SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

January 9, 2021
3:30 pm
1458 S. Karlov Avenue, Chicago IL
January 9, 2021
3:50 pm

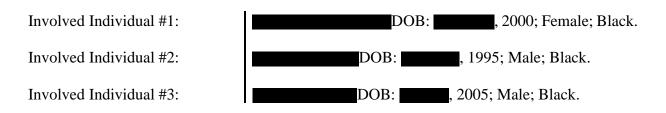
On the date of this incident, Community Safety Team Beat 7672E (Officers Fernando Valencia, Daniel Sandoval, and Adan Pedroza) were on routine patrol, traveling south on Karlov Avenue in their marked Chicago Police SUV. The officers observed a maroon, 4-door Hyundai Sonata stopped in a tow zone near the northwest corner of 1500 S. Karlov Avenue. Officer Valencia parked parallel to the Hyundai, which was occupied by in the driver's seat, in the front passenger seat, and in the rear passenger seat. The officers exited their vehicle as and and exited the Hyundai. refused to exit the Hyundai, and as she engaged with Officer Valencia, she produced a handgun without warning and pointed it at the officers. The officers retreated and gained cover as Officers Valencia and Sandoval discharged their firearms, striking multiple times. was subsequently taken into custody and transported to Mt. Sinai Hospital for medical treatment.

II. INVOLVED PARTIES

Involved Officer #1:	Fernando Valencia; Police Officer; Star # 12798; Employee # Internet ; Unit of Assignment: 716 (Community Safety Team); Date of Appointment: September 27, 2018; Age: 24; Male; Hispanic.
Involved Officer #2:	Daniel Sandoval Jr. ¹ ; Police Officer; Star # 9761; Employee #; Unit of Assignment: 716 (Community Safety Team); Date of Appointment: December 17, 2018; Age: 30; Male; Hispanic.
Involved Officer #3:	Adan Pedroza Jr.; Police Officer; Star # 9584; Employee # Unit of Assignment: 716 (Community Safety Team); Date of Appointment: December 17, 2018; Age: 32; Male; Hispanic.

¹ Officer Sandoval resigned from the Chicago Police Department (CPD) effective April 25, 2022. See Att. 123.

LOG #2021-0117



III. ALLEGATIONS

Officer	Allegation	Finding
Officer Fernando Valencia	1. Failed to timely activate your body-worn camera in violation of Special Order S03-14.	Sustained
	2. Stopped and detained without justification.	Exonerated
	3. Failed to issue and Investigatory Stop Report to in violation of Special Order S04-13-09.	Sustained
Officer Daniel Sandoval	1. Failed to activate your body-worn camera in violation of Special Order S03-14.	Sustained
	2. Stopped and detained without justification.	Exonerated
	3. Failed to issue an Investigatory Stop Report to in violation of Special Order S04-13-09.	Sustained
	4. Conducted a pat-down search of without justification.	Sustained
Officer Adan Pedroza	1. Failed to timely activate your body-worn camera in violation of Special Order S03-14	Sustained
	2. Stopped and detained without justification.	Exonerated
	3. Failed to issue an Investigatory Stop Report to inviolation of Special Order S04-13-09.	Sustained
	4. Conducted a pat-down search of without justification.	Sustained

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 implements its policy or accomplish its goals.
- 3. Rule 5 Failure to perform any duty.
- 4. Rule 6 Disobedience of an order or directive, whether written or oral.
- 5. Rule 10 Inattention to duty.
- 6. Rule 11 Incompetency or inefficiency in the performance of duty.

General Orders

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

Special Orders

- 1. S03-14, Body Worn Cameras (April 30, 2018 to present).
- 2. S04-13-09, Investigatory Stop System (July 10, 2017 to present).

State Laws

- 1. 725 ILCS 5/108-1.01.
- 2. 725 ILCS 5/107-14.

V. INVESTIGATION²

a. Interviews

COPA made numerous attempts to contact **and attempts** to gain attorney, to gain cooperation in furtherance of this investigation. All attempts to contact Attorney

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 Atts. 80-82; CO-0079320, CO-0079451, CO-0082613, CO-0082754, CO-0082969, CO-0084398.

were unsuccessful. Additionally, COPA's attempts to gain the cooperation of **and and** in furtherance of this investigation were unsuccessful.

In an Electronically Recorded Interview (ERI) on January 10, 2021, total told CPD detectives that she understood her Miranda warnings and wanted to make a statement. The state of the stat

In an ERI on May 24, 2021, see stated that he was inside the residence at when he saw a marked police vehicle stopped on the street. He observed two men standing near the back of a vehicle that was parked in a tow zone. Three uniformed officers ordered a third person that was inside the stopped vehicle to exit the vehicle. The third person refused to comply with the officers' commands. The officers ordered the third person to drop their gun as the officers backed away.

In a statement to COPA on January 15, 2021, **Officer Fernando Valencia**⁷ stated that on the date of the incident he was working with his regular partners, Officers Daniel Sandoval and Adan Pedroza. The officers were on routine patrol in the 010th District in a marked Chicago Police SUV.⁸ Officer Valencia was the driver, Officer Pedroza was the front passenger, and Officer Sandoval was in the back seat of the SUV. Officer Valencia stated that they were traveling south on Karlov Avenue when he observed a Hyundai stopped on the west side of the street at approximately 1458 S. Karlov Avenue. According to Officer Valencia, the vehicle was parked in a no parking zone. None of the Hyundai's windows were tinted and Officer Valencia could clearly see there were three occupants inside the vehicle. Officer Valencia activated his police vehicle's overhead light-bar and parked parallel to the driver's side of the Hyundai, intending to conduct an investigatory stop. Officer Valencia stated that Officer Sandoval walked to the passenger side of the Hyundai, and he did not recall where Officer Pedroza went.

