he faced an imminent threat of great bodily injury and/or death. Video evidence displays the sound of several gunshots and displays multiple officers appearing to take cover. The force used by Sergeant Rojas was proportional to the force used upon him and his fellow officers. Once the threat was over, Sergeant Rojas ceased firing his weapon. There is clear and convincing evidence that Sergeant Rojas faced an imminent threat of death or great bodily injury at the time that he utilized deadly force and thus, **Allegation #1** against Sergeant Rojas is **EXONERATED**.

B. COPA does not have sufficient evidence to find Sergeant Rojas violated department policy in his attempt to strike the unknown male.

Video evidence, though not the best picture and without sound, displays the individual running in the sergeant's direction. Sergeant Rojas explained that the individual failed to comply

¹⁰⁴ Attachment 188, U04-02.

¹⁰⁵ Rules and Regulation of the Chicago Police Department Art. IV.B.

with his verbal demand to cross the street and perceived him as an assailant due to the individual running in his direction with clenched fists. Due to the quality of the video, it is unclear from the video whether the individual's fists were clenched, and it appears the person may have been trying to angle away from the officer. The evidence does show that Sergeant Rojas attempted to strike an individual running in his direction. However, it is objectively reasonable to perceive an individual running toward you, and COPA cannot confirm the person was not running in Sgt. Rojas's direction, with clenched fists as an assailant. Department policy authorizes the use of a baton against assailants and thus, **Allegation #2** against Sergeant Jose Rojas is **NOT SUSTAINED**.

- C. Sergeant Rojas failed to ensure that his subordinate officers sufficiently and completely completed Tactical Response Reports and Mass Arrest Cards.

Sergeant Rojas took full responsibility for instructing his team to complete blanket TRRs versus individual TRRs for each reportable use of force and mass arrest cards. He explained that during NATO riots in the past, that is how he was directed by a supervisor. He further explained that the night was chaotic, and he wanted his team to document their uses of force in some manner rather than not at all. However, the directives do not provide for an exception to the completion of accurate TRRs in this incident.¹⁰⁶ As a supervisor, it was his duty to ensure his subordinates followed Department directives. He was also responsible for referring to Department directives to make sure his orders were appropriate.¹⁰⁷ Sergeant Rojas failed in his duties as a supervisor by approving reports that were incomplete and/or inaccurate.¹⁰⁸ For that reason, **Allegations #3** and **#4** against Sergeant Rojas are **SUSTAINED**.

Officer Eduardo Paez

- A. COPA does not have sufficient evidence to find Officer Paez violated Department policy in discharging his firearm.

It is unclear whether Officer Paez faced an imminent threat when Officer Paez discharged his weapon. It is possible that the vehicle which posed the threat had fled at the time that Officer Paez utilized his weapon. Officer Paez stated in his interview with COPA that he assumed that he was firing at the same dark colored sedan that other officers were firing at. However, he could not confirm when reviewing the video that he fired at the same target as other officers. That said, Officer Paez stated that he believed he faced an imminent threat that he did fire at. The available evidence does not prove or disprove that belief. Given the chaotic situation it is possible Officer Paez inaccurately believed the vehicle he was firing at posed an imminent threat. However, given the chaotic situation COPA cannot find his belief was obviously unreasonable under the circumstances. **Allegation #1** against Officer Paez is **NOT SUSTAINED**.

- B. Officer Paez violated Department policy by improperly loading his firearm.

A preponderance of the evidence supports that Officer Paez failed to load his firearm as directed by Department policy. Department policy requires firearms to be fully loaded with one

¹⁰⁶ See generally G03-02-02.

¹⁰⁷ Rules and Regulation of the Chicago Police Department Art. II.D.

¹⁰⁸ Rules and Regulation of the Chicago Police Department Art. IV.B.

manufacturer and style of prescribed ammunition. A breakdown of the discharging members' firearms was conducted revealing that Officer Paez's Springfield XD-45, .45 semi-automatic firearm, serial number ██████████ contained one live, Winchester 45-automatic, cartridge in the chamber and eight live, Winchester 45-automatic, cartridges in the magazine. The firearm capacity was said to be 11 live cartridges. CPD reports indicated that one fired cartridge case head stamped Winchester 45-auto was recovered from the scene. Officer Paez's TRR documented that he fired once at the subject and during his interview he confirmed he discharged only once. Officer Paez also admitted that he thought he fully loaded his firearm but believes he miscounted and that he failed to fully load his firearm. Thus, Officer Paez violated Department policy by not keeping his firearm fully loaded with only one manufacturer and style of ammunition as directed. COPA finds that **Allegation #2** is **SUSTAINED**.

