

**SUMMARY REPORT OF INVESTIGATION****I. EXECUTIVE SUMMARY**

Date of Incident:	December 9, 2020
Time of Incident:	1:47 am
Location of Incident:	[REDACTED]
Date of COPA Notification:	December 9, 2020
Time of COPA Notification:	2:16 am

On December 9, 2020, at approximately 1:45 am, off-duty Chicago Police Department Officer Ruben Flores (“Officer Flores”) was in bed with his [REDACTED] ([REDACTED] Flores”). Their 23-year-old [REDACTED] ([REDACTED]) entered his [REDACTED] bedroom and demanded their car keys. After they refused, [REDACTED] returned to their bedroom and repeatedly punched Officer Flores in the face. Officer Flores retrieved his firearm from under his pillow and discharged the weapon nine times as he chased [REDACTED] through the house. [REDACTED] was struck multiple times and fell to the floor just inside the front door, where he succumbed to his injuries. Officer Flores refused to provide a statement to COPA or the Bureau of Internal Affairs (BIA), invoking his Fifth Amendment right to remain silent. COPA’s investigation determined, by a preponderance of the evidence, that [REDACTED] did not pose an imminent threat to Officer Flores’ life, and the officer’s firearm discharge violated Department policy.

**II. INVOLVED PARTIES**

Involved Officer #1:	Ruben Flores, Star # 3689, Employee ID # [REDACTED], Date of Appointment: December 17, 2001, Rank: Police Officer, Unit 124 (Training and Support Group), DOB: [REDACTED], 1963, Male, Hispanic
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1997, Male, White Hispanic

**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 member discharges their firearm. During its investigation of this incident, COPA determined that Officer Flores committed the following violations of Department rules and policy:

Officer	Allegation	Finding
Officer Ruben Flores	It is alleged by the Civilian Office of Police Accountability that on or about December 9, 2020, at approximately 1:47 am, at or near [REDACTED]	

	Officer Ruben Flores #3689 committed misconduct through the following acts or omissions:  1. discharging his firearm at or in the direction of [REDACTED] in violation of G03-02;  2. engaging in a physical altercation with [REDACTED] without justification; and  3. failing to timely and/or accurately notify OEMC that he discharged his firearm, in violation of G03-06.	Sustained  Unfounded  Sustained
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#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 2: Prohibits 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: Prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals.
3. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.
4. Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.
5. Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

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##### General Orders

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1. G03-02 Use of Force (effective February 29, 2020 – April 14, 2021)
2. G03-02-01 Force Options (effective February 29, 2020 – April 14, 2021)
3. G03-02-03 Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures (effective February 29, 2020 – April 14, 2021)
4. G03-06 Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective February 29, 2020 – April 14, 2021)

## V. INVESTIGATION<sup>1</sup>

### a. Digital Evidence

On December 9, 2020, at 1:46 am, [REDACTED] called 911,<sup>2</sup> distraught and crying. She reported that her [REDACTED] was bleeding, her [REDACTED] was shot, and they needed an ambulance. [REDACTED] stated that her [REDACTED] attacked her [REDACTED] because he wanted the car, and her [REDACTED] shot her [REDACTED] in self-defense. Although the audio recording does not clearly capture all of [REDACTED] statements, it appears [REDACTED] also related her [REDACTED] was an off-duty police officer.<sup>3</sup>

The incident occurred inside the Flores residence; therefore, there is no video footage of the fatal shooting or the events that precipitated it. COPA obtained and reviewed **in-car camera (ICC)**<sup>4</sup> and **body worn camera (BWC)**<sup>5</sup> from responding Department members. Below is a summary of the relevant footage.

Officer Jeremy Barnes and his partner, Officer Tammy Panek, were the first officers to arrive at the Flores residence, at approximately 1:50 am. After Officer Barnes opened the front door to the residence, he radioed it was a bona fide call and requested an ambulance. Officer Barnes moved inside the residence, stepping around [REDACTED] who was lying face down with his feet toward the front door and head at the doorway of the living room. Officer Flores was seated on the sofa in the living room with blood on his face and shirt, while [REDACTED] stood in the hallway area that leads to the kitchen.<sup>6</sup> Officer Flores indicated his firearm was on the ottoman, then explained that his [REDACTED] attacked him. Officer Panek radioed, "This appears to be a possible 0110."<sup>7</sup> Officer Barnes, using gloves, removed the magazine from the firearm and ejected a live round from the chamber, then placed the firearm on a table away from Officer Flores. As Officer Barnes attempted to check [REDACTED] for a pulse, he asked whether Officer Flores had any other weapons. Officer Flores responded affirmatively but stated they were all in the safe. At that point, Officer Barnes asked Officer Flores if he was CPD, and Officer Flores said yes.<sup>8</sup>

Sergeant Richard Turrise arrived at the Flores residence at approximately 1:53 am. Officers Panek and Barnes related Officer Flores was CPD, an ambulance was on the way, and they had not obtained any details regarding the incident.<sup>9</sup> Sergeant Turrise asked Officer Flores if he needed an ambulance, then provided the responding officers with instructions to call a second ambulance, keep the scene safe, and look after [REDACTED]. Officer Panek walked [REDACTED] to the kitchen

<sup>1</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>2</sup> Attachments 12, 13.

<sup>3</sup> [REDACTED] confirmed to COPA that she reported her [REDACTED] was an off-duty officer, though she acknowledged Officer Flores did not tell her to relay that information. It is unclear if Officer Flores overheard the 911 call or was even aware that [REDACTED] made the notification. Attachment 109, pages 42-43.

<sup>4</sup> Attachments 32-38.

<sup>5</sup> Attachments 5-11, 28-31.

<sup>6</sup> Attachments 5,6.

