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only

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Eddie T. Johnson
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March 22, 2018

Patricia Banks
Interim Chief Administrator
Civilian Officer of Police Accountability
1615 West Chicago Avenue, 4th Floor
Chicago, Illinois 60622

Re: Log #1078616
Non-Concurrence with findings and penalty
OFFICER Robert Rialmo

Dear Interim Chief Administrator Banks:

Based on a review of the above-referenced complaint register (CR), the Department does not concur with the recommended findings or penalty for Officer Robert Rialmo. The Department is mindful that two persons lost their lives in the early morning hours of December 26, 2015. However, based on all of the evidence presented in this case, it is clear that Officer Rialmo's actions were justified and within Department policy. Therefore, according to Special Order S08-01-01, *Conduct of Complaint Investigations*, this CR investigation should be classified as EXONERATED as it relates to Allegations 1 and 2, as it relates to Quintonio LeGrier and as to Allegations 3 and 4, as it relates to Bettie Jones.

Officer Rialmo's decision to discharge his firearm was consistent with the Department directive entitled, Force Options, General Order, G03-02-02 (*Effective March 11, 2015 to January 1, 2016*). Said general order provides that the definition of an assailant is "a subject who is using or threatening the imminent use of force against himself/herself or another person" and categorizes assailants into three categories. According to the order, when the actions of an assailant will likely cause death or serious physical injury, then the use of firearms and other deadly force options by officers is appropriate. In the instant case, not only was Quintonio LeGrier (Quintonio – so as not to be confused with his father, herein Mr. LeGrier) armed with a deadly weapon, but, because he also attacked Officers Rialmo and LaPalermo with actions that would likely have caused serious physical injury or death, Quintonio was properly identified as an assailant. Further, there is no credible evidence to disprove Officer Rialmo's perception that Quintonio posed a threat to him as Quintonio advanced toward him. Therefore, it was proper and within Department policy for Officer Rialmo to use his firearm in response to the threat posed by Quintonio, an assailant.

I. INSUFFICIENT EVIDENCE TO SUSTAIN ALLEGATIONS 1 AND 2

The following facts are undisputed as it relates to what occurred in the early morning hours of December 26, 2015 at 4710 W. Erie. Officers Rialmo and LaPalermo were working in uniform as Chicago Police Officers. Antonio LeGrier lived on the second floor of 4710 W. Erie and was the landlord to Bettie Jones, who lived on the first floor with her fiancé, William Wells. Antonio LeGrier called the police because he was afraid of his son and had barricaded himself in his bedroom in his second floor apartment. Quintonio was armed with a metal baseball bat prior to the officers' arrival on scene. Mr. LeGrier asked Ms. Jones to open the door for the police when they arrived. Officers Rialmo and LaPalermo were dispatched to respond to Mr. LeGrier's call of a domestic disturbance at 4710 W. Erie. They drove to that address in their marked Chicago Police van. Upon arriving at that location, both officers walked up the four steps to the front door. Officer Rialmo was on the small porch itself, while Officer LaPalermo was behind him on the top step to the small porch. Officer Rialmo knocked and rang the doorbell. Ms. Jones answered the door by opening the door inward. Ms. Jones whispered "upstairs" and pointed. Quintonio came running down the stairs towards Officers Rialmo and LaPalermo. Quintonio was armed with a raised metal baseball bat. Quintonio got within feet of Officers Rialmo and LaPalermo. Officer Rialmo was the only person to discharge his weapon. He fired his gun in rapid succession several times. He struck and killed Quintonio and Ms. Jones.

The only issue that exists is whether Quintonio's sudden attack was so immediate and proximate that Officer Rialmo's only option to prevent great bodily harm or death was to discharge his firearm, striking Quintonio. The Department submits that it was, and that Officer Rialmo was justified in shooting his weapon, despite the very unfortunate result.

In *Graham v. Connor*, 490 S.Ct. 386 (1989), the Supreme Court of the United States held that the determination of the reasonableness of an officer's decision to use force must be made from the perspective of an officer on the scene. The Court noted that "officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Furthermore, the Court concluded, the issue must be viewed "from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight..." (*Graham* at p. 396).