Officer Valencia stated that the person in the driver's seat of the Hyundai, now identified as person opened the driver's door without being instructed to do so. Officer Valencia approached the opened driver's door, activated his body-worn camera (BWC),⁹ and asked for her driver's license and proof of insurance. The sponded that she did not have a driver's license. Officer Valencia then asked for the vehicle but she refused and informed him that she had a "bad leg."¹⁰ for the valencia explained that he never asked, nor indicated,

⁹ Officer Valencia stated that he activated his BWC when he felt he had the opportunity to do so.

¹⁰ Att. 60, pg. 20, lns. 2 to 3.

⁴ Atts. 56-57, 67, 77, 98, CMS Notes. COPA's attempts to contact the unidentified 911 Caller (Event #2100908029) were also unsuccessful. See Att. 11, CMS Notes.

⁵ Att. 55.

⁶ Att. 83.

⁷ Atts. 59, 60.

⁸ Officer Valencia stated that although the police vehicle was equipped with an in-car camera, it was not functional. The officers' immediate supervisor, Sgt. Daniel Conway, was notified of the problem at the beginning of their shift.

that he intended to search **A**s this occurred, Officer Pedroza spoke with the other two occupants of the Hyundai, now identified as **A** and **A** already exited the vehicle and were standing near its trunk, while Officer Sandoval was standing behind Officer Valencia. Officer Valencia heard one of the other two officers radio for a female officer to respond to their location.

After a few moments, **Sector** turned her body to the left and faced Officer Valencia, leading him to believe that she was about to exit the Hyundai. Instead of exiting the vehicle, however, **Sector** remained in the driver's seat and stated that her coat was stuck. **Sector** then twisted her body and used her right hand to reach for and retrieve an unseen object from near the center console. Officer Valencia immediately instructed her to show her hands. **Sector** held the object with both hands near the front of her waist, but Officer Valencia was unable to clearly see what the object was. **Sector** then said, "I will kill before I go to jail, shorty."¹¹ Officer Valencia began to retreat backwards and heard several gunshots. At the time, Officer Valencia did not know who was shooting. Officer Valencia explained that he maneuvered around the police vehicle and positioned himself behind the opened door on the driver's side of the vehicle.

Officer Valencia said he had a clear line-of-sight of through the windows of the police vehicle. Officer Valencia saw who was still seated in the driver's seat of the Hyundai, point her handgun at the rear windshield of the vehicle, in the direction where Officers Pedroza and Sandoval were standing near the back of the vehicle. Officer Valencia feared that his partners might be shot and discharged his firearm at the same through the windows of the police vehicle. Officer Valencia fired approximately six times at the stopped firing when he saw fall forward, slumping over the steering wheel of her vehicle.

Officer Valencia then approached and handcuffed **Sector** He pulled her from the vehicle, at which point an unknown police officer began rendering medical aid. Officer Valencia heard one of the other officers request an ambulance over the police radio. He also heard an officer notify dispatch of the officer-involved shooting. Officer Valencia walked around to the passenger side of the Hyundai and observed **Sector** handgun on the ground near the passenger side door. Officer Valencia did not know how **Sector** gun got there. A few moments later, Officer Valencia and his partners were separated from each other and placed in different police vehicles. Officer Valencia added that he did not complete an Investigatory Stop Report (ISR) regarding the Hyundai's two male occupants because he never spoke to, or had any contact with, either of them.

In a statement to COPA on January 27, 2021, **Officer Daniel Sandoval**¹² related essentially the same information as his partner, Officer Valencia. Officer Sandoval stated that, after the officers stopped next to the Hyundai, he and Officer Pedroza both approached the passenger side of the vehicle. As Officer Sandoval walked around the back of the police vehicle and towards the Hyundai, and accelerated the vehicle. Officer Sandoval did not instruct either of them to exit the vehicle. Officer Sandoval explained that during traffic stops people usually remain in their vehicle, and he was alarmed by the fact that and accelerated on their own and appeared to try and distance themselves from the Hyundai. Officer Sandoval asked accelerated for his identification, and accelerated it to the officer. Officer Sandoval, and accelerated the walked

¹¹ Att. 60, pg. 26, ln. 21.

¹² Atts. 62, 63.

to the rear of the vehicle and stood near the trunk, where Officer Sandoval performed a protective pat-down of **second** to ensure he was not in possession of any weapons.

While they were standing near the trunk of the Hyundai, Officer Sandoval heard Officer Valencia speak to **set the driver of the vehicle**. Although he could not recall what was said between Officer Valencia and **set the driver** he stated that **set the driver** remained in the driver's seat of her vehicle as she and Officer Valencia engaged in conversation. It appeared that Officer Valencia was having trouble with **set the driver** so Officer Sandoval walked towards the driver's side of the Hyundai and heard Officer Valencia order **set the vehicle**. **Set the vehicle** and added that the officers could not search her because she is a female. Officer Sandoval then radioed a request for a female officer to respond to their location.