<sup>7</sup> Attachment 6 at 2:59-3:03. In her interview to COPA, Officer Panek explained that 0110 is an offense code for homicide. At that time, she observed "a male laying face-down in his blood from possible gunshot wounds and he was deceased," so she radioed 0110 to generate an RD number that would initiate an investigation and make notifications. Attachment 97, page 12 line 23 – page 13 line 18.

<sup>8</sup> Attachment 5 at 3:22-3:28.

<sup>9</sup> Attachments 5, 6, 11.

and gathered personal and background information. [REDACTED] related [REDACTED] was diagnosed with Schizophrenia several years ago, but he recently stopped taking his medication and was self-medicating with marijuana. He withdrew from college on November 6, 2020, and returned home where he recently received a cannabis-related DUI. [REDACTED] further stated that the police had been called to the home on prior occasions; [REDACTED] had threatened her in text messages, and she and Officer Flores sometimes stayed at hotels due to their [REDACTED] behavior.<sup>10</sup>

At approximately 2:02 am, Officer Flores told paramedics that he was not shot, and that [REDACTED] had punched him while he was in bed.<sup>11</sup> At approximately 2:16 am, Sergeant Thomas Dorng asked Officer Flores where the incident started. Officer Flores related the incident started when [REDACTED] came into Officer Flores' bedroom asking for the car keys. When Officer Flores and [REDACTED] refused to provide the car keys, [REDACTED] cursed at them and slammed doors inside the residence. Sergeant Dorng then asked Officer Flores how many times he discharged his weapon and where was he facing when he fired. Officer Flores responded he fired three to four times as he faced [REDACTED]. Officer Flores explained that [REDACTED] repeatedly punched him in the head, causing the officer to fear he was about to pass out. At that point, Officer Flores retrieved his firearm from under his pillow, hoping it would scare [REDACTED] away.<sup>12</sup> Officer Flores described the rest of the incident as follows:

[REDACTED] kept coming into my bedroom, and he beat the shit out of me while I was laying down in bed. I pulled out my gun which was under my pillow, because he was so hostile today that I had it in my holster under my pillow...I was aiming towards him because he was coming at me...He was in the hallway, right there at first. He started running towards the [front] door. When I came to the door I was half-dazed from all the fucking punches he hit me, and then he started coming back at me and I shot a couple more times while he was at the doorway.<sup>13</sup>

At approximately 2:23 am, Officer Flores was escorted out of the residence by paramedics and transported via ambulance to the hospital.<sup>14</sup>

### b. Physical Evidence

The Medical Examiner's (ME) Postmortem Examination Report<sup>15</sup> documents the autopsy performed on [REDACTED] on December 10, 2020. The cause of death was listed as multiple gunshot wounds, and the manner of death was classified as homicide. The ME identified a total of eight gunshot wound tracks, and she recovered three projectiles and multiple projectile fragments from [REDACTED] body. Additionally, [REDACTED] had contusions on his right knuckles that were consistent with a punching injury.<sup>16</sup> The following is a summary of the gunshot

<sup>10</sup> Attachment 6 at 10:29; 14:10. [REDACTED] told the same information to Sergeant Dorng, adding [REDACTED] was aggressive and violent. Attachment 30 at 2:00.

<sup>11</sup> Attachment 5 at 14:03; 21:49.

<sup>12</sup> Attachment 30 at 5:10; Attachment 5 at 28:30.

<sup>13</sup> Attachment 30 at 5:30; Attachment 5 at 28:30; Attachment 11 at 26:50.

<sup>14</sup> Attachments 5, 6, 9, 31.

<sup>15</sup> Attachment 64.

<sup>16</sup> Attachments 64, 115.

wounds [REDACTED] sustained. The ME determined all of the gunshots were of distant and/or indeterminate range-of-fire, and none showed evidence of close-range firing.

- [REDACTED] sustained a gunshot wound to the back of the neck/head, with the fired projectile retained and recovered from within the brain. The direction of the wound tract was upward, back to front, and right to left. (*See Figure 1.*)
- [REDACTED] sustained a gunshot wound to the back of the neck, with the fired projectile and multiple fragments retained and recovered from the neck, head, and base of the skull. The direction of the wound tract was upward, back to front, and right to left.<sup>17, 18</sup> (*See Figure 1.*)
- [REDACTED] sustained a gunshot wound to the right shoulder and chest, with the fired projectile retained and recovered from the right lateral back. The direction of the wound tract was downward, front to back, and slightly right to left.
- [REDACTED] sustained a gunshot wound to the right shoulder and chest. The fired projectile entered the right shoulder and exited the right lateral chest. The direction of the wound tract was downward, front to back, and slightly right to left.<sup>19</sup>
- [REDACTED] sustained a gunshot wound to the back, with the fired projectile retained and recovered from the left lateral abdomen. The direction of the wound tract was back to front with no significant upward, downward, rightward, or leftward deviation. (*See Figure 2.*)
- [REDACTED] sustained a gunshot wound to the abdomen,<sup>20</sup> but the direction of the wound could not be determined.
- [REDACTED] sustained a gunshot wound to the left index finger, but the direction of the wound could not be determined.
- [REDACTED] sustained a gunshot wound to the left thigh, but the direction of the wound could not be determined.

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<sup>17</sup> Associated injuries were a laceration of the brain stem and the superior cervical spinal cord. Attachment 64. In an interview with BIA Detective Matthew Boehm, Dr. [REDACTED] the medical examiner, explained that severing the brain stem would result in an immediate cessation of brain functioning. Attachment 115.