C. Officer Paez did not use an impact weapon in violation of department policy.

Though it appears that Officer Paez made contact with the unknown man, the preponderance of the evidence does not support that he struck the man with an impact weapon. In viewing the video, it appears that Officer Paez used his hand to hit the man on his arm. It does not appear that Officer Paez had a weapon in his hand. In speaking with COPA, Officer Paez explained that after he observed a man loading beer into the trunk of a vehicle, he was seen with his hands near his shirt. He stated that he said words to the effect of "Hey, what are you doing? Get the hell out of here" and shoved him, making contact with the man's elbow using his hand. While the contact with the unknown man was unnecessary, the preponderance of the evidence does not support the allegation against Officer Paez as he does not appear to strike the unknown man with a weapon. **Allegation #3** against Officer Paez is **NOT SUSTAINED**.

D. Officer Paez did not violate Department policy by failing to make notification of his use of force.

For the reasons stated above, the preponderance of the evidence does not support the use of an impact weapon by Officer Paez. Therefore, a notification was not required, and **Allegation #4** is **NOT SUSTAINED**.

E. Officer Paez completed a Tactical Response Report as directed by a superior.

Though Department policy requires a Tactical Response Report to be completed for each reportable use of force incident, Sergeant Rojas instructed his team to complete a blanket TRR. As explained above, that order was not lawful or proper and arguably Officer Paez had no duty to follow that order. However, given the chaotic circumstances, COPA cannot find it was unreasonable for Officer Paez to document his use of force in the manner in which he was directed by a superior officer in this case. **Allegation #5** against Officer Paez is **NOT SUSTAINED**.

Officer Emmanuel Espinoza

A. Officer Espinoza violated Department policy in discharging his OC spray and failing to make the proper notifications.

The use of Oleoresin Capsicum (OC) devices and other chemical agents must be objectively reasonable, necessary and proportional to the threat, actions and level of resistance offered by a subject, under the totality of the circumstances.¹⁰⁹ Video evidence shows Officer Espinoza and two other officers approach a man as he is loading items into the trunk of a vehicle.¹¹⁰ Immediately after the other two officers strike the man, Officer Espinoza is seen dispensing OC spray against an unknown male despite the fact that the male was not a threat and offered no resistance.

Additionally, Officer Espinoza did not notify OEMC that he used his Oleoresin Capsicum device, as required by Department policy. **Allegation #1 and #2** against Officer Espinoza is **SUSTAINED**.

B. Officer Espinoza completed a Tactical Response Report as directed by a superior.

Though department policy requires a Tactical Response Report to be completed for each reportable use of force incident, Sergeant Rojas instructed his team to complete blanket TRR's. As explained above, that order was not lawful or proper and arguably Officer Espinoza had no duty to follow that order. However, given the chaotic circumstances, COPA cannot find it was unreasonable for Officer Espinoza to document his use of force in the manner in which he was directed by a superior officer in this case. Therefore, **Allegation #3** against Officer Espinoza is **NOT SUSTAINED**.

C. COPA does not have sufficient evidence to find that Officer Espinoza violated Department policy in the pointing of his firearm at an unknown male.

Officer Espinoza described his actions to COPA, stating that after hearing the shots fired, he was looking around to seek the threat and briefly pointed his firearm toward a male as he ran toward the threat. COPA does not have evidence to contradict this given the chaotic and tense scene the officers faced on the incident date. Officer Espinoza very briefly did point his weapon at the unknown male but appeared to be searching for the source of the gunshots rather than intending to seize the male. **Allegation #4** against Officer Espinoza is **NOT SUSTAINED**.

D. Officer Espinoza violated Department policy by failing to make proper notification of the pointing of his firearm.

Officer Espinoza failed to make the proper notification regarding the pointing of his firearm. Pursuant to department policy, Officer Espinoza was required to notify OEMC of the pointing of his weapon along with the radio identification number and beat number. When asked, Officer Espinoza stated that he did not make the notification of the pointing of his firearm because the notification had already been made of shots fired by/at the police by his superior. However, the pointing of his firearm at the unidentified male was a separate incident requiring a separate notification. A notification regarding this incident did not occur and thus, **Allegation #5** is **SUSTAINED**.

