

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	September 5, 2020
Time of Incident:	1:40 A.M.
Location of Incident:	4899 S. Lavergne Ave.
Date of COPA Notification:	September 5, 2020
Time of COPA Notification:	2:09 A.M.

On September 5, 2020, at approximately 1:40 A.M., Officers Johnson and Gurskis, and Sgt. Salgado responded to a call of a person stabbed with a knife. The officers responded to the scene at [REDACTED] and spoke with a friend of the assault victim. The officers learned the offender, [REDACTED] had fled the scene and was observed in the vicinity of 4899 S. Lavergne (Vittum Park). The officers relocated to 4899 S. Lavergne, where they encountered [REDACTED] in the middle of the park. Officer Gurskis and Sgt. Salgado approached [REDACTED] and gave him verbal commands to show his hands. Officer Johnson remained by the squad car with a detainee, [REDACTED]. Officer Gurskis and Sgt. Salgado continued to engage [REDACTED] who began approaching them. [REDACTED] advanced toward Officer Gurskis and then focused his attention on Sgt. Salgado. With a knife in his right hand, [REDACTED] quickly closed the distance between himself and Sgt. Salgado. At this time, Sgt. Salgado, who already had her Taser in the ready position, deployed her Taser at [REDACTED] twice. [REDACTED] briefly went down but quickly stood up and ran at Sgt. Salgado and stabbed her in the vest several times with the knife. Officer Johnson ran to Sgt. Salgado and Officer Gurskis, during which time Officers Johnson and Gurskis discharged their weapons at [REDACTED] several times. [REDACTED] stopped his actions and eventually fell to the ground and was later pronounced dead.

During Officers Gurskis and Johnson and Sgt. Salgado’s initial search for [REDACTED] they came across [REDACTED] who they believed fit the description of the offender. As they detained [REDACTED] he and Officer Johnson got into a verbal altercation, which was captured on Officers Gurskis and Johnson's body-worn cameras. During the verbal altercation Officer Johnson used words to the effect of “Nigga,” “Fuck,” “Motherfucking,” “Goddamn,” and “I’m yo bitch.”

**II. INVOLVED PARTIES**

Involved Sergeant #1:	SALGADO, Angela, Star #2448, Empl. # [REDACTED], Date of Appointment: November 27, 2006, Sgt., 008 <sup>th</sup> District, Date of Birth: [REDACTED], 1980, Female, Hispanic
Involved Officer #2:	JOHNSON, Richard, Star #3471, Empl. # [REDACTED], Date of Appointment March 16, 1998, P.O., 008 <sup>th</sup> District, Date of Birth [REDACTED], 1970, Male, Black

Involved Officer #3:	GURSKIS, Pete, Star #14029, Empl. # [REDACTED]. Date of Appointment: October 26, 1998, P.O., 008 <sup>th</sup> District, Date of Birth [REDACTED], 1969, Male/White
Involved Individual #1:	[REDACTED] Date of Birth [REDACTED], 1985, Male, Black
Involved Individual #2:	[REDACTED] Male, Black

**III. ALLEGATIONS**

Pursuant to section 2-78-120 of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has a duty to investigate all incidents in which a Chicago Police Department (Department or CPD) member discharges their firearm. During its investigation of this incident, COPA did not find evidence to support allegations of excessive force related to Officer Johnson and Gurskis’s firearm discharge. COPA did determine that Officer Johnson committed the following violations of Department rules and policy<sup>1</sup>:

Officer	Allegation	Finding / Recommendation
Officer Richard Johnson	1. Was disrespectful and directed profanity at [REDACTED] in that you stated words in effect of “Nigga,” “Fuck,” Motherfucking,” “Goddamn,” and “I’m yo bitch.”  2. Directed racially biased language at [REDACTED] in that you referred to him as a “Nigga.”	Sustained/(Officer Retired)  Sustained/(Officer Retired)

**IV. APPLICABLE RULES AND LAWS**

Rules<sup>2</sup>

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.