<sup>18</sup> Dr. [REDACTED] indicated the gunshot wounds to the head and neck had a steep upward trajectory. When BIA Det. Boehm asked Dr. [REDACTED] about the positions of the shooter and victim, she provided two scenarios: (1) if the shooter stood straight up, then the victim was shot while bent over at 90-degree angle; or (2) if the victim stood straight up, then the shooter fired from the ground at a steep upward angle. Attachment 115.

<sup>19</sup> Dr. [REDACTED] indicated the trajectory was approximately a 45-degree downward angle. When Det. Boehm asked Dr. [REDACTED] about the positions of the shooter and the victim, she provided two scenarios: (1) the shooter was elevated, firing downward, as victim stood straight up; or (2) shooter stood straight up while victim leaned forward. Attachment 115.

<sup>20</sup> Dr. [REDACTED] described this as a through-and-through graze wound, or perforating injury where trajectory cannot be determined. Attachment 115.



**Figures 1-2:** ME's photographs showing the gunshot wounds [REDACTED] sustained to the back of his neck (Figure 1, left) and left back (Figure 2, right).

**Medical Records from [REDACTED]**<sup>21</sup> indicate that Officer Flores arrived at the Emergency Department at 2:55 am on December 9, 2020. Officer Flores presented with a head injury after an altercation with his [REDACTED]. Officer Flores complained of a headache, relating he was struck in the head by his [REDACTED] with fists. The records document that Officer Flores had "minor head trauma,"<sup>22</sup> specifically, a 2 cm laceration to his right forehead, above his right eyebrow, and a 1 cm laceration to his midforehead. There was no visible bruising and CT imaging revealed no intracranial bleeding or fractures. The lacerations were repaired with three stitches and Officer Flores was discharged from the hospital the same morning.

The **Crime Scene Processing Reports**<sup>23</sup> document the recovery of one firearm from the scene. The weapon was a Sig Sauer Model P365, 9 MM semi-automatic pistol (Serial No. [REDACTED])<sup>24</sup>, with six live cartridges in the magazine and one loose live cartridge located near the firearm and magazine.<sup>25</sup> Evidence technicians also recovered a total of nine fired cartridge cases and four fired bullets from the Flores residence.<sup>26</sup> (See Figure 3.) At the ME's office, Dr. [REDACTED] recovered three fired bullets and two metal fragments during the autopsy of [REDACTED]<sup>27</sup>

<sup>21</sup> Attachment 95.

<sup>22</sup> Attachment 95, page 14.

<sup>23</sup> Attachments 22, 52, 53.

<sup>24</sup> The firearm was registered, and Officer Flores last qualified with the firearm in October 2020. Attachments 25, 27.

<sup>25</sup> Attachments 20, 52. Note: The firearm was on the ottoman, as shown in Figure 3 (see below), when officers responded to the scene. However, due to the close quarters and the emotional state of [REDACTED], Officer Barnes cleared the live round from the chamber of the firearm before ETs arrived at the residence.

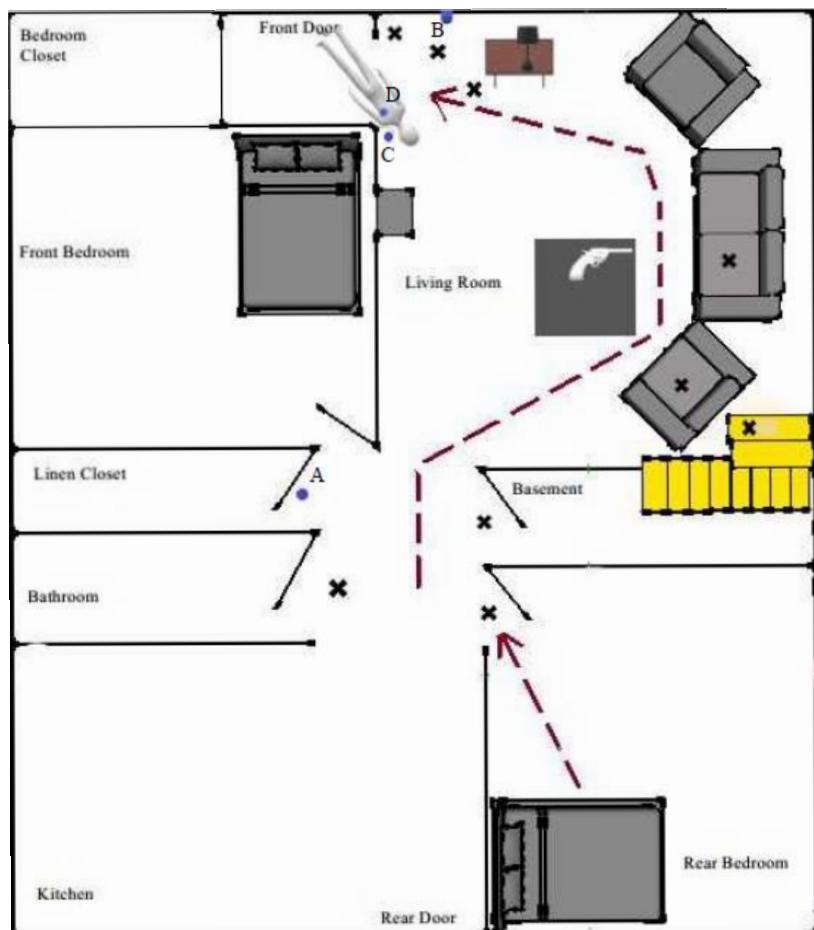
<sup>26</sup> Attachments 17-18, 21, 52-53, 55, 62.

<sup>27</sup> Attachments 53, 55, 62.