¹⁰⁹ Attachment 167, G03-02-05(II)(C).

¹¹⁰ Attachment 96.

Officer Antonio De Los Santos

- A. Officer De Los Santos did not violate Department policy in removing the individual from the white vehicle.

Video shows both the driver and individual suspected of carrying the cash register being removed from the white vehicle.¹¹¹ However, the quality of the video is very poor and absent audio. During his interview with COPA, Officer De Los Santos explained that he observed an individual running toward the white vehicle with a cash register in hand. He gave the driver of the vehicle an order to get out of the vehicle and show his hands. Because the driver did not obey the order, and instead began reaching near the center console, Officer De Los Santo stated that he grabbed the driver by the arm to remove him, who then willingly went to the ground. Officer De Los Santos was concerned that the driver would either try to escape or reach for a weapon. Officer De Los Santos stated that once on the ground, the driver remained on the ground and followed orders. The removal of the driver would be objectively reasonable to prevent escape in addition to preventing him from retrieving a possible weapon. Department policy authorizes the use of holding techniques including a firm grip, grabbing by the arm, wristlocks, as well as escort holds when an individual fails to comply with verbal demands.¹¹² **Allegation #1** against Officer De Los Santos is **NOT SUSTAINED**.

Officer Ronald Ayala

- A. COPA cannot find that Officer Ayala struck an unknown male.

Unfortunately, the video surveillance is of subpar quality and lacks audio.¹¹³ An individual is seen running toward a white vehicle with an object in his hand that is dropped as the officers approach. The officer removes the individual from the passenger seat of the white vehicle and there appears to be a struggle on the ground next to the passenger door of the vehicle. Officer Ayala explained to COPA that he held the individual down and searched his waist area for weapons. He then heard Sergeant Rojas yell “10-1.” The sound of gunshots occurred moments later. Observing the individual running with a cash register would provide Officer Ayala with probable cause to arrest and require a search for weapons prior to the individual being taken into custody. Based on the quality of the video and Officer Ayala’s explanation, the preponderance of the evidence does not support that Officer Ayala struck the unknown man. **Allegation #1** against Officer Ayala is **NOT SUSTAINED**.

Officer Robert Yapdiangco

- A. COPA does not have sufficient evidence to find that Officer Yapdiangco intentionally threw an object at unknown individuals.

Available evidence shows Officer Yapdiangco threw an object at unknown persons exiting the 7-11. However, COPA does not have sufficient evidence to refute Officer Yapdiangco’s

¹¹¹ Attachment 97.

¹¹² Attachment 164, G03-02-01(IV)(B)(1)(a).

¹¹³ Attachment 97.

assertion that the object slipped from his hands when he believed he was at risk of attack. For that reason, **Allegation #1** against Officer Yapdiangco is **NOT SUSTAINED**.

- B. COPA does not have sufficient evidence to find that Officer Yapdiangco violated Department policy by striking an SUV with an impact weapon.

Video evidence calls into question Officer Yapdiangco's assertion that he hit the vehicle in an attempt to get the occupants' attention. However, COPA does not have sufficient evidence to find that was not the case. For that reason, **Allegation #2** against Officer Yapdiangco is **NOT SUSTAINED**.

Officer Kevin Greenwald

- A. Officer Greenwald violated Department policy by using force that was objectively unreasonable.

Officer Greenwald violated Department policy when he pushed an unknown male's head toward the ground without justification. This physical contact was objectively unreasonable, unnecessary and unprovoked. The force used was not proportional to the male's actions as the unknown male offered no resistance and was compliant. Video surveillance displays the unknown male in the process of kneeling to the ground with both of his hands held high and visible when Officer Greenwald approached, prior to Officer Greenwald forcefully pushing his head toward the ground.¹¹⁴ The physical contact was unnecessary, unreasonable and unjustified. Thus, the action taken by Officer Greenwald was in violation of Department policy. **Allegation #1** against Officer Kevin Greenwald is **SUSTAINED**.

- B. Officer Greenwald completed a Tactical Response Report as directed by a superior.