<sup>1</sup> Officer Johnson has since retired from the Department. However, his retirement occurred after he was served with these allegations and had the opportunity to provide an interview. Therefore, COPA’s investigative findings are included in this report but no disciplinary recommendation is made, as Officer Johnson is no longer a Department member.

<sup>2</sup> Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct*, <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>

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2. Rule 8 – Disrespect to or maltreatment of any person while on or off duty.

3. Rule 9 – Engaging in any unjustified verbal or physical altercation with any person while on or off duty.

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#### General Orders<sup>3</sup>

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1. G02-021: Human Rights and Human Resources (Eff. October 5, 2017, to present).

2. G03-02: Use of Force (Eff. February 29, 2020-April 14, 2021).

3. G03-02-01: Force Options (Eff. February 29, 2020-April 14, 2021).

4. G03-02-03: Firearm Discharge Incidents and Post-Discharge Administrative Procedures (Eff. February 29, 2020-April 14, 2021).

5. G03-02-04: Taser Use Incidents (Eff. February 29, 2020-April 14, 2021).

## V. INVESTIGATION<sup>4</sup>

### a. Summary of Incident

*This summary utilized information from several different sources: multiple interiors and third-party exterior cameras, CPD body-worn cameras, CPD in-car cameras, 911 calls, POD Camera recordings, police reports, and witness interviews.*

On September 5, 2020, at 1:24:48 A.M.<sup>5</sup> Officers Johnson and Gurskis, and Sgt. Salgado responded to ██████████ for a call of an aggravated assault with a knife.<sup>6</sup> Officers Johnson and Gurskis spoke with the victim of the aggravated assault, ██████████ stated that as he was dropping off his friend, ██████████, when a black male, now known as ██████████ threw a brick at his vehicle and then reached into his car and cut him with a knife on the left hand. Officers Johnson and Gurskis obtained a description of ██████████ and a witness<sup>7</sup> told them that ██████████ was observed in the vicinity of Vittum Park, 4899 S. Lavergne Avenue, approximately two blocks away.

At 1:28:40 A.M. Officers Johnson and Gurskis and Sgt. Salgado entered their vehicles and began to search for ██████████ At 1:34:19 A.M. Officers Johnson and Gurskis, and Sgt. Salgado

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<sup>3</sup> Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.” Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/directives/> (last accessed August 23, 2021).

<sup>4</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>5</sup> The times used in this summary is from P.O. Johnson’s BWC unless noted. The BWC’s timestamps from Officers Johnson and Gurskis and Sgt. Salgado are not synchronized.

<sup>6</sup> Att. 10, 17, 38

<sup>7</sup> The witness was identified during the course of the investigation.

encountered a black male (██████████)<sup>8</sup> who they believed fit the description of the offender. Officers Johnson and Gurskis, and Sgt. Salgado, approached ██████████ and ordered him to show his hands, while Officer Gurski and Sgt. Salgado pointed tasers at him. ██████████ was initially resistant to their commands but eventually allowed Officer Johnson to handcuff him. Once Officer Johnson handcuffed ██████████ he began to search ██████████ appeared to pull away and told the officers that he did not have anything in his possession. Officer Johnson conducted an emergency takedown on ██████████ and stated, "Get down on the ground nigga! I ain't playing no fucking games with you boy!"<sup>9</sup> While ██████████ was on the ground, Officer Johnson continued to verbally abuse ██████████ directing the words "fuck" and "motherfucking" at ██████████ several times. The officers stood ██████████ to his feet and placed him in the marked squad car. ██████████ who appeared to be angry during this time, displayed his displeasure toward Officer Johnson by directing profane language at Officer Johnson. ██████████ also threatened Officer Johnson with physical harm and said he was a CPD Killer. In an interview with COPA on February 3, 2021, Officer Johnson<sup>10</sup> admitted that he directed profanity at ██████████ and he regretted his actions. Officer Johnson further added "we had been working 12-hour days, no days off, and I was short-tempered when I made the utterance."<sup>11</sup>