Officer Sandoval stated that **Sector** appeared to begin to exit the vehicle when she said, "Oh, hold on, my jacket."¹³ **Sector** then turned her body, reached towards her right side, and retrieved an object. Officers Sandoval and Valencia both attempted to grab **Sector** to stop her. Officer Sandoval explained that, although he could not tell what **Sector** had retrieved, he feared it was a gun. Officer Sandoval heard **Sector** say words to the effect that she would not go back to jail, causing Officer Sandoval to immediately retreat to the back of the vehicle. Officer Sandoval unholstered his firearm as he observed **Sector** turn her body and point a gun at him through the rear windshield of the Hyundai. Believing that **Sector** intended to kill him, Officer Sandoval began to move to his right, towards the passenger side of the vehicle. He discharged his firearm at **Sector** and **Sector** behind the vehicle when the shots began. Officer Sandoval stopped firing when he could no longer see **Sector** He recalled hearing an unknown officer on the radio notifying dispatch that shots had been fired.

Soon thereafter, additional units arrived on the scene and officers removed from her vehicle. Officer Sandoval ran to his police vehicle to retrieve their first aid kit as the other officers removed from the vehicle. Officer Sandoval reported that he was shaking and his heart rate was elevated, so an ambulance transported him from the scene to Rush Hospital.

In a statement to COPA on February 2, 2021, **Officer Adan Pedroza¹⁴** related essentially the same information as Officers Valencia and Sandoval. Officer Pedroza stated that as he and his partners approached the Hyundai, he saw **Mathematical Advances** and **Mathematical Advances** a

¹³ Att. 63, pg. 28, lns. 3 to 4.

¹⁴ Atts. 65, 66.

as a safety precaution. Officer Pedroza added that **Example** did not object to the pat-down. Officer Pedroza and **Example** then walked to the back of the vehicle and stood near the trunk.

Officer Pedroza observed Officer Sandoval walk towards Officer Valencia, who was still engaged with Officer Pedroza stated that refused to exit the Hyundai, and Officer Sandoval radioed for a female officer to respond to their location. Officer Pedroza then say, "I'll kill before I go to jail."¹⁵ Officer Pedroza, who was standing near the heard trunk of the Hyundai with and and saw Officers Valencia and Sandoval retreat away from the vehicle with their firearms drawn. Officer Pedroza immediately backed away from the Hyundai while simultaneously utilizing his radio to request additional police units to respond to their location. As he retreated, Officer Pedroza saw pointing a handgun at him through the rear windshield of the Hyundai. Officer Pedroza told and to get down on the ground. Officer Pedroza then said into his radio, "Squad, she has a gun!"¹⁶ Officer Pedroza explained that he was able to gain cover at the back of the vehicle parked directly behind the Hyundai. Officer Pedroza then heard multiple gunshots, but he did not know who was shooting. Officer Pedroza stated that, at the moment he heard the gunshots, Officer Sandoval was in the grassy area to the west of the Hyundai but he did not know where Officer Valencia was located. Officer Pedroza did not discharge his firearm during this incident, explaining that he never had a clear shot at

Officer Pedroza denied the allegations against him. He told COPA that he activated his BWC as quickly as he could, which was when he was standing near the trunk of the vehicle with and the further stated that they stopped the vehicle because it was parked illegally, and the only contact he had with the performed a protective pat-down of the shooting occurred. Officer Pedroza also explained that he performed a protective pat-down of the shooting out of concern for his safety.

b. Digital Evidence

The **Ring Camera¹⁷** located on the front of the residence at **Constant of Sectors** had an obscured view of this incident. The video showed the officers' marked police vehicle, with its emergency equipment activated, parked next to **Constant of Vehicle** near the northwest corner of the intersection. None of the officers or the occupants of **Constant of Vehicle** were visible. The recording captured what sounded like several gunshots, followed by male voices yelling words to the effect of, "Shots fired! Get Down! Get Cover! Put your hands up!" and "Don't move!" Additional marked police vehicles arrived on the scene within seconds of the last gunshots.

POD camera #7585,¹⁸ located on the southwest corner of 1500 S. Karlov Avenue,¹⁹ captured the incident. The video showed that at 3:19 pm, **Sector** vehicle traveled south on Karlov Avenue and stopped along the curb on the west side of the street, in front of a fire hydrant

¹⁵ Att. 66, pg. 32, ln. 8.

¹⁶ Att. 66, pg. 31, lns. 11 to 12.

¹⁷ Att. 53, File #3 at 15:30:26.

¹⁸ Att. 26.

¹⁹ 4101 W. 15th Street.

near the northwest corner of the intersection. **Example** exited a residence on the east side of the street and entered **example** vehicle, sitting in the backseat behind **example**.

At approximately 3:27 pm, **Sector** opened the driver's door of her vehicle as the marked police vehicle occupied by Officers Valencia, Pedroza, and Sandoval approached from the north. The police vehicle stopped next to **Sector** vehicle, by her driver's side door, and activated its emergency equipment. The three officers exited and approached **Sector** vehicle. At the same time the officers opened their doors, so did **Sector** and **Sector** vehicle, Officer Pedroza and Officer got to his door. Once **Sector** and **Sector** vehicle. **Sector** vehicle.