According to the **Illinois State Police (ISP) Division of Forensic Service Laboratory Reports**,<sup>28</sup> Officer Flores' firearm was operable as received, and it was test-fired with the magazine submitted with the weapon. ISP determined the nine fired cartridges cases recovered from the Flores residence were fired from Officer Flores' firearm. Additionally, ISP conducted a DNA analysis of the blood found on the slide and grip of the firearm but determined it did not belong to [REDACTED]

**Figure 3<sup>29</sup>**

- ✖ represents the approximate location of the recovered fired cartridge cases
- represents the approximate location of the fired bullets recovered by Evidence Technicians.
- represents the approximate path of Officer Flores



The fired casings were recovered from the following locations, beginning in the rear bedroom:

- ✖ The threshold of the rear bedroom;
- ✖ On the hallway floor, near the bathroom door threshold;
- ✖ On the hallway floor, near the basement door threshold;
- ✖ On the first step of the stairwell to the second floor;
- ✖ On the living room chair;
- ✖ On the living room sofa;
- ✖ Three casings were recovered from the floor in the front of the living room.

The fired bullets were recovered as follows: (A) on the floor in the linen closet; (B) in the baseboard of the front living room wall; (C) on the floor between [REDACTED] left flank and the wall; and (D) underneath [REDACTED] body.

<sup>28</sup> Attachments 98-99.

<sup>29</sup> Figure 3 is a diagram of the Flores residence, created by a COPA investigator, that show the approximate locations of the recovered casings and fired bullets. Note that the figure is not to scale.

### a. Interviews

In a **statement to COPA**<sup>30</sup> on September 14, 2021, **Officer Ruben Flores** stated on advice from counsel, he was invoking his right to remain silent. Officer Flores refused to answer any question related to the incident per his rights under the Fifth Amendment.<sup>31</sup>

In a **statement to COPA**<sup>32</sup> on August 30, 2021, [REDACTED] said that her [REDACTED]<sup>33</sup> was diagnosed with schizophrenia and psychosis. He started taking medication in 2017, and he had been hospitalized on two occasions.<sup>34</sup> According to [REDACTED], [REDACTED] often did not take his prescribed medicine when he was away at school, choosing to self-medicate with marijuana. Most recently, in August 2020, he stopped his current medication protocol. In approximately October 2020, [REDACTED] withdrew from school and moved back into his [REDACTED] home. [REDACTED] said from the time he returned home until the date of this incident, [REDACTED] had become progressively more aggressive and violent towards her. She noted that on different occasions, [REDACTED] had punched her in the stomach, thrown her to the ground, poured Gatorade over her head, and made several threats against her and Officer Flores. [REDACTED] did not tell Officer Flores when [REDACTED] battered her, nor did she call the police because she did not want it to negatively affect her [REDACTED] future.<sup>35</sup>

On December 8, 2020, [REDACTED] described a typical day in which she and Officer Flores went to work, went shopping, and went out to dinner, bringing food home for [REDACTED]<sup>36</sup>. When [REDACTED] and Officer Flores returned home in the evening, at approximately 6-7 pm, [REDACTED] was in the basement listening to rap music. As a result, Officer Flores decided to secure his firearm in his bedroom rather than the basement safe.<sup>37</sup> While [REDACTED] and Officer Flores prepared for bed, [REDACTED] said, “Thanks, [REDACTED]” as he ate his dinner in the kitchen.<sup>38</sup>

Sometime after [REDACTED] and Officer Flores went to bed, they were awoken by [REDACTED] who demanded their car keys so he could go buy Swishers. The couple refused because [REDACTED] had recently received a DUI for driving under the influence of cannabis.<sup>39</sup> [REDACTED] left his [REDACTED] bedroom but came back again, unsuccessfully searching the dresser for the car keys. When he left, [REDACTED] asked Officer Flores about his firearm because she was

<sup>30</sup> Attachment 119.

<sup>31</sup> According to BIA Det. Boehm, BIA and the Cook County State’s Attorney’s Office also attempted to interview Officer Flores in April 2021, but he invoked the Fifth Amendment and refused to answer questions. See CMS Notes.

<sup>32</sup> Attachments 108, 109.

<sup>33</sup> In her COPA interview, [REDACTED] referred to her [REDACTED] by his middle name, [REDACTED]. Attachments 108, 109.

<sup>34</sup> [REDACTED] explained [REDACTED] had his first “psychotic episode” in his first year at college, where he became agitated, short tempered, and heard voices. Attachment 109, page 5, line 18 – page 6, line 10. A Case Report documents that on March 26, 2019, [REDACTED] was involuntarily hospitalized by family members. Attachment 69.

<sup>35</sup> According to [REDACTED], she only told Officer Flores about the Gatorade incident to initiate a conversation on next steps to help [REDACTED]. Attachments 108, 109. In her statement to BIA Det. Boehm, on February 26, 2021, [REDACTED] said Officer Flores slept on the side of the bed closest to the door because [REDACTED] had entered the bedroom and slapped her before. Attachment 116. [REDACTED] did not relate this information to COPA.

<sup>36</sup> [REDACTED] repeatedly explained she and Officer Flores attempted to avoid [REDACTED] to keep the peace.

<sup>37</sup> [REDACTED] indicated Officer Flores usually locked his firearm in the basement safe but did not on this night in an effort to avoid his [REDACTED]. Attachment 109, page 25 lines 8-11; page 67 lines 16-18.

<sup>38</sup> Attachment 109, page 22 lines 7-12.