At 1:37:21 A.M., the officers received information from a witness, who was a friend of ██████████ that ██████████ was observed in the middle of Vittum Park. The officers drove to the location where ██████████ was observed. At 1:39:01 A.M., when the officers arrived at the location, Officer Gurskis and Sgt. Salgado exited their vehicles and approached ██████████ who was positioned near the middle of the park by a bush. Officer Johnson remained at the squad car with ██████████ At 1:39:40 A.M.<sup>12</sup> Officers Gurskis and Sgt. Salgado approached ██████████ and ordered him to show his hands numerous times. ██████████ was non-responsive and failed to comply. ██████████ then reached for a book bag that was located on the ground near his feet. Officer Gurskis and Sgt. Salgado repeated their commands and ordered ██████████ to put his hands up. ██████████ retrieved the book bag with his left hand, and he appeared to hold an unknown object with his right hand behind the bag. ██████████ walked toward Officer Gurskis, and then turned toward Sgt. Salgado and approached her. As ██████████ approached Sgt. Salgado, she deployed her Taser at ██████████ The taser prongs appeared to make contact with ██████████ at which time ██████████ fell face-first to the ground and landed on the left side of his body. While on the ground, ██████████ had the knife in his right hand. ██████████ got up from the ground and ran toward Sgt. Salgado with the knife in his right hand. ██████████ grabbed Sgt. Salgado by the vest with his left hand and stabbed her in the lower abdominal area with the knife several times, using his right hand. As ██████████ began to grab Sgt. Salgado, Officer Gurskis attempted to shoot him, but his firearm jammed. Moments later, Officer Johnson ran to the location and as he arrived, both he and Officer Gurskis fired their weapons at ██████████ several times.

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<sup>8</sup> In their interviews, Officers Johnson and Gurskis indicated that ██████████ appeared to fit the description of the offender provided by OEMC. The victim and other witnesses described the assailant as tall, with short dreads, black shirt, black shorts, and brown boots. OEMC also called out black shirt and black shorts, but other officers on Beat 814 indicated that they saw a man who may be the subject damaging property in the park and stated he was in black or grey shorts and heavysset. ██████████ was near the park when they stopped him. He was tall and skinny with short crew cut hair and was wearing a dark grey camo shirt, light grey pants, and slide sandals.

<sup>9</sup> Atts. 57, 58, BWC's of P.O.'s Johnson and Gurskis, mark 1:34:54

<sup>10</sup> Att. 35

<sup>11</sup> Att. 35, Page 9, Lines 2-3

<sup>12</sup> Att. 57, P.O. Gurskis BWC

After [REDACTED] fell, the officers disarmed him. Officer Johnson immediately called a 10-1 (meaning “officer needs assistance”), stated shots fired by police, and requested an ambulance. The officers then handcuffed [REDACTED]

### **b. Physical Evidence**

A 10-inch butcher knife was recovered adjacent to [REDACTED] body.<sup>13</sup> Eleven (11) expended shell casings (Win .45 caliber) and nine (9) expended shell casing (Win 9mm Luger) were recovered from the scene. Officers Gurskis and Johnson’s weapons were processed at the scene. Officer Johnson’s weapon (Beretta Mod. 92 D) had six (6) live rounds in the magazine and one (1) in the chamber. Officer Gurskis’ weapon (Glock 21 Gen 4 .45 Caliber) had no live rounds in the magazine and one (1) live round in the chamber. During the post – mortem examination of [REDACTED] body, [REDACTED] recovered fourteen (14) deformed projectiles from [REDACTED] body. The Medical Examiner’s Report indicated that [REDACTED] died from multiple gunshot wounds.

## **VI. LEGAL STANDARD**

### **a. Use of Force**

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable, necessary, and proportional in light of the totality of the circumstances faced by the officer.<sup>14</sup> Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; (3) the subject’s proximity or access to weapons; (4) the severity of the crime at issue; and (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.<sup>15</sup>

Department policy recognizes that Department members must “make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”<sup>16</sup>

### **b. Use of Deadly Force**

The Department’s “highest priority is the sanctity of human life.”<sup>17</sup> Department policy dictates that “[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.”<sup>18</sup> Thus, a Department member may use deadly force in only two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from

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<sup>13</sup> Atts. 38, 39, 40, 42

<sup>14</sup> General Order G03-02(III)(B)(1).