At approximately 3:30 pm, it appeared that moved her upper body as if she was about to exit the vehicle. Officers Valencia and Sandoval, who had repositioned to the driver's door, appeared to reach into the vehicle towards her, but then immediately retreated towards the back of her vehicle while drawing their firearms from their holsters. Officer Valencia took cover behind the police vehicle as Officer Pedroza moved behind the trunk of vehicle. Officer Sandoval was positioned on the parkway on the passenger side of vehicle, with his gun pointed in her direction. The rear passenger window of vehicle shattered as Officer Sandoval retreated further northwest, away from her vehicle. Officer Pedroza also retreated and took cover behind the vehicle parked directly behind vehicle. Officer Valencia maneuvered and stood between the opened rear door and the doorframe on the driver's side of the vehicle was struck by gunfire, she appeared to throw an object²⁰ out police vehicle. As of her vehicle through the opened front passenger door, at which time the gunfire appeared to stop. Additional officers arrived on the scene and was removed from the driver's seat of her vehicle. The scene was taped off and responding medical services arrived and transported to the hospital.²¹

The recording from **Officer Valencia's BWC**²² showed that he activated his camera after he exited his vehicle and began speaking with **Sector 1** The video showed Officer Valencia exit his vehicle and walk towards the driver's side of **Sector 1** vehicle, which was parked facing south on the west side of the street. **Sector 1** and **Sector 1** had already exited the vehicle. **Sector 1** remained seated in the driver's seat of the vehicle with the driver's door open. **Sector 1** appeared to be speaking with Officer Valencia while also typing on her cell phone. **Sector 1** appeared to be focused on her cell phone for several seconds. While remaining in the driver's seat, **Sector 1** also turned her head and upper body in a counterclockwise motion and appeared to look towards the area behind her vehicle.

When the recording's audio began, was heard telling Officer Valencia that her leg was "fucked up."²³ Officer Valencia told "You still have to come out of the vehicle.

²⁰ Att. 26 at 3:30:21.

²¹ There was no audio recording associated with POD #7585.

²² Att. 10. There is no audio during the first two minutes of the recording due to the buffering period.

²³ Att. 10 at 2:03.

Once I tell you to step out of the vehicle you have to step out of the vehicle."²⁴ **The state of the step out of the vehicle of the veh**

Officer Valencia again ordered **Constitution** to exit the vehicle, at which point she commented that she was sitting on her coat. **Constitution** appeared to move her right hand and reach around the right side of her body. At 2:35 into the recording, Officer Valencia ordered **Constitution** to show her hands as he closed the distance and appeared to reach for her right arm/hand. **Constitution** pulled her right arm/hand away from Officer Valencia and appeared to maneuver her body away from him. Officers Valencia and Pedroza then retreated towards the trunk of **Constitution** vehicle while simultaneously unholstering their firearms and repeatedly ordering **Constitution** to show them her hands.

officers was heard broadcasting over the radio that **a generation** had a gun.²⁶ Officer Valencia maneuvered around the back of the police vehicle, and then several gunshots and an officer broadcasting a 10-1 over the radio were heard.²⁷ Officer Valencia moved to the driver's side of the police vehicle and stood behind the opened rear driver's side door. He pointed and discharged his firearm several times in **a generation** direction through front passenger window.

Officer Valencia then maneuvered around the police vehicle toward the driver's side of vehicle. Officers repeatedly ordered were prone on the ground behind were prone were prone on the ground behind were prone of the were prone on the ground behind were prone of the were prone of the ground behind were prone of the were prone of the ground behind were prone of the were prone of the ground behind were prone of the were pron

Additional officers arrived on the scene as Officer Valencia placed a handcuff on left wrist. Officer Valencia then pulled her from the vehicle and laid her on her back as another officer requested an ambulance. The video captured an officer stating that he saw throw her gun through the window of her vehicle. Officer Valencia walked to the passenger side of the vehicle and located her handgun on the ground outside the front passenger door of the vehicle. Officer Valencia remained near the gun until Sgt. Conway approached him and asked him if he discharged his firearm. When Officer Valencia responded in the affirmative, Sgt. Conway instructed him not to speak to anyone and to deactivate his BWC.

The recording from **Officer Pedroza's BWC²⁸** depicted essentially the same events as Officer Valencia's video. Officer Pedroza activated his BWC as he stood behind while the same vehicle, near the trunk, with **Margaret and Margaret activated** was heard saying she would kill before going back to jail. Officer Pedroza immediately drew his firearm and retreated, while at the same time broadcasting to dispatchers that **Margaret activated** possessed a gun. The video captured gunshots as Officer Pedroza took cover behind the vehicle parked behind **Margaret activated** behind **Margaret activated**.

²⁴ Att. 10 at 2:06.

²⁵ Att. 10 at 2:43.

²⁶ Att. 10 at 2:46.

²⁷ Att. 10 at 2:48.

²⁸ Att. 9.

Pedroza's BWC did not capture who was shooting but showed that Officer Pedroza did not fire his gun. Officer Pedroza's BWC also depicted a female officer rendering aide to **before** paramedics arrived.

Officer Sandoval's BWC was not activated at any time during this incident.²⁹

The recording from **Officer Matthew Wagner's BWC³⁰** showed that he arrived on scene after the shooting occurred. **Matthew Wagner's BWC³⁰** showed that he arrived on scene after the shooting occurred. **Matthew Wagner's BWC³⁰** were lying on the street directly behind **Matthew** vehicle. Officers moved them away from the vehicle, and Officer Wagner assisting in handcuffing **Officer Wagner** then approached the passenger side of **Matthew** vehicle. The vehicle's passenger door was open, and a black, semi-automatic pistol was on the ground just outside the opened door. **Matthew** was seated in the driver's seat of the vehicle and did not appear to move.