The standard for "reasonableness" takes into account that "police are often forced to make split second judgements – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." Testimony of the officers corroborated by witnesses and the physical evidence clearly establishes that Officers Rialmo and LaPalermo faced a tense, uncertain, and rapidly evolving dangerous incident.

The testimony of Mr. LeGrier and Mr. Wells established the following: that Antonio LeGrier lived on the second floor of 4710 W. Erie and was the landlord to Bettie Jones, who lived on the first floor with her fiancé, William Wells and that Antonio LeGrier called the police because he was afraid of his son and had barricaded himself in his bedroom in his second floor apartment. Mr. Wells, Ms. Jones's fiancé, supports the officers' version of events. He explained that both he and Ms. Jones were asleep in bed, when Antonio LeGrier (Mr. LeGrier) called Ms.

Jones by telephone and related that he (Mr. LeGrier) was having a problem with his son, Quintonio, and asked Ms. Jones to open the front door when the police arrived. *Att. 38 at 7*. Mr. Wells stated that, after the officers "beat on the door and rung the doorbell," Ms. Jones jumped up and ran to open the door to let them in. *Id. at 8*.

Like Mr. Wells, Mr. LeGrier also supports the officers' version of events. Mr. LeGrier, Quintonio's father and the resident who had asked Ms. Jones to open the door for the police, stated that he had placed a two-by-four up against his bedroom door in order to barricade himself from his son. He stated that he wanted to prevent Quintonio from entering when he was sleeping because Quintonio had previously pushed open the door and entered when he was asleep, which had caused him to jump out of bed and take an aggressive stance with his fist rolled up, as he didn't know what Quintonio's intentions were. *Att. 44 at 27*. After Mr. LeGrier called the police, Quintonio tapped on the bedroom door with the baseball bat. Mr. LeGrier said, "And I'm sittin' there shakin' and, and waitin' for the police 'cause I can't come out 'cause I don't know what he has in his hand or what his intentions are." *Id. at 29*.

After arriving on the scene, both of the officers walked to the front door. However due to the relatively small size of the porch, only Officer Rialmo was able to stand on the porch itself, while Officer LaPalermo stood with one foot on the porch and one foot on the top stairs. Upon approaching the front door, Officer Rialmo immediately knocked and rang the doorbell. Ms. Jones answered the door by partially opening it and whispered "upstairs" to the officers. *Att. 72 at 14*.

Within seconds of the officers' arrival at the front door, Quintonio rushed down the second-floor stairway and charged the officers with a raised aluminum baseball bat in hand. From LaPalermo's perspective, he later explained, "It was a pure ambush." *Att. 72 at 23*.

According to Officer LaPalermo, the entire interaction from exiting the police vehicle to facing the attack by Quintonio took place in less than one minute:

Officer Rialmo rang the doorbell,

Ms. Jones answered the door and alerted the officers to the issue upstairs,

Quintonio ran down the stairs and swung open the door,

The officers attempted to retreat after seeing Quintonio wielding a bat:

- "I jumped down the stairs backwards."

- "It was a pure ambush"

- "He [Quintonio] was coming at us"

- "He [Quintonio] had the bat in two hands above his head ready to strike down on us."

Att. 72.

Officer LaPalermo stated, "A flash went by, went by the light" in the stairway, before Quintonio "whipped open" the door and attacked them with a raised bat. *Att. 72 at 14*. Officer LaPalermo witnessed Officer Rialmo backpedal down the stairs as he started shooting. *Id. at 14-15*. Officer LaPalermo explained he didn't fire because his partner, Officer Rialmo, was still in

front of him. It was his opinion that because of their positioning, Officer Rialmo was the one who needed to stop the threat. *Id. at 32.*

In fact, the incident occurred "so fast" (*Id. at 21*), according to Officer LaPalermo, that the only description of Ms. Jones that he was able to provide during his COPA interview was brief: she had been a black woman in her fifties. *Id.* Moreover, witnesses at the residence (William Wells, Mr. LeGrier, and Officers Rialmo and LaPalermo) all corroborate that Quintonio had attacked Officers Rialmo and LaPalermo immediately after the officers knocked at the front door.