<sup>15</sup> *Id* and *Graham v Connor*, 490 U.S. 386, 396 (1989).

<sup>16</sup> G03-02(II)(D).

<sup>17</sup> *Id.* at (II)(A).

<sup>18</sup> *Id.* at (III)(C)(3).

being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.<sup>19</sup>

“A threat is imminent when it is objectively reasonable to believe that:

- a. the subject’s actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm.”<sup>20</sup>

#### c. Taser Use

General Order G03-02-04 outlines the Department’s policy governing the deployment of Taser devices. A member’s use of a Taser must be objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by a subject.<sup>21</sup> Members may use a Taser only against a subject who is an assailant or an active resistor.<sup>22</sup>

Moreover, the policy provides requirements for the Authorized Manner of Use, including: (1) giving verbal commands and warnings prior, during, and after deployment; (2) aiming for the back, whenever possible; (3) discharging probes at an ideal distance of 7-15 feet; and (4) using only one five-second cycle then reassessing the situation before any additional cycles are given or cartridges are discharged.<sup>23</sup>

#### d. De-Escalation Principles

When using any force, Department members will use de-escalation techniques to prevent or reduce the need for force, when it is safe and feasible under the totality of the circumstances.<sup>24</sup> This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety.<sup>25</sup> The requirement to continually assess the situation means they must determine (1) if any use of force is necessary; (2) the authorized force option based on the totality of the circumstances; (3) if the seriousness of the situation requires an immediate response or whether the member can deploy other force options or the Force Mitigation Principles; and (4) if the level of force employed should be modified.<sup>26</sup>

The policy provides the following Force Mitigation Principles:

Continual Communication: Members are required to attempt to use verbal control techniques to avoid or minimize confrontations prior to, during, and after the use of physical force, when feasible and safe, including persuasion, advice, instruction, and warning prior to the use of physical force. Members should establish and maintaining verbal communication and continually evaluate the effectiveness of that communication including maintain one-on-one communication.

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at (III)(C)(2).

<sup>21</sup> General Order G03-02-04(II)(C).

<sup>22</sup> *Id.*

<sup>23</sup> G03-02-04 (III)(B).

<sup>24</sup> *Id.* at (II)(B).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at (II)(F).

Members should also adjust verbal communication and allow a different member to initiate verbal commands (but refrain from giving simultaneous directions).<sup>27</sup> When encountering noncompliance to directions, officers are not required to immediately use force, and when safe and feasible to do so, officers should consider adjusting their verbal communication, allow a different officer to initiate communications, and request additional personnel or make use of special units or equipment.<sup>28</sup>

Tactical Positioning: When it is safe and reasonable to do so, members should make advantageous use of positioning, distance, and cover by isolating and containing a subject and continuously evaluating the member's positioning, the subject's actions, and available force options. This including creating a "zone of safety" to continually monitor the subject and the scene, contain the subject, and ensure the subject does not pose a continuing threat to Department members or the public.<sup>29</sup>

Time as a Tactic: When it is safe and reasonable to do so, officers should use time as a tactic by establishing a zone of safety for security of responding members and the public. This may (1) permit the de-escalation of the subject's emotions and allow the subject an opportunity to comply; (2) allow for continued communication and adjustment of verbal control techniques; and (3) allow for the arrival of additional members.<sup>30</sup>

#### **e. Verbal Maltreatment and Altercations.**

Department policy recognizes that all persons in the City of Chicago share a common need for protection and service through objective and impartial law enforcement.<sup>31</sup> Policy further states:

The recognition of individual dignity is vital in a free society. Since all persons are subject to the law, all persons have the right to dignified treatment under the law. The protection of this right is a fundamental responsibility of the Department and its members. Every Department member is responsible for treating each person with respect, mindful that the person possesses human emotions and needs.<sup>32</sup>

With this in mind, Department policy requires officers to treat every person with dignity. Officers must act, speak, and conduct themselves in a professional manner.