The recording from **Officer Joseph Jasper's BWC³¹** showed that he arrived at the location after the shooting occurred. **Source and Source and**

According to a **CPD Records Division Report**,³² the vehicle assigned to Beat 7672E did not have an in-car camera recording.

c. Physical Evidence

The Chicago Fire Department's (CFD) Incident Report³³ state that Ambulance 77 responded to the location of incident regarding a gunshot victim. Upon arrival, the paramedics found **second** lying on the ground, on her back, next to the driver's side of a vehicle. **Second** was initially unresponsive and non-verbal but was moving her arms in a guarding fashion. The report stated that three wounds were observed: one to the back of the head, one to the right armpit region, and one to her upper right back. CFD personnel also noted what appeared to be a small abrasion to her right lower lip. During transport to Mt. Sinai Hospital, **second** became verbal and started screaming. Once at the hospital, **second** was able to give her name and date of birth.

Medical Records³⁴ obtained from Mt. Sinai Hospital state that **Mathematical** sustained gunshot wounds to the left side of the back of her head, the right side of her back, and her right chest/rib area. The records also indicate that **Mathematical** suffered from major depression and expressed suicidal behavior due to her mother's recent death. **Mathematical** told medical personnel that she provoked the officers to kill her.

²⁹ Att. 1; Att. 63, pg. 43, lns. 10-17.

³⁰ Att. 110.

³¹ Att. 112.

³² Att. 48.

³³ Att. 51.

³⁴ Att. 114.

In his **Firearms Discharge Incident Report**,³⁵ Bureau of Internal Affairs Sgt. Joel Holler stated that he administered a breathalyzer to Officers Valencia and Sandoval following the incident. Both officers had a Br.A.C.³⁶ of .000. The urine test results for the officers indicated that they were negative for all of the substances on the Urine Substance Abuse Panel.³⁷

In an Illinois State Police (ISP) Division of Forensic Services Laboratory Report dated August 4, 2021,³⁸ ISP determined that samples taken from the interior driver's side compartment of vehicle tested positive for gunshot residue. This indicated that the sampled areas were in the environment of a discharged firearm or contacted a primer gunshot residue related item.

In an **ISP Division of Forensic Services Laboratory Report dated February 17**, **2021**,³⁹ ISP reported that the firearms belonging to **Constant** Officer Valencia, and Officer Sandoval were examined and found to be operable. ISP determined that a fired cartridge casing recovered from the passenger side front windshield of **Constant** vehicle was fired from **Constant** firearm, which was recovered from the ground next to the passenger side of her vehicle. Additionally, ISP determined that 14 of the fired cartridge casings recovered from the scene were fired from Officer Sandoval's firearm, and five of the fired cartridge casings were fired from Officer Valencia's firearm.

d. Documentary Evidence

The related **CPD Reports⁴⁰** state that on the day of this incident, at Mount Sinai Hospital, Detectives Edward Heerdt and Wayne Golab spoke with **Solution** She stated that she did not know what happened or how she was injured, but she added that she had been shot. When informed that the police were in possession of a video of the incident, **Solution** denied having a gun in her vehicle and maintained that she would not be shown on video shooting a gun.⁴¹

In a subsequent interview on January 10, 2021, with Detective Heerdt and Detective Adam Katz, **Mathematical** admitted to being in possession of a gun, and to pointing it at officers during the incident. **Mathematical** stated that the gun was not loaded and she did not intend to hurt the officers. **Mathematical** explained that she wanted the officers to kill her because she was sad over the recent death of her mother. **Mathematical** was subsequently charged with three counts of Aggravated Assault to a Police Officer with a Firearm.

Officer Valencia's firearm, a Sig Sauer P320, 9mm 9x1 semi-automatic pistol, was found to have one unfired cartridge in its chamber and 11 unfired cartridges in its 16-round capacity magazine. Officer Sandoval's firearm, a Glock 17 Gen 4, 9mm 9x19 semi-automatic pistol, was

³⁵ Atts. 34, 35.

³⁶ Breath Alcohol Content.

³⁷ Amphetamines, Barbiturates, Benzodiazepines, Cocaine Metabolites, Marijuana Metabolites, Methadone, MDA-Analgues, Opiates, Oxycodones, Opiates (Semi-Synthetic), Phencyclidine, Propozypheme.

³⁸ Att. 108.

³⁹ Att. 109.

⁴⁰ Atts. 2 to 8, 100 to 107.

⁴¹ Att. 102, pgs. 8 to 9.

found to have one unfired cartridge in its chamber and one unfired cartridge in its 16-round capacity magazine.

VI. LEGAL STANDARD

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

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> 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.⁴² For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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."⁴³

VII. ANALYSIS

A. Officer Valencia's and Officer Sandoval's use of deadly force complied with CPD policy.

COPA finds by a preponderance of the evidence that Officer Valencia's and Officer Sandoval's use of deadly force was objectively reasonable, necessary, and proportional to the circumstances they faced.⁴⁴ COPA further finds that Officers Valencia and Sandoval used deadly

⁴² 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.").