Mr. Wells stated that, after Ms. Jones opened the door, he heard Quintonio run down the stairs, "boom, boom, boom, boom," (*Att. 38 at 13*) and then he heard only gunshots in rapid succession "Pow, pow, pow, pow, pow." *Id. at 8.*

As Officer Rialmo took a step to enter the doorway, he heard someone charging down the stairs. Within seconds the previously partially opened door flew open, revealing Quintonio, who held a bat raised above his head ready to strike the officers. *Att. 72. at 21.* Quintonio swung the bat as he advanced across the threshold of the door. Officer Rialmo began "retreating" and "tryin' to create distance..." and continued "back pedaling down the stairs still facin' him." *Att. 487 at 23.* Officer LaPalermo stated he grabbed Officer Rialmo's shoulder to help him. *Att. 72 at 14-15.* Officer Rialmo fired his first shot when Quintonio was within three feet. *Att. 487 at 27.* Officer Rialmo explained that he fired his weapon at Quintonio to stop the threat as taught in the academy. *Id. at 26.*

II. THE DEPARTMENT REFUTES COPA'S CONCLUSIONS

COPA improperly analyzed this incident using the 20/20 clarity of hindsight rather than that contained in the Department's directives on the use of force which use the principles of 4th Amendment jurisprudence and a standard of objective reasonableness. An investigation should not second guess an officer's decisions by suggesting how COPA itself would have resolved the incident. Instead, an investigation must address the question of whether the officer, while making split-second decisions in tense, uncertain, and rapidly evolving circumstances, acted as another reasonable Department member on the scene would have done. *Graham v. Connor*, 490 S.Ct. 386 (1989).

When analyzing Officer Rialmo's decisions with the benefit of hindsight, COPA suggests that, because the officer created distance, he could and therefore should have created additional distance. However, Department policy does not require officers to do so. Instead, General Order G03-02, *Use of Force Guidelines*, cites Chapter 720, Article 5, Section 7-5, of the Illinois Compiled Statutes to provide, in part: "A peace officer ... need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to affect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest." Therefore, the analysis by which COPA rendered its opinion that Officer Rialmo was not within policy, is not valid or supported by the facts of this incident.

A. **QUINTONIO WAS AN ASSAILANT**

COPA's decision on whether Officer Rialmo's use of force was justified should not be based on the question of whether Quintonio swung the bat at the officers or how many times he did so. In doing so, COPA implies that a police officer must wait to be struck by a charging subject's metal baseball bat before the officer can defend himself. Instead, the decision as to whether Officer Rialmo's force was necessary should be analyzed using the Department definition of an assailant under the use of force General Order in effect at the time of this incident. In using that proper analysis, the question to determine whether Officer Rialmo's actions were reasonable does not depend on whether Quintonio swung the bat once, twice, or even not at all. In wielding a metal baseball bat, Quintonio was an assailant likely to cause great bodily harm or death.

Contrary to both officers' sworn statements, COPA concluded, "Quintonio did not swing the bat he was holding." Although COPA found that Officer Rialmo failed to tell Detective Jensen, the on-scene investigating detective, that Quintonio swung the bat, Officer Rialmo in fact provided several interviews throughout the investigation in which he consistently said that Quintonio had done so:

- On the night of the incident, Officer Rialmo spoke first with his lieutenant, Lt. Stephanie Stuart, and then On-Call Incident Commander (OCIC), Chief Melissa Staples; in both conversations, prior to speaking with Detective Jensen, he indicated that Quintonio had swung the bat.
- Officer's Rialmo's Tactical Response Report approved by OCIC Staples provided, "Subject attacked R/O's by attempting to strike R/O's with baseball bat." *Att. 7.*
- During his initial COPA interview, he stated that Quintonio had held the bat over his right shoulder as he came down the stairs, and, in a "chopping motion," swung for the first time at the threshold, and then completed the motion with a backwards swing. *Att. 487 at 23.*
- During his civil deposition, he said that Quintonio swung the bat twice.

