

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 20, 2021
Time of Incident:	11:20 am
Location of Incident:	205 North La Crosse Ave. Chicago, IL 60644
Date of COPA Notification:	March 20, 2021
Time of COPA Notification:	11:50 am

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 (CPD) member discharges their firearm. Upon review of the evidence, COPA served allegations that Officer Guillermo Gama discharged his firearm in violation of CPD policy and failed to timely and/or accurately notify OEMC of the discharge. Following its investigation, COPA determined that Officer Gama’s use of deadly force was objectively reasonable, necessary, and proportional, and his actions complied with CPD policy.

II. INVOLVED PARTIES

Involved Officer #1:	Guillermo Gama Jr., Star #17268, Employee ID# [REDACTED] DOA: August 31, 2015, Unit 010/716, Male, Hispanic
Involved Sergeant #1:	Jack Barron, Star #806, Employee ID# [REDACTED] DOA: April 8, 1985, Unit 015, Male, White ¹
Involved Individual #1:	[REDACTED] [REDACTED] [REDACTED] DOB: [REDACTED] [REDACTED] 1991, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Sergeant Jack Barron	1. Clearing Officer Guillermo Gama Jr.’s firearm in violation of General Order G03-06 and/or G04-02.	Close Hold ²
Officer Guillermo Gama	1. Discharged your firearm, in violation of G03-02-03.II.D.5.	Exonerated

¹ On May 11, 2022, Sgt. Barron separated from CPD. Att. 464.

² An investigation may be placed in Close Hold status if COPA’s investigation determines that the CPD member accused of misconduct is no longer employed by CPD or the City of Chicago, but there exists the possibility that they could regain employment with CPD or the City of Chicago in the future.

2. Failed to timely and/or accurately notify OEMC that you discharged your firearm, in violation of G03-06.	Not 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 implement 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.

General Orders

1. G03-02: Use of Force (effective February 29, 2020 to April 14, 2021)³
2. G03-02-03: Firearm Discharge Incidents- Authorized Use and Post-Discharge Administrative Procedures (effective February 29, 2020 to April 14, 2021)⁴
3. G03-06: Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective February 29, 2020 to April 14, 2021)⁵
4. G04-02: Crime Scene Protection and Processing (effective January 14, 2019 to present)⁶

V. INVESTIGATION⁷

On March 20, 2021, at approximately 10:15 am, Officers Simon Hernandez and Eduardo Hernandez responded to a call of shots fired near 177 N. La Crosse. Upon arrival, the officers spoke to the victims of the incident and ascertained where the shooting occurred. The officers secured the area in the alley behind the residence and waited for Evidence Technicians (ETs).⁸

At approximately 11:20 am, as ET Robert Keller arrived at the scene, [REDACTED] fired one time in the direction of Officers Simon Hernandez and Eduardo Hernandez.⁹ The bullet struck

³ Att. 460.

⁴ Att. 461.

⁵ Att. 462.

⁶ Att. 463

⁷ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including body worn camera (BWC) video, third party video, in-car camera (ICC) video, police observation device (POD) video, 911 calls, police reports, interviews, and medical records.

⁸ Att. 6; Atts. 17 to 25; Att. 443 (ch03_20210320102042) from 14:15 to 1:01:46.

⁹ In an electronically recorded interview with CPD detectives, [REDACTED] stated that he smoked PCP and wanted the police to kill him. He admitted that he committed the initial shooting, firing upon a random person, and that he fired

the officers' squad car in the front passenger door, near where the officers had been standing.¹⁰ The officers took cover and reported a "10-1,"¹¹ announcing over the radio that someone just shot at their vehicle.¹² CPD members in the area provided a description of ██████████ and reported that he fled westbound.¹³ Although Officer Guillermo Gama and his partner, Officer Crysel Torres, did not hear these radio transmissions,¹⁴ they observed police vehicles with emergency lights activated, and they followed the vehicles to the area of W. Maypole and N. La Crosse.¹⁵

Numerous officers searched the area for ██████████ looking along La Crosse and through gangways. At approximately 11:25 am, Officer Eduardo Hernandez related to Officer Gama and other CPD members that, just before he was fired upon and took cover, he saw a man standing at the northeast corner of the intersection of W. Maypole and the alley.¹⁶ Officers Gama and Torres began searching for shell casings in that area, as well as the alley and backyards behind the 200 block of N. La Crosse.¹⁷