<sup>39</sup> See Attachment 120.

concerned what could happen if [REDACTED] found the weapon. Officer Flores removed his firearm from a dresser drawer and placed it under his pillow, and the couple went back to sleep.<sup>40</sup>

According to [REDACTED], [REDACTED] then pushed open the bedroom door and started punching Officer Flores in the face, yelling "Motherfucker. Kill, you motherfucker."<sup>41</sup> After observing her [REDACTED] being punched, [REDACTED] screamed and started to get out of bed. At this point, she lost sight of both Officer Flores and [REDACTED] did not see Officer Flores retrieve his firearm; however, she felt Officer Flores next to her when she heard gunshots. [REDACTED] heard several gunshots fired from inside the bedroom, followed by additional gunshots fired in a series, one right after another. She could not see her [REDACTED] or [REDACTED] when the shots were fired, and she did not hear anyone yelling or running into anything. [REDACTED] immediately exited her bedroom and ran into the hallway, but the incident was over. Officer Flores was sitting on the living room sofa with blood all over his face and his firearm on the ottoman in front of him, and [REDACTED] was lying on the floor. Officer Flores told her to stay out of the living room and call 911, which she did.<sup>42</sup>

### b. Documentary Evidence

**Department Reports**<sup>43</sup> document that on December 9, 2020, detectives from the Investigative Response Team (IRT) responded to an Aggravated Domestic Battery located at the home of Officer Flores, [REDACTED] and [REDACTED]. An investigation revealed Officer Flores and his [REDACTED] engaged in a verbal dispute that led to [REDACTED] striking Officer Flores numerous times about the face and body. Officer Flores retrieved his weapon and fired multiple times, striking [REDACTED] and causing his death. Officer Flores was treated for a laceration above the right eye, a laceration on top of the left side of his head, and a swollen left hand. IRT detectives did not interview Officer Flores.<sup>44</sup>

IRT Detective Edward Heerdt interviewed [REDACTED] at approximately 3:00 am on December 9, 2020. Much of the information [REDACTED] reported was consistent with her later statements to COPA and BIA, but she provided Det. Heerdt with the following additional details. [REDACTED] stated [REDACTED] came into her bedroom approximately five times that evening demanding money and car keys. The final time, [REDACTED] struck Officer Flores "ten or twelve times"<sup>45</sup> about the face, causing [REDACTED] to shield Officer Flores with her body in an attempt to protect him. [REDACTED] then stood back, taking a fighting stance, as Officer Flores tried to get out of bed. [REDACTED] began looking for her shoes, believing she and Officer Flores would go to a hotel as they had done in the past. At that point, [REDACTED] and Officer Flores left the bedroom, and [REDACTED] heard her [REDACTED] tell her [REDACTED] "Motherfucker, I'm gonna fuck you

<sup>40</sup> [REDACTED] indicated she did not know that night where Officer Flores placed his firearm, but later learned the location from him. Attachment 108, 109.

<sup>41</sup> Attachment 109, page 25 lines 18 – 20.

<sup>42</sup> [REDACTED] stated she did not talk about the incident with Officer Flores that night, and he did not tell her what to say in her call to 911. [REDACTED] was adamant that she told the 911 operator her [REDACTED] was a police officer. Attachment 109, page 42, line 20 – page 43, line 4.

<sup>43</sup> Attachments 113, 114.

<sup>44</sup> Sergeant Gregory Jackson administered a breathalyzer test to Officer Flores at [REDACTED], which showed he had a Br.A.C. of .000. Attachment 68.

<sup>45</sup> Attachment 111, page 10; Attachment 114, pg. 71.

up.”<sup>46</sup> [REDACTED] then heard fighting sounds coming from the living room, followed by multiple gunshots.

IRT detectives conducted a canvass of the area, but they did not locate any witnesses who saw or heard the incident. However, two individuals related they heard Officer Flores and [REDACTED] [REDACTED] engaged in a verbal argument in the backyard approximately 1-2 weeks prior to the incident.<sup>47</sup>

**Office of Emergency Management and Communications (OEMC) Event Query Reports and 911 Calls**<sup>48</sup> indicate that [REDACTED] called 911 on November 19, 2020, to report his [REDACTED] were emotionally abusing him. Three days later, on November 22, 2020, [REDACTED] called 911 and related that Officer Flores and [REDACTED] were fighting in the backyard, as [REDACTED] had smoked bad marijuana. A male caller also reported the disturbance to 911, indicating there was a loud argument and banging, possibly someone banging on the back door.

The **Tactical Response Report (TRR)**<sup>49</sup> completed by Sergeant Dorng documents the incident as a domestic disturbance, a mental health disturbance, and an ambush without warning. According to the report, an unarmed [REDACTED] made verbal threats and physically attacked Officer Flores, using hand/arm/elbow strikes. Officer Flores defended himself by discharging his firearm nine (9) times, fatally striking [REDACTED]. It is unknown whether Officer Flores used force mitigation efforts, control tactics, or a response without weapons. Notably, the TRR does not indicate that [REDACTED] used force likely to cause death or great bodily harm, and it further states [REDACTED] did not commit an assault or battery against a Department member performing a police function.

## VI. LEGAL STANDARD

### a. Standard of Review

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.

<sup>46</sup> Attachment 111, page 10; Attachment 114, page 71. It should be noted that [REDACTED] Flores did not relate any of these details to either COPA or BIA detectives during her statements on February 26, 2021, and August 30, 2021.

<sup>47</sup> Attachment 112, pages 8-9.

<sup>48</sup> Attachments 71-79 (November 19, 2020, incident); Attachments 80 – 94 (November 22, 2020, incident).