Though Department policy requires a Tactical Response Report to be completed for each reportable use of force incident, Sergeant Rojas instructed his team to complete blanket TRRs. As explained above, that order was not lawful or proper and arguably Officer Greenwald had no duty to follow that order. However, given the chaotic circumstances, COPA cannot find it was unreasonable for Officer Greenwald to document his use of force in the manner in which he was directed by a superior officer in this case. Therefore, **Allegation #2** is **NOT SUSTAINED**.

Officer Jeffrey Dohnal

- A. Officer Dohnal did not violate Department policy in the pointing of his firearm.

Third party surveillance from 7-Eleven shows that Officer Dohnal unholstered his weapon and pointed it at two individuals. He then quickly placed the firearm back in the holster once the individuals exited the store. Department policy permits members to point a firearm at a person when it is objectively reasonable under the totality of the circumstances faced by the member. Factors considered are the nature of the incident, risk of harm, the level of threat or resistance

¹¹⁴ Attachment 100.

presented and access to weapons. Officer Dohnal explained that upon entry, he observed individuals attempting to break into an area in the back of the store and two individuals closer to him. The video shows broken glass and a large hole in the window near the door. The glass was obviously struck by a large amount of force in order for individuals to gain entry as the door was still intact. The evidence is clear and convincing that Officer Dohnal pointed his firearm at the individuals. However, due to the nature of the incident, possibility that the individuals were armed with whatever force was used to break the window, and initial resistance, it was not in violation of Department policy. **Allegation #1** against Officer Dohnal is **EXONERATED**.

However, Officer Dohnal failed to make the proper notification regarding the pointing of his firearm. Pursuant to Department policy, Officer Dohnal was required to notify OEMC of the pointing of his weapon along with the radio identification number and beat number. This notification did not occur and thus, **Allegation #2** against Officer Dohnal is **SUSTAINED**.

B. Officer Dohnal violated Department policy in striking multiple people with a baton.

Surveillance video from 7-Eleven shows Officer Dohnal striking multiple individuals as they exited the store.¹¹⁵ The force was not objectively reasonable, necessary, or proportional as none of the individuals were seen threatening the officer or offering any resistance. When presented with the allegation, Officer Dohnal stated that he did not use the baton to strike the individuals but to create distance and prevent the individuals from walking toward him. The video does not support Officer Dohnal's explanation as each strike is performed against the individuals as they exited the store and ran away. Moreover, Officer Dohnal moved closer to the individuals to strike them as they appeared to be attempting to get away. The force was not used in order to ensure the safety of the member or third person, stop an attack, make an arrest, control a subject, or prevent escape. The force was not used to serve a lawful purpose, and thus, was not authorized by Department policy.

Third-party video evidence displays Officer Dohnal, along with two other officers, approach a man as he was loading items into the trunk of a vehicle. Officer Dohnal is shown striking the man on the back of his leg with an impact weapon.¹¹⁶ He explained that he used this force against the man because he believed that the man had the potential to become an assailant. However, that does not appear to be a reasonable belief as the man's actions were non-threatening and nonaggressive. Furthermore, the man did not use or threaten the use of force. COPA finds that **Allegations #3 and 5** against Officer Dohnal are **SUSTAINED**.

C. Officer Dohnal completed a Tactical Response Report as ordered by a superior.

Though department policy requires a Tactical Response Report to be completed for each reportable use of force incident, Sergeant Rojas instructed his team to complete blanket TRR's. As explained above, that order was not lawful or proper and arguably Officer Dohnal had no duty to follow that order. However, given the chaotic circumstances, COPA cannot find it was unreasonable for Officer Dohnal to document his use of force in the manner in which he was

¹¹⁵ Attachment 98.

¹¹⁶ Attachment 96.

directed by a superior officer in this case. **Allegations #4 and #6** against Officer Dohnal are **NOT SUSTAINED**.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

i. Sergeant Jose Rojas

i. Complimentary and Disciplinary History¹¹⁷

Sgt. Jose Rojas has received 290 complimentary awards, including 228 honorable mentions and 16 Department commendations. Sgt. Rojas does not have a record of discipline or sustained cases.

ii. Recommended Penalty

COPA has considered Sgt. Rojas's complimentary and disciplinary history. Officer Rojas's sustained allegations are for failure to properly document and failure to properly supervise the proper documentation regarding use of force. COPA acknowledges Sgt. Rojas took full responsibility for instructing his team to complete blanket TRRs versus individual TRRs for each reportable use of force and mass arrest cards. He further explained that the night was chaotic, and he wanted his team to document their use of force in some manner rather than not at all. As a result, COPA recommends a **Reprimand**.