At approximately 11:28 am, a detective pointed to a yard, prompting Officer Gama to search the backyard of an abandoned building, located at 205 N. La Crosse (the "building").¹⁸ Officer Gama described the building as boarded up and the property as not maintained.¹⁹ He proceeded to the north corner of the building and looked down the gangway, which he stated was narrow and lined with brick. (See Figure 1). He determined it was not safe to walk through the gangway and turned away, but remained at the building's corner. Officer Gama heard sounds emanating from the gangway, prompting him to keep checking the area.²⁰

At approximately 11:29 am, while Officer Torres moved into the backyard of the adjacent building,²¹ Officer Gama again peered down the gangway. This time, he observed ██████████ pointing a gun out of the building's first floor window.²² Officer Gama quickly turned away from the building, yelled "oh shit, hey....," and retrieved his firearm.²³ Simultaneously, ██████████ fired one gunshot, striking Officer Torres in her left hand.²⁴ Officer Torres then ran for cover.²⁵ Officer Gama announced shots fired, turned toward the gangway, and discharged his firearm one time.²⁶

at the squad car in the alley area. Att. 105 from 53:10 to 57:15. ██████████ medical records detail the presence of cannabinoids and phencyclidines (PCP) in his urine. Att. 451, pg. 16.

¹⁰ Att. 62 from 01:37 to 01:45.

¹¹ "10-1" is a radio code indicating an officer is in need of emergency assistance.

¹² Att. 102 from 00:15 to 00:24.

¹³ The description provided was a male in black jacket with a fur collar. Att. 101 at 03:10; Att. 102 at 00:25.

¹⁴ The "10-1" was broadcast over Zone 12 but Officers Gama and Torres were working with Zone 10. Atts. 101 to 102; Att. 454, pg. 13, lns. 6 to 24; Att. 459, pg. 14, lns. 7 to 18.

¹⁵ Att. 454, pg. 13, lns. 2 to 5 and pg. 15, lns. 15 to 24; Att. 459, pg. 10, lns. 17 to 24.

¹⁶ Att. 60 from 06:51 to 07:41 and 08:51 to 09:02; Att. 80 from 04:00 to 04:28 and 05:43 to 06:09.

¹⁷ Att. 52 at 4:54; Att. 80 at 4:53; Att. 454, pg. 28, ln. 23 to pg. 29, ln. 5.

¹⁸ Att. 52 at 6:28; Att. 80 at 6:27; Att. 454, pg. 29, lns. 5 to 16.

¹⁹ Att. 454, pg. 30, ln. 12 to pg. 32, ln. 15. See Att. 52 at 6:46; Att. 80 at 6:38.

²⁰ Officer Gama noted hearing a metal-on-metal clanking sound and a whistle, which was captured on his BWC. Att. 454, pg. 39, ln. 2 to pg. 41, ln. 8. See Att. 52 from 08:16 to 08:24.

²¹ Att. 80 at 08:17.

²² Officer Gama believed ██████████ was pointing the gun at him. Att. 454, pg. 41, ln. 10 to pg. 42, ln. 1.

²³ Att. 52 from 08:30 to 08:32; Att. 80 at 08:30.

²⁴ Although ██████████ in his interview with CPD detectives, did not admit to firing the bullet that struck Officer Torres, the video and physical evidence supports the conclusion that he did. See Atts. 35, 39 to 41, 52, 80, 89, 90, 105.

²⁵ Att. 80 at 08:31.

²⁶ Officer Gama's information was not recorded over the radio. Att. 52 at 08:34. See Atts. 100 to 102.

Officer Gama explained that he discharged his weapon at [REDACTED] because [REDACTED] was still pointing the gun at him, and he believed [REDACTED] was trying to kill him. Officer Gama further stated that he only fired one time because [REDACTED] stepped back inside the building, and he could no longer see [REDACTED].²⁷



Figure 1: ET photo of the gangway between 205 and 207 N. La Crosse.²⁸ Officer Gama was located near the left bottom corner of the photo at the time he fired.