<sup>49</sup> Attachment 4.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy.<sup>50</sup> If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. 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.”<sup>51</sup>

#### b. Use of Force<sup>52</sup>

The primary issue in the evaluation of every use of force is whether the force the officer used was objectively reasonable based on the totality of the circumstances faced by the officer and known to him or her at the time.<sup>53</sup> In fact, Department policy requires any use of force to be objectively reasonable, necessary, and proportional—and only insofar as that force is necessary to either ensure safety or prevent the escape of or effect the arrest of a subject.<sup>54</sup>

Department policy classifies subjects as cooperative subjects, passive resisters, active resisters, or assailants.<sup>55</sup> Assailants are subjects who use or threaten the use of force which is likely to cause physical injury.<sup>56</sup> There are two broad categories of assailants: subjects whose actions are aggressively offensive with or without weapons, and subjects whose actions constitute an imminent threat of death or great bodily harm to a Department member or another person.<sup>57</sup> Members who encounter the first category of assailants may respond with a number of force options, including direct mechanical techniques (i.e., punching and kicking), impact weapons, takedowns, tasers, and OC spray.<sup>58</sup> They may not, however, use firearms or other deadly force options. Department policy prohibits the use of deadly force except in response to the second category of assailants, discussed below.

#### c. Use of Deadly Force

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>59</sup> The use of deadly force must be objectively reasonable,

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<sup>50</sup> 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).

<sup>51</sup> *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016).

<sup>52</sup> This report references the versions of General Orders G03-02, G03-02-01, G03-02-03, and G03-06 which were in effect on the date of the incident.

<sup>53</sup> General Order G03-02 (II)(D), (III)(B).

<sup>54</sup> General Order G03-02(III)(B).

<sup>55</sup> General Order G03-02-01(IV).

<sup>56</sup> General Order G03-02-01(IV)(C).

<sup>57</sup> General Order G03-02-01(IV)(C).

<sup>58</sup> General Order G03-02-01(IV)(C)(1).

<sup>59</sup> General Order G03-02(III)(C)(3).

necessary, and proportional to the threat, actions, and level of resistance offered by a subject, under the totality of the circumstances.<sup>60</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>61</sup>

Thus, a Department member may use deadly force against an assailant as a last resort, and only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.<sup>62</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>63</sup>

Even when a suspect is resisting, fleeing, or may escape, members may not use deadly force unless the person poses an imminent threat of death or great bodily harm.<sup>64</sup> As discussed above, the level of force authorized for cooperative subjects, passive resisters, active resisters, and assailants who use or threaten to use force likely to cause physical injury as outlined in the policy does not include deadly force.<sup>65</sup>

During all use of force incidents, Department members must 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. Officers must continually assess the situation to determine (1) if any use of force is necessary; (2) the appropriate level of force option based on the totality of the circumstances; and (3) if the level of force employed should be modified. De-escalation techniques include, but are not limited to, establishing and maintaining verbal communication; using verbal control techniques and persuasion, advice, and warning prior to the use of physical force; using time distance and cover to isolate and contain a subject; and creating a zone of safety for security of officers and the public.<sup>66</sup>

#### **d. Immediate Notification Requirements**

Department policy requires that any member who discharges their firearm must immediately notify OEMC of the discharge, provide all relevant information, and request additional resources.<sup>67</sup>

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<sup>60</sup> General Order G03-02-03(II)(C).

<sup>61</sup> General Order G03-02(II)(D).

<sup>62</sup> General Order G03-02-03(II)(C); General Order G03-02(III)(C).

<sup>63</sup> General Order G03-02(III)(C)(2).

<sup>64</sup> See General Order G03-02(III)(C)(3)-(4).

<sup>65</sup> See General Order G03-02-01(IV).

<sup>66</sup> General Order G03-02-01(III).

<sup>67</sup> General Order G03-06(V)(A).

## VII. ANALYSIS AND CONCLUSIONS

### a. Credibility Assessment

The credibility of an individual relies primarily on two factors: 1) the individual's truthfulness; and 2) the reliability of the individual's account. The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory. In this case, there are only two surviving witnesses to the incident: [REDACTED] and Officer Flores. COPA reached its findings after carefully considering the credibility of both individuals.

#### 1. [REDACTED] does not accurately recall all aspects of the incident.

[REDACTED] provided statements to IRT detectives on the night of the incident, to BIA detectives on February 26, 2021, and to COPA investigators on August 30, 2021. In all three statements, [REDACTED] related similar information regarding [REDACTED] history of mental illness and recent domestic conflicts. Her account is corroborated by numerous 911 calls and Department reports documenting [REDACTED] volatile relationship with his [REDACTED] his involuntary commitment in 2019, and his cannabis-related DUI arrest in 2020. Additionally, [REDACTED] provided consistent accounts of the events leading to the shooting, including [REDACTED] repeated demands for his [REDACTED] car keys, and his physical attack on Officer Flores. Her statement that [REDACTED] punched his [REDACTED] multiple times is consistent with Officer Flores' medical records, which show he sustained "minor head trauma," including two lacerations to the forehead. On these issues, COPA finds [REDACTED] provided credible statements.

However, COPA finds [REDACTED] did not provide an accurate account of the shooting itself. [REDACTED] provided divergent and inconsistent descriptions to IRT, BIA, and COPA, particularly regarding what she saw and heard at the time Officer Flores discharged his firearm. [REDACTED] told IRT she saw [REDACTED] strike Officer Flores 10-12 times, then stand back in a fighting stance as Officer Flores got out of bed. [REDACTED] did not relate these details to COPA, stating only that she lost sight of both men as [REDACTED] punched Officer Flores. More significantly, [REDACTED] told IRT that she saw both men leave the bedroom, then heard her [REDACTED] threaten her [REDACTED] and "fighting" sounds in the living room. Only then did [REDACTED] hear gunshots in the living room. However, [REDACTED] provided a different sequence of events to COPA, stating she heard several gunshots *before* Officer Flores left the bedroom. She also denied hearing anyone yelling or fighting in the living room, directly contradicting the account she provided to IRT detectives. COPA finds the inconsistencies in [REDACTED] statements are both material and irreconcilable.

COPA does not find that [REDACTED] was in any way intentionally misleading in her explanations of the incident; instead, the traumatic nature of the incident and other factors most likely affected [REDACTED] ability to precisely recall all aspects of the incident.