ii. Officer Eduardo Paez

i. Complimentary and Disciplinary History¹¹⁸

Officer Eduardo Paez has received 84 complimentary awards, including 54 honorable mentions and 6 complimentary letters. Officer Paez does not have a record of discipline or sustained cases.

ii. Recommended Penalty

COPA has considered Officer Paez's complimentary and disciplinary history. Officer Paez's sustained allegation is for failing to fully load his firearm in violation of U04-02. Officer Paez told COPA that he believed his firearm was fully loaded and admitted to this mistake. COPA considered this explanation. COPA recommends a **Reprimand** for Officer Paez.

iii. Officer Emmanuel Espinoza

i. Complimentary and Disciplinary History¹¹⁹

¹¹⁷ Att. 189

¹¹⁸ Att. 189

¹¹⁹ Att. 189

Officer Emmanuel Espinoza has received 64 complimentary awards, including 38 honorable mentions and 4 Department commendations. Officer Espinoza does not have a record of discipline or sustained cases.

ii. Recommended Penalty

COPA has considered Officer Espinoza's complimentary and disciplinary history. Officer Espinoza's sustained allegations are for discharging his OC spray without justification, failing to notify OEMC of an OC spray, and failing to notify OEMC of a firearm pointing incident. Officer Espinoza is clearly seen on video discharging his OC spray and then failed to report the incident to OEMC. Officer Espinoza explained that he did not believe he needed to report the pointing incident because another notification of shots fired was already announced. COPA understands the scene was chaotic but that does not fully excuse Officer Espinoza's actions. Therefore, COPA recommends a **Reprimand**.

iv. Officer Kevin Greenwald

i. Complimentary and Disciplinary History¹²⁰

Officer Kevin Greenwald has received 56 complimentary awards, including 49 honorable mentions. Officer Greenwald does not have a record of discipline or sustained cases.

ii. Recommended Penalty

COPA has considered Officer Greenwald's complimentary and disciplinary history. Officer Greenwald's sustained allegation is for pushing an unknown male's head towards the ground without justification. COPA understands the scene was chaotic, but this physical contact was objectively unreasonable, unnecessary and unprovoked. The force used was not proportional to the male's actions as the unknown male offered no resistance and was compliant. Therefore, COPA recommends a **3-Day Suspension**.

v. Jeffrey Dohnal

i. Complimentary and Disciplinary History¹²¹

Officer Jeffrey Dohnal has received 99 complimentary awards, including 76 honorable mentions and 5 Department Commendations. Officer Dohnal received one SPAR for a preventable accident in 2023. Officer Dohnal received a reprimand for that incident.

ii. Recommended Penalty

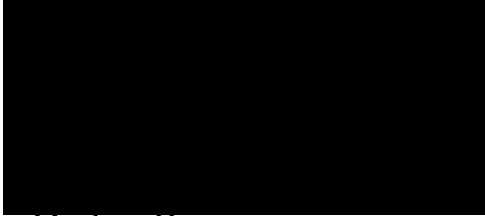
COPA has considered Officer Dohnal's complimentary and disciplinary history. Officer Dohnal's sustained allegations are for a failure to properly notify OEMC of a weapon pointing incident, and use of force with a baton. Officer Dohnal explained that he used his baton because

¹²⁰ Att. 189

¹²¹ Att. 189

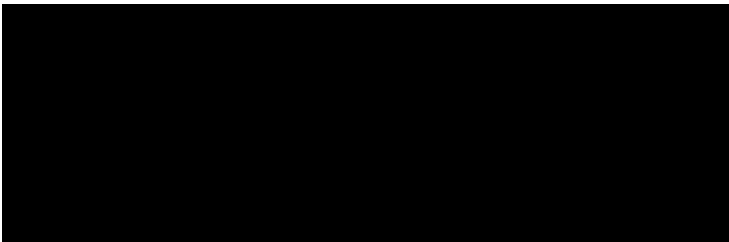
he believed the individual had the potential to become an assailant. However, this is directly refuted by video evidence. COPA recommends a **5-Day Suspension**.

Approved:



Matthew Haynam
Deputy Chief Administrator

Date: January 18, 2024



Andrea Kersten
Chief Administrator

Date: January 18, 2024