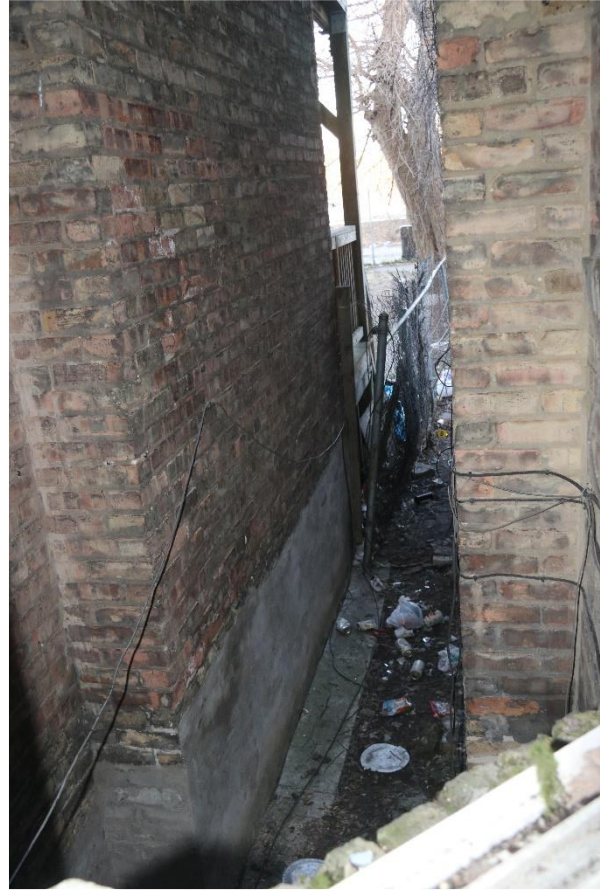


Figure 2: ET photo showing the view from the window at 205 N. La Crosse, where [REDACTED] fired at Officer Torres. This is the same window as shown on the left in Figure 1.²⁹

Officer Gama yelled, “He’s shooting through the window! He’s shooting through the window!”³⁰ Multiple officers reported over the radio that shots were fired, an officer was shot, and they provided [REDACTED] location.³¹ Officer Gama retreated while notifying other officers of [REDACTED] position in the building.³² After taking cover, Officer Gama announced “shots fired at police” over the radio, and he described the location where [REDACTED] was aiming a gun out of the

²⁷ Att. 454, pg. 47, ln. 3 to 5, pg. 49, ln. 1 to pg. 55, ln. 14.

²⁸ Att. 39, pg. 73.

²⁹ Att. 39, pg. 170; *see also* Att. 89; Att. 90 at 04:33, [REDACTED] Facebook Live videos (Although there is no date or time stamps included with these Facebook Live videos, [REDACTED] is in the room at 205 N. La Crosse and reports police are looking for him.)

³⁰ Att. 52 from 08:31 to 08:36. Officer Gama’s transmission was not recorded by OEMC. *See* Atts. 100 to 102.

³¹ Att. 100 at 10:58; Att. 101 at 10:38; Att. 102 at 10:11.

³² Att. 52 at 08:43.

window.³³ Both on scene and over the radio, officers communicated to request Special Weapons and Tactics Team (SWAT), set up a perimeter, and provide updates regarding Officer Torres's condition and transport to the hospital.³⁴

At approximately 11:33 am, Officer Gama reported "shots fired by police" over the radio.³⁵ When SWAT arrived at the scene, Officer Gama described the building where ██████ was located and that ██████ fired out of the window. SWAT took control of the situation, and, at approximately 2:07 pm, ██████ was placed into custody without further incident.³⁶ ██████ was not injured during the incident, but he was eventually transported to the hospital for evaluation due to suicidal thoughts.³⁷

Officer Gama, in the meantime, experienced chest pains and shortness of breath and was transported to the hospital, accompanied by Sergeant Jack Barron. Sergeant Barron took possession of Officer Gama's firearm so that Officer Gama could receive medical treatment. At the hospital, Sergeant Barron rendered the firearm safe by removing the magazine and clearing the round from the chamber, then placing them in his pocket.³⁸

a. Physical Evidence

The firearm recovered from ██████ was a Lorcin, Model L380, .380 caliber semi-automatic pistol with one round in the chamber and an unknown number of rounds in the magazine. Additionally, one expended shell casing was recovered from the floor of 205 N. La Crosse, below the window where ██████ had stood.³⁹

Officer Gama's Glock 19 Gen 4, 9mm semi-automatic pistol, was recovered with fourteen rounds in the magazine and one round in the chamber (all "Win 9mm +P 19"). ETs located one expended shell casing, also a "Win 9mm +P 19," from the backyard dirt at 205 N. La Crosse.⁴⁰

VI. LEGAL STANDARD

a. Standard of Proof

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;

³³ Multiple officers attempt to radio information, and Officer Gama's report is not recorded by OEMC. Att. 52 at 08:50. *See* Att. 102 from 10:15 to 10:47.

³⁴ Att. 80 at 10:00; Att. 102. *See also* Atts. 449, 458, 459.

³⁵ Att. 52 at 11:35; Att. 102 at 13:06.

³⁶ In a 911 call, ██████ said SWAT was outside attempting to stop him from committing suicide. He stated he did not hurt anyone, but he was going to go to jail because he shot a gun and admitted he had a firearm and bullets. Atts. 2, 96, 395, 422, 424, and 438.