⁴³ *People v. Coan*, 2016 IL App (2d) 151036, P 28 (2016) (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

⁴⁴ 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, including those in which no allegations of misconduct are made, where a CPD member discharges their firearm.

force as an option of last resort. COPA thus concludes that the officers' use of deadly force complied with CPD Policy.⁴⁵

CPD's stated highest priority is the sanctity of human life. In all aspects of their conduct, CPD expects its members to act with the foremost regard for the preservation of human life and the safety of all persons involved.⁴⁶ CPD members are only authorized to use force that is objectively reasonable, necessary and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack make an arrest, control a subject, or prevent escape.⁴⁷ This means CPD members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force must be proportional to the threat, actions and level of resistance a person offers.⁴⁸

The use of deadly force is permitted as a "last resort" when "necessary to protect against an imminent threat to life or prevent great bodily harm to the member or another person."⁴⁹ A CPD member may use deadly force only when necessary to prevent: (a) death or great bodily harm from an imminent threat posed to the sworn member or to another person; or (b) an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.⁵⁰

A threat is considered 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."⁵¹ Officers are expected to modify their use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary.⁵²

Based on a review of the evidence, COPA finds that it is more likely than not that Officer Valencia's and Officer Sandoval's use of deadly force was objectively reasonable in light of the imminent threat they faced. Officer Sandoval reported that he fired at **sectors** after she produced a firearm from her vehicle and pointed it at Officer Sandoval and his partners, while warning the officers not to arrest her and threatening to kill them if they attempted to take her to jail. Officer Valencia reported that he fired at **sectors** while she was pointing her firearm through the rear windshield of her vehicle at Officers Pedroza and Sandoval. Video footage confirms the officers' accounts. The evidence shows that **sectors** posed an imminent threat. Specifically,

⁴⁵ In reaching its conclusions, COPA evaluated all available evidence, including Officer Valencia's and Officer Sandoval's statements to COPA. COPA found Officers Valencia and Sandoval generally credible in their statements. During separate interviews with detectives and/or COPA, Officer Pedroza, Officer Sandoval, Officer Valencia, and Sandoval generally credible in their statements.

⁴⁶ Att. 119, G03-02(II)(A), Use of Force (effective February 29, 2020 to April 15, 2021).

⁴⁷ Att. 119, G03-02(III)(B).

⁴⁸ Att. 119, G03-02(III)(B)(3).

⁴⁹ Att. 119, G03-02(III)(C)(3).

⁵⁰ Att. 119, G03-02(III)(C)(3).

⁵¹ Att. 119, G03-02(III)(C)(2) (emphasis added).

⁵² Att. 119, G03-02(III)(B)(4).

was in possession of a firearm that she aimed at Officers Pedroza and Sandoval.⁵³ The evidence also shows it is more likely than not that **she aimed** fired her firearm during the incident, as one fired cartridge casing recovered from the windshield of her vehicle matched her firearm.⁵⁴ COPA finds that it was objectively reasonable for both officers to believe that **she aimed** actions were immediately likely to cause death or great bodily harm.⁵⁵

The evidence further shows that **and the means** or instruments and the opportunity and ability to cause death or great bodily harm. **Construction** pointed her firearm at Officers Pedroza and Sandoval while refusing to exit her vehicle, ignoring verbal directions, and refusing to show her hands after she had retrieved an object from near the center console.⁵⁶ **Construct** then wielded a firearm and pointed the weapon at the officers, demonstrating that she was willing to use it against the officers. When **Construct** drew her firearm, Officer Valencia was standing near **Construct** and attempting to issue her verbal directions at her driver's side door. **Construct** pointed her firearm at Officers Pedroza and Sandoval while both were stationed at the rear of her vehicle. All three officers lacked sufficient cover to protect themselves from gunfire. Officers Sandoval and Valencia thus used deadly force as an option of last resort.⁵⁷

The preponderance of the evidence further indicates that Officers Valencia and Sandoval used only the amount of force necessary based on the circumstances they faced. Neither Officer Valencia nor Officer Sandoval used deadly force prior to **second firing** her weapon, and both officers stopped firing once the threat had diminished. The totality of the circumstances thus demonstrates that Officer Valencia's and Officer Sandoval's use of deadly force was proportional. Both officers were confronted by an assailant⁵⁸ whose actions constituted an imminent threat of death or great bodily harm, and they were thus permitted to use deadly force in response.⁵⁹ For these reasons, the preponderance of the evidence demonstrates that Officer Valencia's and Officer Sandoval's use of deadly force in response.⁵⁹ For these reasons, the preponderance of the evidence demonstrates that Officer Valencia's and Officer Sandoval's use of deadly force in response.⁵⁹ For these reasons, the preponderance of the evidence demonstrates that Officer Valencia's and Officer Sandoval's use of deadly force complied with CPD policy in that it was objectively reasonable, necessary, and proportional to the circumstances they faced.

B. All three officers failed to timely activate their BWCs.

COPA finds **Allegation #1** against Officers Valencia, Sandoval, and Pedroza, that each officer failed to activate his BWC in a timely manner at the beginning of a law-enforcement-related activity, is **Sustained** in violation of CPD Rules 2, 3, 5, 6, and 10.

⁵³ Att. 9 (BWC footage from Officer Pedroza) and Att. 10 (BWC footage from Officer Valencia).

⁵⁴ Att. 109.

⁵⁵ Att. 120, G03-02-01(IV)(C), Force Options (effective February 29, 2020 to April 14, 2021). An assailant is defined as "a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury. Assailants are further subdivided 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." By her actions, **met the definition of an** "assailant" under CPD policy.

⁵⁶ Att. 60, pg. 24, lns. 8 to 11.

⁵⁷ Officer Pedroza explained that he did not fire his weapon because he was unable to acquire a target. *See* Att. 66, pg. 40, lns. 1 to 8.

⁵⁸ Att. 120, G03-02-01(IV)(C).

⁵⁹ Att. 120, G03-02-01(IV)(C).