These "inconsistencies" — did Rialmo see Quintonio swing the bat once or twice — inexplicably led COPA to draw the surprising conclusion that Quintonio never swung the bat at all. COPA arrived at this conclusion despite the fact that COPA's own initiation report, completed the same day of the incident by Investigator Chantall Morley #159, and indicated that Quintonio swung the bat at the officers. *Att. 4.* Investigator Morley received this information from Chief Staples, Bureau of Detectives (referred to as "Detective Staples" in COPA's Summary Digest), who, as the OCIC, proceeded to the scene, assumed command of the scene, and ensured that a complete and thorough investigation was conducted. Therefore, and in contrast to COPA's assertions, the evidence supports that Officer Rialmo told his chain-of-command that evening that Quintonio swung the bat.

Furthermore, a careful review of the postmortem of Quintonio also corroborates both Officer Rialmo and La Palermo's statements about the manner in which Quintonio brandished

the bat over his head and arguably also support the fact that the bat was swung at least one time. The entrance and exit wounds to his left arm, a nonfatal gunshot wound, are consistent with an individual holding that arm up above his head in a bent position, consistent with how an individual would bend his arm to hold a bat. Further, the positioning of the chest wound also corroborates that the arms were down at the time that shot was fired. *Att. 80*. The Department is mindful that the Medical Examiner could not opine with certainty as to this theory, nor do we mean to suggest it is the only possibility. However, this certainly corroborates the officers and refutes COPA's assertions of their determination of the facts surrounding this incident. Again, despite the physical evidence from the report of postmortem of Quintonio which supports this conclusion, the actual swinging of the bat is not necessary to justify Officer Rialmo's use of deadly force.

B. QUINTONIO'S SUDDEN ATTACK WAS IMMEDIATE AND PROXIMATE

Second, after placing unwarranted emphasis on the question of how many times Quintonio swung his bat at the officers, COPA continued to draw unpersuasive conclusions by disputing Officer Rialmo's account of how closely Quintonio approached both officers. According to COPA, the farthest point Quintonio reached was the portion of the porch directly outside the vestibule. However, this conclusion is specious. Not only was the porch so small that only one officer had been able to fit on it as they knocked on the door, but, also, as the officers immediately began retreating down the stairs, the undisputed fact remains that Quintonio wielded a metal bat as he charged toward the officers.

The evidence suggests that Quintonio, for whatever reason, wanted to inflict serious bodily harm on someone. Mr. LeGrier described Quintonio's mindset on that night:

"So I notify the people downstairs don't open your door, do not attempt to approach him 'cause I don't know what's goin' on. I'm barricaded in the room. I called the police so just stay put. The tenant says what's goin' on? I says I'm not sure but right now my son is, is, is on the rampage. She [Ms. Jones] says yeah he walkin' outside with a baseball bat. So she acknowledged that he is outside with the baseball bat. He walked somewhere and then he came back into the buildin'. So I'm tellin' her don't open the door to try to approach him 'cause I don't know his state a mind. And for your safety and the safety of your family, now of course if you hear a loud sound, you wanna see what's goin' on. You open the door now he comes in attack your family I'm not assuming what exactly is on his mind. So I'm just thinkin' of all scenarios."

Att. 44 at 28.

In response to Quintonio's charge down the apartment stairs, Officer Rialmo began to retreat from the assailant by backpedaling down the porch stairs. As the officers reached ground level, Officer Rialmo retreated to the right side of the walkway as Officer LaPalermo retreated to the left side. Quintonio remained an assailant according to Department policy because his actions were likely to cause great bodily harm or death, a fact that remains true whether Officer Rialmo discharged his first round at the bottom of the stairs, as COPA contends, or while backpedaling

from the small porch. Because Quintonio continued to charge forward as Rialmo retreated, Quintonio and Officer Rialmo remained within feet of each other. Therefore, the question of whether Quintonio stood with his metal bat at the "portion of the porch directly outside the vestibule" or one slight step closer to the top stair is as irrelevant to the investigation as whether he swung the bat at the officers once or twice. Regardless of where he stood on the "very small" porch, Quintonio was an assailant to Officers Rialmo and LaPalermo.