³⁷ Atts. 2, 105, and 451.

³⁸ Att. 454, pg. 65, lns. 5 to 11, pg. 68, ln. 4 to pg. 71, ln. 17; Att. 457, pgs. 10 to 18. *See also* Att. 53 at 29:41; Att. 46 at 49:15; Att. 450.

³⁹ Atts. 35, 41. ETs recovered additional live rounds and expended shell casings from the area matching ██████ ammunition, notably: one expended shell casing found at the northeast corner of W. Maypole and the alley, where officers observed ██████ before they were fired upon; and eight expended shell casings in the vicinity of the alley behind 177 N. La Crosse. Att. 41, pg. 7; Att. 26.

⁴⁰ Atts. 35, 41.

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.⁴¹ 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.”⁴²

b. Use of Deadly Force

CPD members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.⁴³ The main issue in evaluating every use of force is whether the amount of force used was objectively reasonable in light of the totality of the circumstances faced by the member on scene. Factors to be considered include but are not limited to: whether the subject poses an imminent threat to the member or others; the risk of harm, level of threat or resistance presented by the subject; and the subject’s proximity or access to weapons.⁴⁴

Deadly force is force by any means that is likely to cause death or great bodily harm, including the firing of a firearm in the direction of the person to be arrested.⁴⁵ The use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person; or to prevent an arrest from being defeated by resistance or escape, where the person poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.⁴⁶

⁴¹ 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.”).

⁴² *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (2016) (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

⁴³ Att. 460, G03-02(III)(B), Use of Force (effective February 29, 2020 to April 14, 2021).

⁴⁴ Att. 460, G03-02(III)(B)(1).

⁴⁵ Att. 460, G03-02(III)(C)(1).

⁴⁶ Att. 460, G03-02(III)(C)(3).

CPD policy prohibits its members from firing into buildings, through doors, windows, or other openings, or in any other circumstance when the person lawfully fired at is not visible, unless directed at a specific location and such force is necessary, based on the specific circumstances confronting the sworn member, to prevent death or great bodily harm to the member or another person.⁴⁷ In such circumstances, the use of deadly force is only permissible when the member has identified the appropriate target prior to discharging his firearm and has taken precautions to minimize the risk that people other than the target will be struck.⁴⁸

c. Immediate Notification Requirements

CPD policy requires that any member who discharges their firearm must immediately notify OEMC of the discharge, provide all relevant information, and request additional resources.⁴⁹

d. Involved Members' Firearm as Evidence

CPD policy provides that any member who discharges a firearm will ensure that their firearm remains holstered and secured until it is submitted to Forensic Services Division (FSD) personnel. However, if the member receives medical treatment following the incident, another CPD member will take possession of the firearm and ensure it remains holstered and secured.⁵⁰ CPD policy provides that evidence will not be disturbed prior to processing by the FSD, unless it is necessary to preserve life or to protect the evidence from loss or damage.⁵¹

VII. ANALYSIS AND CONCLUSION

a. COPA finds Officer Gama to be credible

COPA finds that Officer Gama provided a credible account of the incident. Officer Gama was materially consistent throughout his statements to responding officers, CPD detectives, COPA, and in his Tactical Response Report, and his account is corroborated by the BWC footage. Moreover, COPA has not found any evidence that contradicts Officer Gama's description of the incident.

b. Officer Gama's firearm discharge

COPA finds there is clear and convincing evidence that Officer Gama's firearm discharge complied with CPD policy. Therefore, Allegation #1 is **Exonerated**.

Following a thorough review of the evidence, COPA finds that Officer Gama's use of deadly force against ██████████ complied with CPD policy. Specifically, COPA finds that Officer Gama's firearm discharge was objectively reasonable, necessary, and proportional considering the totality of the circumstances he faced. The evidence shows that Officer Gama fired at ██████████

⁴⁷ Att. 461, G03-02-03(II)(D)(5), Firearm Discharge Incidents- Authorized Use and Post-Discharge Administrative Procedures (effective February 29, 2020 to April 14, 2021).

⁴⁸ Att. 461, G03-02-03(II)(D)(5).

⁴⁹ Att. 462, G03-06(V)(A), Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective February 29, 2020 to April 14, 2021).

⁵⁰ Att. 462, G03-06(VI)(B)(5)(a).