To increase transparency and improve the quality and reliability of investigations, CPD policy requires law-enforcement-related encounters to be electronically recorded.⁶⁰ Law-enforcement encounters include but are not limited to arrests, traffic stops, use of force incidents, high risk situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene.⁶¹ The decision to record is mandatory, not discretionary. CPD members will activate their BWCs at the beginning of an incident and record the entire incident.⁶² If there are circumstances preventing the activation of the BWC at the beginning of the incident, it shall be activated as soon as practical.⁶³

Here, the preponderance of the evidence shows that Officers Valencia, Sandoval, and Pedroza all failed to activate their BWCs in accordance with CPD policy during their encounter with the occupants of the Hyundai. All three officers had a mandatory duty to activate their BWCs prior to initiating contact with the three occupants of the Hyundai: ______and _____and ______and _____and ______and _____and ______and _____and ______and ______and _____and ______and _____and ______and _______and ______and ______and ______and ______and _______and _______and ______

COPA further finds that although Officers Valencia and Pedroza activated their BWCs, they did so in an untimely manner. Officer Pedroza activated his BWC only after interacting with and patting down while standing at the rear of the Hyundai. Similarly, Officer Valencia did not activate his BWC until after having nearly a minute long conversation with setting Neither Officer Pedroza nor Officer Valencia could provide a reason for the delay in their camera activations, merely explaining that they turned on their BWCs as soon as they could. COPA finds by a preponderance of the evidence that neither Officer Pedroza nor Officer Valencia timely activated their BWCs. Thus, Allegation #1 against both officers is sustained.

COPA finds that there is clear and convincing evidence that Officers Valencia, Sandoval, and Pedroza properly conducted an investigatory stop of **Sector Sector** and **Sector Sector** after they observed them occupying a Hyundai stopped in a "tow zone." Moreover, during the investigatory stop, the officers were justified in ordering all the occupants out of the vehicle and temporarily detaining them.

In order to conduct an investigatory stop, officers need to have reasonable articulable suspicion or probable cause to initiate the stop and justify the detention.⁶⁴ During a lawful traffic stop, police may, as a matter of course, order the driver and any passengers out of the vehicle

⁶⁰ Att. 121, S03-14, Body Worn Cameras (effective April 30, 2018 to present).

⁶¹ Att. 121, S03-14(III)(Å)(2).

⁶² Att. 121, S03-14(II)(A)

⁶³ Att. 121, S03-14(III)(A)(2).

⁶⁴ People v. Hackett, 2012 IL 111781, ¶28.

pending completion of the stop. 65 The detention of the occupants of a vehicle must be limited in scope and duration. 66

Here, clear and convincing evidence shows that the officers had at least reasonable articulable suspicion to investigate whether the driver of the Hyundai was violating any laws. The officers observed the Hyundai stopped in a "tow zone" near a crosswalk and a fire hydrant. The City of Chicago Municipal Code prohibits parking within 20 feet of a crosswalk where official signs are posted and within 15 feet of a fire hydrant.⁶⁷ The officers thus had reasonable articulable suspicion to investigate whether the Hyundai was "parked" in the tow zone and/or near a fire hydrant in violation of the Municipal Code, or whether it was temporarily "stopped" there.⁶⁸ During further investigation, Officer Valencia discovered that **Municipal Code** that was in the driver's seat of the Hyundai, did not have her driver's license, providing him with probable cause to believe that she violated Illinois State law.⁶⁹

The totality of the circumstances indicates, by clear and convincing evidence, that the stop and temporary detention of the three occupants of the Hyundai was justified. Therefore, COPA finds **Allegation #2**, that Officers Valencia, Sandoval and Pedroza stopped and detained **Converse** and **Converse** without justification, is **Exonerated**.

D. The officers failed to complete an ISR regarding the detention of

COPA finds by a preponderance of the evidence that **Allegation #3** against Officers Valencia, Sandoval and Pedroza is **Sustained**. Pursuant to CPD policy, "Sworn members who conduct an Investigatory Stop are required to complete an Investigatory Stop Report (ISR)."⁷⁰ The purpose of an ISR is to ensure that the facts and circumstances of an investigatory stop, a probable cause stop when no other document captures the reason for the detention, or a protective pat down or other searches are documented.⁷¹ The completion of an ISR allows for supervisory review of the facts and circumstances surrounding the stop or search, including a pat down.⁷²

The preponderance of the evidence shows that Officers Valencia, Sandoval, and Pedroza failed to document their detention of All three officers conducted the investigatory stop during which was detained. The officers were required to document the encounter with

⁶⁵ *People v. Sorenson*, 196 Ill. 2d 425, 433 (2001).

⁶⁶ People v. Duran, 2016 IL App (1st) 152678, ¶ 14.

⁶⁷ See Section 9-64-100(a) and Section 9-64-100(f)\f the City of Chicago Municipal Code.

⁶⁸ The City of Chicago Municipal Code prohibits parking within 20 feet of a crosswalk where official signs are posted. (9-64-100(f).) Section 9-4-010 of the Municipal Code defines "Parking (to park)" as "the standing of an unoccupied vehicle otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers." Additionally, the Municipal Code defines "Standing (to stand)" as "the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers; provided, that, an operator is either in the vehicle or in the immediate vicinity, so as to be capable of immediately moving the vehicle at the direction of a police officer or traffic control aide."

⁶⁹ 625 ILCS 5/6-101 ("No person, except those expressly exempted by Section 6-102, shall drive any motor vehicle upon a highway in this State unless such person has a valid license or permit, or a restricted driving permit, issued under the provisions of this Act.").

⁷⁰ Att. 122, S04-13-09(III)(C), Investigatory Stop System (effective July 10, 2017 to present).