C. COPA FAILED IN ITS ANALYSIS TO RESOLVE CLEAR CREDIBILITY ISSUES

Finally, COPA determined that Officer Rialmo fired all of his shots while he was no longer standing on the stairs. Based on that determination, COPA ultimately concluded that "all of Officer Rialmo's shots were not within policy." However, that determination is unsupported by COPA's own findings. According to COPA, it was "understandable" that Officer Rialmo had been unable to recall the exact location from which he had fired, given "how rapidly he fired his shots." Moreover, because all of the witnesses commented on how rapid the shots sounded, COPA concluded that Officer Rialmo discharged his weapon in a rapid manner.

Therefore, even if Officer Rialmo began shooting when he reached the bottom stairs, as COPA contends, Quintonio was still charging and remained within close distance of the officers. According to all witnesses, the attack occurred quickly; therefore, given the manner in which the witnesses described hearing the shooting, it is implausible that Officer Rialmo, as he was backpedaling down the stairs and then as he retreated left, could have significantly changed or created much distance during each round. COPA failed to provide any evidence that showed how some rounds fired in a rapid sequence by Officer Rialmo were justified, yet others were not justified.

Lastly, in relying on the questionable testimony of Jamar Mattox (Mr. Mattox) and Mr. LeGrier, and in neglecting to acknowledge inconsistencies in their statements, COPA grants their testimony far more weight than Officer Rialmo's without showing sufficient reason why the officer's testimony should be discarded.

COPA arbitrarily relied on the statements of Mr. LeGrier and Mr. Mattox, neither of whom eye-witnessed the incident, to determine the location where Officer Rialmo stood as he discharged his firearm. First, unlike Officer Rialmo, who provided multiple statements (to Lt. Stuart, to OCIC Staples, twice to Detective Jensen, twice to COPA, and twice more during depositions for the civil lawsuit), Mr. LeGrier and Mr. Mattox each provided only one statement. Mr. LeGrier gave one statement to COPA and Mr. Mattox provided one statement at the deposition for the civil lawsuit. COPA never interviewed Mr. Mattox, as he refused additional interviews.

Mr. LeGrier by his own admission did not see Officer Rialmo when he fired his weapon. Although Mr. LeGrier testified that he called Ms. Jones to warn that Quintonio was on a rampage and not to open her apartment door, and despite the fact that he remained barricaded in the bedroom even as Ms. Jones told him that Quintonio was pacing with a bat out in front of the

house, COPA accepted that Mr. LeGrier was in a position to determine where Officer Rialmo was standing when he fired his weapon. That determination is remarkable, not only because Mr. LeGrier testified he never heard the police arrive but also because the physical evidence does not support the finding that Mr. LeGrier could see Officer Rialmo from where he testified he stood, halfway up the stairs inside the building.

Interestingly, in his initial statements to police on scene, Mr. LeGrier seemed resigned to his son's death. However, only after learning that Ms. Jones was shot and Mr. Wells blamed him for asking Ms. Jones to open the door for the police, did Mr. LeGrier then suggest he was more of an eye witness than he actually could have been. Mr. Wells said Ms. Jones felt compelled to help and agreed to open the door because Mr. LeGrier, who was the landlord, would allow late payments. *Att. 38 at 7-8.*

Based on the crime scene photos, it appears Mr. LeGrier's view would have been significantly obstructed: he testified that he was halfway up the stairs, and the photos show that both the outside front door and the vestibule door opened inward. As Ms. Jones opened the exterior door, Officer LaPalermo stated that because the exterior door opened inward, he had "no vision of the right side of the apartment building." *Att. 72 at 19.* Officer LaPalermo could not see Quintonio charge down the stairs, because his view "was blocked." *Id.* He only heard "ba, ba, boom" in a "very fast" approach. *Id.*

Further, according to undisputed testimony, Officer Rialmo retreated to the right and Officer LaPalermo went left. Therefore, based on the physical evidence, with both doors partially opened inwards, it does not appear that Mr. LeGrier could have witnessed Officer Rialmo. COPA also neglected the fact that Officer LaPalermo stated he backpedaled down the stairs, veered to the left, and, after Rialmo discharged his weapon, moved behind a vehicle parked on the street to take cover. From the angles, if Mr. LeGrier saw an officer, it would have been Officer LaPalermo.