⁵¹ Att. 463, G04-02(III)(D), Crime Scene Protection and Processing (effective January 14, 2019 to present).

immediately after ██████ shot at Officer Torres and struck her in the hand. The BWC footage captured Officer Gama state, “Oh shit, hey!” directly before the sound of a single gunshot. Officer Gama then immediately returned fire, announced, “Shots fired. Shots fired. He’s shooting through the window,” and sought cover behind the building.⁵² The totality of the circumstances therefore indicate that ██████ posed an imminent threat to the officers on scene at the time. Additionally, Officer Gama’s use of deadly force was proportional to the force used by ██████ as the officer fired once and stopped shooting as soon as the threat had dissipated.⁵³

Additionally, COPA finds that Officer Gama’s decision to fire through a window into the building did not violate CPD policy. CPD policy generally prohibits the firing of a firearm “into buildings, through doors, windows, or other openings, or in any other circumstance when the person lawfully fired at is not clearly visible, unless directed at a specific location and such force is necessary, based on the specific circumstances confronting the sworn member, to prevent death or great bodily harm to the sworn member or to another person.”⁵⁴ The policy further provides that firing under such circumstances is permissible “if the member has identified the appropriate target prior to discharging the firearm and has taken precautions to minimize the risk that people other than the target will be struck.”⁵⁵

Here, although Officer Gama’s BWC did not capture his view when he fired his weapon, the evidence is sufficient to show that he did not violate the policy against firing into a building. On his BWC, Officer Gama was heard reporting ██████ location, the fact that ██████ was shooting through the window, and ██████ actions immediately after the discharge.⁵⁶ Additionally, Officer Gama informed COPA that at the time of the discharge, there were no other people in his line of fire. He explained that no one was between him and ██████ behind ██████ or next to ██████ and he detailed the steps he took to ensure that no one other than ██████ would be struck.⁵⁷ COPA also finds that it was objectively reasonable for Officer Gama to believe that the building was abandoned, thus minimizing the risk of someone other than ██████ being struck.⁵⁸ For the foregoing reasons, COPA finds Allegation #1, that Officer Gama discharged his firearm in violation of G03-02-03(II)(D)(5), is exonerated.

c. Officer Gama’s OEMC notifications

COPA finds Allegation #2, that Officer Gama failed to timely notify OEMC of his firearm discharge, is **not sustained**. COPA cannot conclude by a preponderance of the evidence that Officer Gama violated CPD policy when he attempted to notify OEMC of “shots fired by the police” approximately three minutes after his firearm discharge. During those three minutes, Officer Gama could be heard on his BWC reporting “shots fired,” communicating with other

⁵² Att. 52 from 8:30 to 8:38.

⁵³ Att. 454, pg. 52, ln. 23 to pg. 53, ln.10

⁵⁴ Att. 461, G03-02-03(II)(D)(5).

⁵⁵ Att. 461, G03-02-03(II)(D)(5).

⁵⁶ Att. 52 from 8:35 to 9:35.

⁵⁷ Att. 454, pg. 54, ln. 18 to pg. 55, ln. 14.

⁵⁸ During his COPA statement, Officer Gama explained that the building was boarded up, the door frame was covered with plywood, and the property did not appear to be cared for or maintained. Att. 454, pg. 31, ln. 24 to pg. 32, ln. 15.

officers about [REDACTED] location, and telling them to be careful.⁵⁹ Officer Gama recalled making notifications as he ran to seek cover as well as during a moment of silence in the pause of ongoing radio traffic.⁶⁰ Though the OEMC recording did not pick up his initial notification, Officer Gama’s BWC shows that he announced there were shots fired by police multiple times. The OEMC recording did capture Officer Gama making the notification during a later pause in radio traffic.⁶¹ Additionally, after he reported that he fired his weapon, Officer Gama recalled a dispatcher asking if any officers fired their weapons, to which he responded that he had.⁶² Although Officer Gama’s OEMC notification was somewhat delayed, there is insufficient evidence to sustain the allegation. Therefore, Allegation #2 is not sustained.

d. Allegation against Sergeant Barron

As of the date of this report, Sergeant Barron is no longer employed by CPD or the City of Chicago, as he retired effective May 11, 2022. As such, COPA did not analyze the allegation against him, and it has been placed in **Closed Hold** status.

Approved:

[REDACTED]

Steffany Hreno
Director of Investigations

10/31/2023

Date

[REDACTED]

Andrea Kersten
Chief Administrator

10/31/2023

Date

⁵⁹ Att. 52 8:50 to 11:40. Within 20 seconds of discharging his firearm, Officer Gama radioed “shots fired at police;” however, this transmission was not captured by OEMC due to multiple officers using the radio at the same time.

⁶⁰ Att. 454, pg. 58, ln. 21 to pg. 61, ln. 11.

⁶¹ Att. 102 at 13:06.

⁶² Att. 454, pg. 62, lns. 7 to 16.