⁷¹ Att. 122, S04-13-09(III)(D)

⁷² Att. 122, S04-13-09(III)(D)(3)

by completing an ISR by the end of their tours of duty. COPA is mindful that all of the officers were participating as witnesses in the officer-involved shooting investigation, but this participation does not absolve them of the requirement to complete an ISR in a timely manner. As a result, Allegation #3 is sustained as to each officer in violation of CPD Rules 2, 3, 5, 6, and 10.

E. Officer Sandoval conducted a pat-down search of **Sector** and Officer Pedroza conducted a pat-down search of **Sector** without justification.

COPA finds by a preponderance of the evidence that Officers Sandoval and Pedroza lacked reasonable articulable suspicion to conduct pat-down searches of **second** and **second** respectively. An "officer may perform a protective pat-down search where, after making a lawful stop, the officer has reasonable articulable suspicion that he or another is in danger of attack because the [person] is armed and dangerous."⁷³

Here, Officer Sandoval conducted a pat-down of **second** and Officer Pedroza conducted a pat-down of **second** However, COPA finds by a preponderance of the evidence that neither officer had reasonable articulable suspicion to believe that **second** was armed and dangerous.⁷⁴ During their COPA interviews, neither officer could articulate specific facts to support their decision to pat-down the two male occupants of the Hyundai. Specifically, Officer Sandoval indicated that **second** was compliant with his directions to exit the Hyundai and provide his identification.⁷⁵ Nevertheless, he patted **second** down. Officer Sandoval summarily explained that he performed the pat down for "officer safety"⁷⁶ but did not point to any specific facts providing him with reasonable articulable suspicion that **second** was armed and dangerous. To the contrary, it appears from Officer Sandoval's own statement and the BWC footage that **second** was cooperative and posed no threat of attack.

Similarly, Officer Pedroza explained that prior to patting down was bare chested and "kind of not keeping eye contact."⁷⁷ Officer Pedroza also explained that he thought might flee. Like Officer Sandoval, Officer Pedroza claimed that he performed the pat down for his safety but could not point to specific facts supporting this conclusion. The only arguably suspicious fact Officer Pedroza could point to was possible lack of eye contact. Without more, however, this evidence is insufficient to establish reasonable articulable suspicion that possible data and dangerous. In addition, Officer Pedroza's explanation that possible distanced himself from the vehicle, raising Officer Pedroza's suspicion that was armed and dangerous.

COPA finds by a preponderance of the evidence that the officers' conclusory statements that they performed a pat-down of **statement** for officer safety, without more, are

⁷³ People v. Surles, 2011 IL App (1st) 100068, **P** 31 to 49; see People v. Sorenson, 196 Ill.2d 425, 433 (2001).

⁷⁴ Att. 122, S04-13-09(II)(C)(2).

⁷⁵ Att. 63, pg. 22, lns. 4 to 24.

⁷⁶ Att. 63, pg. 23, lns. 13 to 22

⁷⁷ Att. 66, pg. 17, lns. 9-21.

insufficient to justify the pat-downs.⁷⁸ For these reasons, **Allegation #4** against Officers Sandoval and Pedroza are **Sustained** in violation of CPD Rules 2, 3, and 6.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Fernando Valencia⁷⁹

i. Complimentary and Disciplinary History

Officer Valencia's complimentary history is comprised of 30 awards, the highlights of which include 28 Honorable Mentions. His disciplinary history includes three SPARs: 1) a January 2023 court appearance violation, resulting in a reprimand, 2) an April 2023 Court Appearance Violation, resulting in a no disciplinary action taken, and 3) a June 2023 failure to perform any duty, resulting in no disciplinary action.

ii. Recommended Penalty

COPA has found that Officer Valencia failed to timely activate his BWC and failed to complete an ISR, in violation of Rules 2, 3, 5, 6 and 10. Officer Valencia's failure to record the entire incident, particularly the first minute of his interaction with **sectors** undermined CPD's commitment to transparency and deprived this investigation of valuable evidence. COPA also notes that Officer Valencia did not accept responsibility for untimely activating his BWC or failing to complete an ISR. It is for these reasons, combined with Officer Valencia's complimentary history and minimal disciplinary history, that COPA recommends he receive a **1-day suspension and retraining** regarding CPD's BWC and Investigatory Stop System policies.

b. Officer Adan Pedroza, Jr.⁸⁰

i. Complimentary and Disciplinary History

Officer Pedroza's complimentary history is comprised of 36 awards, the highlights of which include two Department Commendations. He has no recent disciplinary history.

ii. Recommended Penalty

COPA has found that Officer Pedroza failed to timely activate his BWC, failed to complete an ISR, and conducted a pat-down without justification, in violation of Rules 2, 3, 5, 6 and 10. Officer Pedroza failed to record the first minute and 40 seconds of the incident, undermining CPD's commitment to transparency and hindering COPA's ability to evaluate the officers' actions at the beginning of the traffic stop. Additionally, COPA notes that Officer Pedroza did not accept responsibility for any of his sustained allegations. It is for these reasons, combined with Officer Pedroza's complimentary history and lack of disciplinary history, that COPA recommends he

⁷⁸ People v. Surles, 2011 IL App (1st) 100068.

⁷⁹ Att. 118.

⁸⁰ Att. 116.

receive a **2-day suspension and retraining** regarding CPD's BWC and Investigatory Stop System policies.

Approved:



Steffany Hreno Director of Investigations 12/27/2023

Date

12/27/2023

Date

Andrea Kersten Chief Administrator