These concepts and concerns are reflected in the Rules and Regulations of the Department. Those rules further govern officer treatment of persons, expressly prohibiting the following acts:

- Rule 2- Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 8 – Disrespect to or maltreatment of any person while on or off —duty.

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<sup>27</sup> G03-02-01(III)(A).

<sup>28</sup> G03-02-01(III)(A).

<sup>29</sup> G03-02-01(III)(B).

<sup>30</sup> G03-02-01(III)(C).

<sup>31</sup> G02-01.II.A.

<sup>32</sup> G02-01.II.B.

- Rule 9 – Engaging in any unjustified verbal or physical altercation with any person while on or off —duty.

## VII. Analysis

### a. COPA finds that Officers Gurskis and Johnson’s Use of Deadly Force was Objectively Reasonable.

A preponderance of the evidence demonstrates that Officers Gurskis and Johnson’s use of deadly force was objectively reasonable in light of the totality of the circumstances they faced in this incident.<sup>33</sup> Their use of deadly force was a last resort and was necessary to prevent the imminent threat of death or great bodily harm presented by ██████ towards Sgt. Salgado.

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

First, it was objectively reasonable for Officers Gurskis and Johnson to believe that ██████ actions were immediately likely to cause death or great bodily harm to Sgt. Salgado. The officers stated to COPA that they did not shoot until ██████ had grabbed Sgt. Salgado and begun stabbing her in the stomach, which is corroborated by their body worn camera footage.<sup>34</sup> At this time, Sgt. Salgado was objectively under an imminent threat of death or great bodily harm.

Second, it was objectively reasonable for the officers to believe that ██████ had the means or instruments to cause death or great bodily harm. Immediately prior to him charging Sgt. Salgado, Officer Gurskis had a clear view of the knife, and its size, as ██████ sat up from being tased. While Officer Johnson did not have this view, he nonetheless saw ██████ with the knife as he stabbed Sgt. Salgado. Moreover, both officers witnessed how badly ██████ hand had been injured by the knife, so they were aware it could do significant damage.

Third, it was objectively reasonable for the officers to believe that ██████ had the opportunity and ability to cause death or great bodily harm, given that he stabbed Sgt. Salgado as officers shot him.

#### 2. It was objectively reasonable for Officers Gurskis and Johnson to believe that further de-escalation would not have been safe and feasible under the totality of the circumstances.

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<sup>33</sup> COPA evaluated each officer’s use of deadly force from their own perspective. However, due to the similarities in timing and reasoning for doing so, COPA combined the analysis of each use of deadly force.

<sup>34</sup> Officer Gurskis indicated that his misfire occurred after ██████ stabbed Sgt. Salgado. His video appears to show that she had not yet been stabbed when he cleared his weapon, however, he was on immediately next to her and charging her, in the rapidly unfolding encounter, so it was reasonable for Officer Gurskis to believe he was an imminent threat, and also reasonable for him to be mistaken in his explanation to COPA.

COPA finds that at the time Officers Gurskis and Johnson used deadly force, it was objectively reasonable to believe that further de-escalation would not be safe and feasible. Officer Johnson and Sgt. Salgado made attempts to de-escalate

The officers did not immediately use force. When Officer Johnson and Sgt. Salgado first saw [REDACTED] with a knife while they made the following attempts to de-escalate. Their initial actions were to yell verbal commands for [REDACTED] to put his hands up, and it was only after he did not comply four or five times that Sgt. Salgado used a more aggressive tone of voice, and Officer Johnson once used profanity.<sup>35</sup>

Moreover, they made efforts to use their positioning in such a manner that they could use time as a tactic. The officers approached in a manner that prevented [REDACTED] from fleeing towards the street where he could be a danger to others. They also kept space from him so that they could issue commands without him being able to inflict harm. It was only once he charged towards Sgt. Salgado that she used any force.