Mr. LeGrier is just one of the unreliable witnesses whose unsubstantiated testimony COPA relies upon in its findings. Another witness, Mr. Mattox, who says he is familiar with the residents of the LeGrier/Jones home, also provided an unreliable, somewhat nonsensical version of what he saw the night of the shooting.

Interestingly, although COPA relies heavily on Mr. Mattox's account, COPA never actually interviewed Mr. Mattox. Although COPA made attempts to locate Mr. Mattox by sending investigators to the addresses he provided and calling numbers that he provided during his deposition, Mr. Mattox chose to ignore COPA's subpoena. *Att. 503.* COPA's efforts to locate Mr. Mattox were lacking in due diligence. Although Mr. Mattox clearly stated during his deposition held on April 21, 2017 that his present home address was 15709 S. Ellis, Dolton, Illinois, COPA instead went first to 4735 West Ohio Street, and then to 3819 West Monroe Street to attempt to interview Mr. Mattox on May 26, 2017. *Att. 504.* Only after visiting those addresses did COPA visit the Dolton address. Moreover, while Mr. Mattox indicated that he picked up his son Cameron daily from 1407 North Troy, and picked up his other son, Emmanuel, from 1622 North Keating, there is no evidence that COPA ever visited either of those addresses.

Att. 494 at 44. Also, surprisingly, while COPA did speak with Mr. Mattox's brother and aunt, and asked that Mr. Mattox contact COPA, COPA never attempted to call Catherine Mattox (773) 759-4565, whom Mr. Mattox listed as his emergency contact on his Home Depot application. Mr. Mattox never contacted COPA. *Att. 502.*

Mr. Mattox's reluctance to provide a statement to COPA detracts from his account, and evidence of his unreliable character makes it astounding that COPA would lend such credence to his testimony. Both of Mr. Mattox's employers indicated that his performance, development, and professionalism needed improvement, especially in, for example, acting with integrity at Home Depot. *Id.* It should have come as no surprise to COPA that Mr. Mattox failed to comply with the subpoena to report or return phone calls, because Mr. Mattox had failed to report to scheduled shifts on 08/09/2011, 08/10/2011, 08/19/2011, 08/21/2011, 08/22/2011, 08/24/2011, and 08/26/2011 and then failed to respond to a Failure to Report to Work Letter sent by Home Depot on 08/23/2011. *Id.* Mr. Mattox also had numerous other performance/discipline notices. The Chevrolet Homewood provided employment records that indicate Mr. Mattox was "constantly late, no call, no show"; the company checked "no" to the question, "Would you rehire." *Att. 501.*

During his deposition, Mr. Mattox first testified that he was on Kilpatrick. *Att. 494 at 16.* Then after additional pointed questioning by the attorney, that in fact contradicted Mr. Mattox's initial testimony "...you guys were on the southwest corner...", "your car was stopped on the corner, but it was not illegally parking?", "so your car is partially parked on Erie," Mr. Mattox apparently changed his story and said he was parked on Erie. *Id. at 20-21.* For example, when the attorney said, "So most of the car was on Kilpatrick but some of the car was – most of the car parked in Erie if you can say," Mr. Mattox simply replied, "Pretty much." *Id. at 21.* When the Plaintiff's attorney followed up, stating, "So just to be clear, part of the car that you were in was actually budding [sic] into Erie, most of it was on Kilpatrick" (*Id.*), Mr. Mattox himself never confirmed where the car was actually parked. For the car to have been on both Kilpatrick and Erie, the car would have had to be somehow sitting in the middle of the intersection, which is simply not plausible. *Id. at 24.*

Most importantly, Mr. Mattox's testimony at the deposition established that he never eye-witnessed any part of the shooting. In his testimony, Mr. Mattox clearly states he didn't pay much attention after the police vehicle passed, because it was "not [UN] usual at all" to see police vehicles in that area. *Id. at 26.* Mr. Mattox further stated that he ducked upon hearing gunshots: after he heard the first shot, he "ducked" to "look out for myself." *Id. at 28.* His second reaction was to verify that he was okay. *Id. at 29.* It was only after the gunfire stopped that he looked toward the residence. The sequence of events that Mr. Mattox then testified to reveal that he, like Mr. LeGrier, was describing Officer LaPalermo's location rather than Officer Rialmo's. Mr. Mattox did not testify that he saw the police vehicle stop, nor did he testify that he observed the officers approach the residence and talk with Ms. Jones.