**2. Officer Flores made credible statements against his interest immediately after the incident.**

Immediately after the incident, Officer Flores provided an account to Sergeant Dornig that was captured on BWC.<sup>68</sup> Officer Flores stated that [REDACTED] attacked him in his bed, causing the officer to fear he was about to lose consciousness. Officer Flores retrieved his gun from under his pillow, aimed it at [REDACTED] and fired as [REDACTED] stood in the hallway outside the bedroom. [REDACTED] ran towards the front door and Officer Flores pursued him, firing additional times when [REDACTED] reached the front door and turned back towards the officer. COPA finds Officer Flores' account is generally consistent with the physical evidence recovered from the scene. Additionally, the reliability of Officer Flores' account is bolstered by the fact that he made these statements immediately following the shooting and that Officer Flores' description of the shooting was essentially a statement against his own interest, as it indicated the officer fired as [REDACTED] ran through the house, attempting to flee. For all these reasons, COPA finds the statement Officer Flores made to Sergeant Dornig was credible.

Officer Flores subsequently invoked his Fifth Amendment right to remain silent, and he refused to provide a statement to COPA or BIA.

**b. Officer Flores did not engage in an unjustified physical altercation with [REDACTED]**

[REDACTED]  
Allegation #2 against Officer Flores alleges he engaged in an unjustified physical altercation with [REDACTED]. This allegation arises from the initial altercation between the two men, which preceded the shooting. COPA finds there is clear and convincing evidence that [REDACTED] not Officer Flores, initiated the altercation by physically attacking Officer Flores in his bed. According to both [REDACTED] and Officer Flores, [REDACTED] entered their bedroom and demanded their car keys. When they refused, [REDACTED] threatened Officer Flores, then punched Officer Flores in the head multiple times. As discussed above, COPA finds both witnesses provided credible accounts regarding this portion of the incident. Additionally, Officer Flores' medical records show he sustained minor head trauma, including two lacerations to the forehead. These injuries are consistent with Officer Flores' statement that his [REDACTED] punched him in the face with his fists. There is no evidence Officer Flores responded with any force prior to discharging his weapon.<sup>69</sup> For these reasons, COPA finds [REDACTED] initiated the physical altercation with Officer Flores, and Allegation #2 against Officer Flores is **unfounded**.

**c. Officer Flores' use of deadly force violated Department policy, as [REDACTED]  
[REDACTED] did not pose an imminent threat at the time Officer Flores discharged his weapon.**

Allegation #1 against Officer Flores alleges he discharged his firearm at [REDACTED] without justification. As discussed above, [REDACTED] did not provide a credible account of the shooting, and Officer Flores refused to provide a statement to COPA. Additionally, no known

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<sup>68</sup> Officer Flores subsequently invoked his Fifth Amendment right to remain silent, and he refused to provide a statement to COPA or BIA.

<sup>69</sup> This allegation addresses only the physical altercation between [REDACTED] and Officer Flores; the allegation regarding Officer Flores' firearm discharge is discussed below.

video or audio captured the incident. The evidence that does exist includes Officer Flores' contemporaneous statement to Sergeant Dorng, the adverse inference drawn from the officer's subsequent silence, and the physical evidence, including the recovered firearms evidence and the M.E.'s report showing the trajectory of [REDACTED] gunshot wounds. Taken together, COPA finds the preponderance of this evidence shows [REDACTED] did not pose an imminent threat of death or great bodily harm when Officer Flores discharged his weapon.

First, [REDACTED] actions were not immediately likely to cause death or great bodily harm. At the beginning of the incident, when [REDACTED] entered his [REDACTED] bedroom and punched Officer Flores, he was an assailant whose actions were aggressively offensive with or without weapons. However, by the time Officer Flores discharged his weapon, [REDACTED] had retreated to the hallway outside the bedroom. Officer Flores admitted that [REDACTED] reacted to the shots by running towards the front door, apparently attempting to flee. The physical evidence shows Officer Flores pursued [REDACTED] and continued firing at him as they ran through the house. ETs recovered a total of nine casings inside the residence, beginning in the hallway outside the bedroom, continuing through the living room, and ending near the front door. The location and spacing of the casings, as well as the fired bullets recovered from the scene, suggest Officer Flores fired continuously as he chased [REDACTED] through the residence. (See Figure 3.)

In addition to the location of the recovered firearms evidence, the ME's report shows [REDACTED] was shot multiple times from the rear. Officer Flores told Sergeant Dorng he fired at [REDACTED] in the hallway, then fired several more shots when [REDACTED] reached the front door and turned back towards the officer. Only two of [REDACTED] eight gunshot wounds are consistent with Officer Flores' statement; the wounds to his right shoulder and chest had front-to-back, downward trajectories.<sup>70</sup> However, [REDACTED] also sustained two gunshot wounds to the back of the neck, as well as a gunshot wound to the left back. All of these wounds had back-to-front trajectories that are consistent with Officer Flores firing at [REDACTED] as he attempted to flee. (See Figures 1-2.) The gunshot wounds to the back of the neck are particularly compelling, as the ME indicated the shots were fired from the rear, with a steep upward trajectory. This suggests [REDACTED] was bent over at a 90-degree angle, facing away from Officer Flores, at the time he sustained both gunshot wounds.<sup>71</sup> This evidence supports COPA's finding that [REDACTED] was attempting to flee when he was shot, and his actions were not immediately likely to cause death or great bodily harm to Officer Flores or anyone else.