Finally, Sgt. Salgado attempted to use a lower form of force, the Taser, prior to any officer using deadly force. Her Taser use complied with policy as [REDACTED] was moving towards her, menacing her with a knife, and [REDACTED] could reasonably be considered as an assailant.<sup>36</sup>

### **3. COPA finds Officers Gurskis and Johnson reasonably believed that Deadly Force was necessary and proportional as a last resort.**

Moreover, COPA finds that under the totality of the circumstances faced by Officers Gurskis and Johnson, it was reasonable for them to believe that deadly force was a necessary last resort. At the time they used deadly force, [REDACTED] had charged Sgt. Salgado and begun stabbing her in the chest. Sgt. Salgado had already attempted to tase [REDACTED] with no effect, and neither officer was in position to use any other type of non-lethal force, nor did they have time to do so. Under these circumstances, the officers reasonably believed that it was necessary to resort to using deadly force.

Moreover, the officers reasonably believed that discharging their firearm was proportional to the threat posed by [REDACTED]. Policy expressly states that a use of force can still be proportional if officers use a greater amount of force than the subject, so long as the officer's use of force is proportional to the threat posed by the subject. In this case, [REDACTED] used a knife that was posing a deadly threat to Sgt. Salgado. Thus, Officers Gurskis and Johnson reasonably believed their use of deadly force was proportional to that threat.

Considering the totality of the circumstances, COPA finds that Officers Gurskis and Johnson reasonably believed that the use of deadly force was necessary last resort to prevent the imminent threat of death or great bodily harm to Sgt. Salgado and others. Therefore, they were

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<sup>35</sup> Sgt. Salgado did not give a warning prior to discharging her Taser, however, [REDACTED] quickly turned towards her and began advancing, as she was pulling her Taser out, and it was not unreasonable for her to fail to do so. She also announced her Taser use immediately after, as permitted by policy.

<sup>36</sup> COPA separately analyzed Sgt. Salgado's Taser use and found that it complied with Department policy.

permitted to use deadly force under CPD General Order 03-02. Therefore, COPA finds by a preponderance of the evidence that their use of deadly force was **within policy**.

**b. Officer Johnson used disrespectful and racially biased language towards ██████████ ██████████ in violation of Department rules.**

The preponderance of the evidence established that Officer Johnson directed disrespectful and racially biased language towards ██████████<sup>37</sup> Video of the incident captures Officer Johnson say: “Get on the ground nigga, I ain’t playing no fucking games with you boy.” Officer Johnson then took ██████████ to the ground while handcuffed. Immediately after, Officer Gurskis tells ██████████ they will tase him if he doesn’t cooperate, and Officer Johnson says “fuck a motha fucking tase. This is serious motha fucking business.” They then walk ██████████ to the car, but he fights getting in, at this point Officer Johnson yells “get in the god damn car,” and slams the door. Up until this moment, ██████████ had not been the paradigm of cooperation—he kept asking what they were putting the Taser on him for and, using profanity, asking what was going on. He also pulled away when Officer Johnson attempted to pat down his pockets. Nevertheless, COPA believes he was mostly compliant. He put his hands up when told and put his hands behind his back for Officer Johnson to cuff him. Once ██████████ was locked in the car, he began to escalate his demeanor and yelled slurs, insults, and threats towards Officer Johnson. Instead of allowing the incident to die down, Officer Johnson continued to argue back. When ██████████ called him a bitch, he responded, “I’m your bitch motha fucker, I’m your motha fucking bitch” and when ██████████ said, “the fuck wrong with you?” Officer Johnson yelled louder “the fuck wrong with you?” It was not until well later, about four minutes after closing ██████████ into the car, that Officer Johnson finally lessened his level of antagonism, and that was only after ██████████ explained to him that he was homeless.