Moreover, the testimony he provided is so fraught with credibility concerns that it calls into question what, if anything, he actually saw. Mr. Mattox indicated he started smoking marijuana on Christmas Day when he woke up, never went to bed, and smoked more marijuana

as he sat in the vehicle prior to the incident which occurred at 4:25 a.m. the next morning. *Att. 494 at 50*. When Mr. Mattox was asked to draw a "P" where he observed the officer standing when he fired his last shot, Mr. Mattox stated, "I don't know exactly." *Id. at 57*.

Mention is made by COPA of the location of the cartridge casings and COPA rightly asserts that great emphasis should not be placed on the location of the cartridge casings as it relates to Officer Rialmo's location at the time he fired. However, the Department asserts that the location of the cartridge casings should be discounted completely in that semi-automatic pistols, such as the one used by Officer Rialmo, eject either to the left or the right. Cartridge casings were located on both the right and left sides of the crime scene. In addition, it is fair to say that no fewer than four people carrying equipment, the paramedics and firefighters, who ran up on that porch in an effort to save the lives of Quintonio and Ms. Jones, and subsequently transferred both of them down the stairs to awaiting ambulance, did not concern themselves with preserving the crime scene. Furthermore, Mr. LeGrier stated that he tripped over a yellow crime scene evidence marker as he left the scene, stating "I didn't even know that they was down there." *Att. 44 at 77*. Therefore, the location of the cartridge casings should be given no weight in the analysis of where Officer Rialmo was at the time he fired his shots.

III. ALLEGATIONS 3 AND 4 REGARDING BETTIE JONES

Regarding Allegations 3 and 4, that Officer Rialmo fired multiple times into a home occupied by persons who would be at risk of injury or death, COPA concludes that since Officer Rialmo was not justified in firing his weapon at Quintonio LeGrier, he too was not justified in shooting Ms. Jones. Again as stated previously the Department disagrees with the conclusion that the shots were not justified. The Department therefore contends that the shooting of Bettie Jones, again while albeit through no fault of her own and under tragic circumstances, is nonetheless justified under the same analysis as to allegations 1 and 2, as to Quintonio.

IV. ADDITIONAL INFORMATION RELATED TO ROBERT RIALMO

A. OFFICER RIALMO'S COMPLIMENTARY HISTORY.

Officer Rialmo has been awarded: (3) Emblem of Recognition – Physical Fitness, (5) Honorable Mentions; and (1) Unit Meritorious Performance Awards.

B. OFFICER RIALMO'S DISCIPLINARY HISTORY.

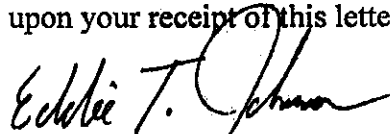
Officer Rialmo received two SPARs for Court Appearance Violations and has no sustained CRs.

V. CONCLUSION

According to Department policy and the Supreme Court, the standard that must be used to evaluate an officer's use of deadly force is one of objective reasonableness. The question, therefore, is not whether every officer would have reacted the same way as Officer Rialmo, but whether a reasonable officer, when confronting the exact same scenario under identical conditions as him, could have concluded that deadly force was necessary.

The judgment required to answer that question is not found in the perspective of Mr. LeGrier, who barricaded himself in his bedroom by placing a two-by-four across the door, nor that of Mr. Mattox, who "ducked" when he heard gun shots inside a vehicle parked some unknown distance down the street, nor even of Officer LaPalermo, who stood behind Officer Rialmo. It's found in the perspective of Officer Rialmo. The undersigned submits that Officer Rialmo's actions in using deadly force to defend against an armed assailant who posed an imminent threat of death or great bodily harm were reasonable and thus, the shooting is justified.

I look forward to discussing this matter with you as mandated by the Municipal Code upon your receipt of this letter.

A handwritten signature in black ink, appearing to read "Eddie T. Johnson". The signature is fluid and cursive, with a large initial "E" and "J".

Eddie T. Johnson
Superintendent of Police
Chicago Police Department