Second, [REDACTED] did not have the means or instruments to cause death or great bodily harm, nor was there a basis for Officer Flores to reasonably believe he did. No weapon was recovered from [REDACTED] person or belongings, and neither Officer Flores nor [REDACTED] claimed their [REDACTED] was armed. To the contrary, [REDACTED] told COPA that Officer Flores always secured his firearms on his person or in the basement safe, with the express purpose of preventing [REDACTED] from gaining access to them.

<sup>70</sup> Based on the ME's account to detectives, [REDACTED] could have sustained these wounds if he turned towards Officer Flores while leaning forward.

<sup>71</sup> The ME told detectives it was also possible that Officer Flores fired these shots from the ground as [REDACTED] stood upright; however, Officer Flores made no mention of falling down or firing from the ground in his statement to Sergeant Dorng. COPA would have questioned Officer Flores about his positioning had he provided a statement, but the officer's silence suggests his responses would have been adverse to his defense.

With respect to the third element of an imminent threat, COPA finds that [REDACTED] did have the opportunity and ability to cause death or great bodily harm. At the time of his death, [REDACTED] was 5'11 tall and 377 lbs. In contrast, [REDACTED] described Officer Flores as 5'4 tall and approximately 200 lbs.<sup>72</sup> The size differential between the men was significant, and it is conceivable that [REDACTED] could have caused great bodily harm to Officer Flores had he continued his attack. However, as discussed above, [REDACTED] had retreated to the hallway by the time Officer Flores discharged his weapon, and the ME found no evidence of close-range firing. [REDACTED] opportunity to cause serious injury to Officer Flores was therefore limited by physical distance and potential barriers, such as the bedroom door.<sup>73</sup>

For all these reasons, COPA finds the preponderance of the evidence shows that [REDACTED] [REDACTED] did not pose an imminent threat of death or great bodily harm at the time Officer Flores discharged his weapon. Officer Flores' use of deadly force violated Department policy as well as Rules 2, 3, 6, and 8. Therefore, COPA finds Allegation #1 is **sustained**.

**d. Officer Flores failed to immediately notify OEMC after discharging his firearm.**

COPA finds that Officer Flores failed to immediately notify OEMC after discharging his firearm, which is a violation of Department policy.<sup>74</sup> There is no evidence Officer Flores called 911 or reported his firearm discharge to OEMC. While [REDACTED] stated that Officer Flores instructed her to call 911, she was clear that he did not tell her what to say, and she told OEMC he was a police officer on her own accord.<sup>75</sup> Additionally, Officer Flores failed to report he was an off-duty officer to the first responding officers, and he only provided that information when Officer Barnes asked if he was a Department member. The reporting requirements for officer-involved shootings are intended to safeguard the community and the involved officer(s), and must be adhered to in all circumstances. For these reasons, COPA finds Officer Flores failed to timely and/or accurately notify OEMC of his firearm discharge, in violation of General Order G03-06 and Rules 2, 3, 5 and 6. Therefore, Allegation #3 is **sustained**.

## VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

**a. Officer Flores' Complimentary and Disciplinary History**

In considering disciplinary recommendations for sustained findings, COPA reviewed Officer Flores' complimentary and disciplinary histories.<sup>76</sup> Officer Flores has received a total of

<sup>72</sup> See Attachment 64, pg. 1 ([REDACTED] height and weight); Attachment 109, pgs. 65-66 (Officer Flores' height and weight).

<sup>73</sup> Even if Officer Flores believed [REDACTED] posed a serious threat, the preponderance of the evidence shows he immediately responded with deadly force and did not discharge his firearm as a "last resort." Officer Flores did not call 911, lock the bedroom door, make any attempt to leave the residence, or respond with less than lethal force. In contrast, [REDACTED] apparently believed leaving the house was a viable option; she started looking for her shoes when the altercation began, assuming she and her [REDACTED] would go to a hotel as they had done during previous fights with their [REDACTED] Officer Flores, however, did not attempt to avail himself of any of these options before using deadly force.

<sup>74</sup> See General Order G03-06(V)(A).

<sup>75</sup> It is unclear if Officer Flores overheard [REDACTED] 911 call or was even aware she notified OEMC that he was an off-duty police officer.

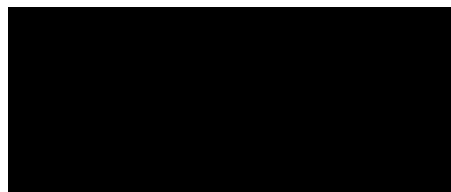
<sup>76</sup> Attachment 122.

102 awards, including 12 complimentary letters, three crime reduction awards, two Department commendations, and 55 honorable mentions. He has no sustained disciplinary history in the past five years.

**b. Recommended Penalty**

COPA has found that Officer Flores violated Rules 2, 3, 5, 6, and 8 by discharging his firearm without justification and failing to notify OEMC of the discharge. Officer Flores' decision to shoot at his [REDACTED] while chasing him through their residence was a flagrant violation of Department policy, with unspeakably tragic consequences. Officer Flores' actions also brought significant discredit to the Department and the City of Chicago; at the time of this incident, he was a training officer who taught the Department's use of force policy to recruits. Despite Officer Flores' lack of a disciplinary history, his misconduct during this incident mandates severe consequences. Accordingly, COPA recommends that Officer Flores be **separated** from the Chicago Police Department.

Approved:

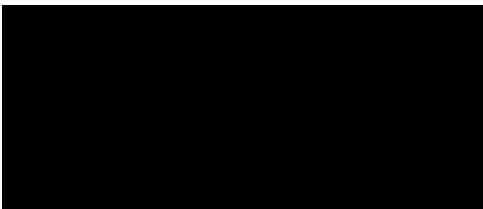


1/31/2022

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Matthew Haynam  
*Deputy Chief Administrator – Chief Investigator*

Date



1/31/2022

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Andrea Kersten  
*Interim Chief Administrator*

Date