Officer Johnson did not deny to COPA that he used this language, or that he was disrespectful towards ██████████<sup>38</sup> He tried to excuse the language based on working 12-hour days with no days off due to the civil unrest in the city. COPA does not discount the stress officers were under during the summer of 2020, but professionalism is a core CPD value and officers are expected to conduct themselves in a manner that reflects that. Officer Johnson escalated the encounter with ██████████ Prior to verbally abusing ██████████ while throwing him to the ground, ██████████ only complained about being stopped with Tasers pointed at him and pulled away when Officer Johnson grabbed his pocket. Thus, Officer Johnson’s language was not merely abusive, but it kicked off a fraught encounter and lead to further verbal abuse and altercations.

Officer Johnson also blamed his conduct on the fact that ██████████ claimed to be a “CPD killer.” However, most of the disrespectful language Officer Johnson used was prior to this statement. Officer Johnson using profane and disrespectful language in response and served to escalate the verbal encounter. Thus, by responding to ██████████ abusive language with more

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<sup>37</sup> Before closing this case, but after initially serving allegations, COPA considered whether the stop of ██████████ may have violated the Fourth Amendment, due to the fact that (1) ██████████ did not match the description of the suspect and (2) officers may have detained him longer than necessary to investigate if he was the suspect. Due to the age of the case, and to avoid further delay in closing the case, COPA determined to not serve the officers with Fourth Amendment related allegations.

<sup>38</sup> Att. P. 17, ln 13-17.

abusive language and/or parroting ██████ language back to him, Officer Johnson engaged in an unjustified verbal altercation with ██████ in addition to verbally maltreating him.

Officer Johnson additionally stated that his use of “nigga” was not racially motivated, but instead a use of “contemporary nomenclature with the urban areas.”<sup>39</sup> COPA recognizes that the word has complex usage, however, the primary usage of this word is as a slur. His use of the word to address someone he arrested, especially when coupled with the word “boy” and while throwing ██████ to the ground, would be interpreted by most of the public as disrespectful and racially biased. His use of the word in this context was abusive and brought discredit upon the Department.

For these reasons, COPA finds the preponderance of the evidence establishes that Officer Johnson used racist and disrespectful language, that he did so unprovoked thereby initiating the verbal altercation, and that he continued to use disrespectful language which continued the verbal altercation unnecessarily. Therefore, COPA finds that was disrespectful in violation of Rule 8, he engaged in an unjustified verbal altercation in violation of Rule 9, and that he brought discredit upon the Department in violation of Rule 2, and **Allegations 1 and 2** against him are **Sustained**.

**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Richard Johnson:** Officer Johnson retired from CPD on April 16, 2021<sup>39</sup>

**c. CONCLUSION**

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

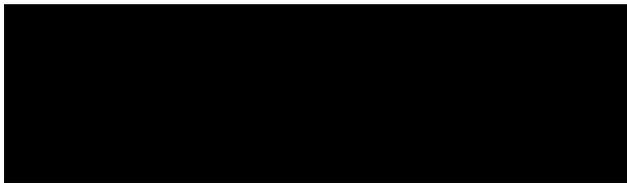
<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Richard Johnson	1. Was disrespectful and directed profanity at ██████ in that you stated words in effect of “Nigga,” “Fuck,” “Motherfucking,” “Goddamn,” and “I’m yo bitch.”  2. Directed racially biased language at ██████ in that you referred to him as a “Nigga.”	Sustained/(Officer Retired)  Sustained/(Officer Retired)

<sup>39</sup> Att. 35, p. 9, lns 11-20.

<sup>39</sup> Att. 65.

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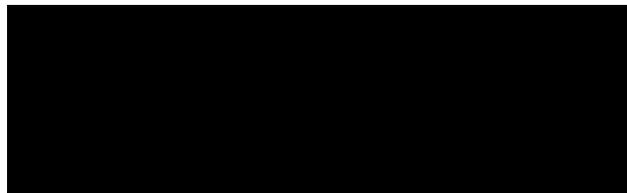
Approved:



12-29-2021

\_\_\_\_\_  
Angela Hearts-Glass  
*Deputy Chief Investigator*

\_\_\_\_\_  
Date



12-29-2021

\_\_\_\_\_  
Andrea Kersten  
*Interim Chief Investigator*

\_\_\_\_\_  
Date