OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: KURT KILBERT

I. OVERVIEW

This matter involved the fatal shooting of Kurt Kilbert by Chicago Police Department Officers David Granado, Alberto Temosihue, Jr., Joel Rodriguez, Husam Masoud and Probationary Police Officer Michael Oswald. During the course of the investigation, investigators interviewed law enforcement witnesses, civilian witnesses, reviewed radio transmissions, photographs of the scene, police reports, medical records, the Cook County Medical Examiner Post-Mortem Report, Toxicology Report, Illinois State Police Crime Lab Reports, Body-Worn Camera (BWC) footage, squad and civilian car dash camera footage and surveillance footage.

The Cook County State's Attorney's Office, as the agency responsible for making criminal charging decisions under Illinois law for incidents that occur in Cook County, reviewed the evidence collected during the investigation to determine whether there was a good faith basis for filing criminal charges. After a thorough review, the Office has concluded that the evidence is insufficient to support criminal charges against these officers.

II. LEGAL STANDARD

In making any charging decision, the Cook County State's Attorney's Office (CCSAO) is bound by the Illinois Criminal Code in effect at the time of the incident. The analysis and Charging decision regarding this matter are governed by 720 ILCS 5/7-5 (a) which states in part that:

> [A peace officer] is justified in using force likely to cause death or great bodily harm only when: (i) he reasonably believes, based on the totality of the

circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person, or (ii) when he reasonably believes both that:

1. Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

2. The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay…

In pertinent part, Section 7/5 further mandates:

> (f) The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time of the decision, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.

Additionally, in assessing the reasonableness of a police officer's use of deadly force, the United States Supreme Court has held that "the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight." *Graham v.* Connor, 490 U.S. 386, 396 (1989). Accordingly, in assessing the evidence in this incident, the CCSAO's analysis regarding whether the actions of Officers David Granado, Alberto Temosihue, Jr., Joel Rodriguez, Husam Masoud and Probationary Police Officer Michael Oswald were reasonable requires consideration of the totality of the circumstances available to the officers on the scene as the incident was unfolding.

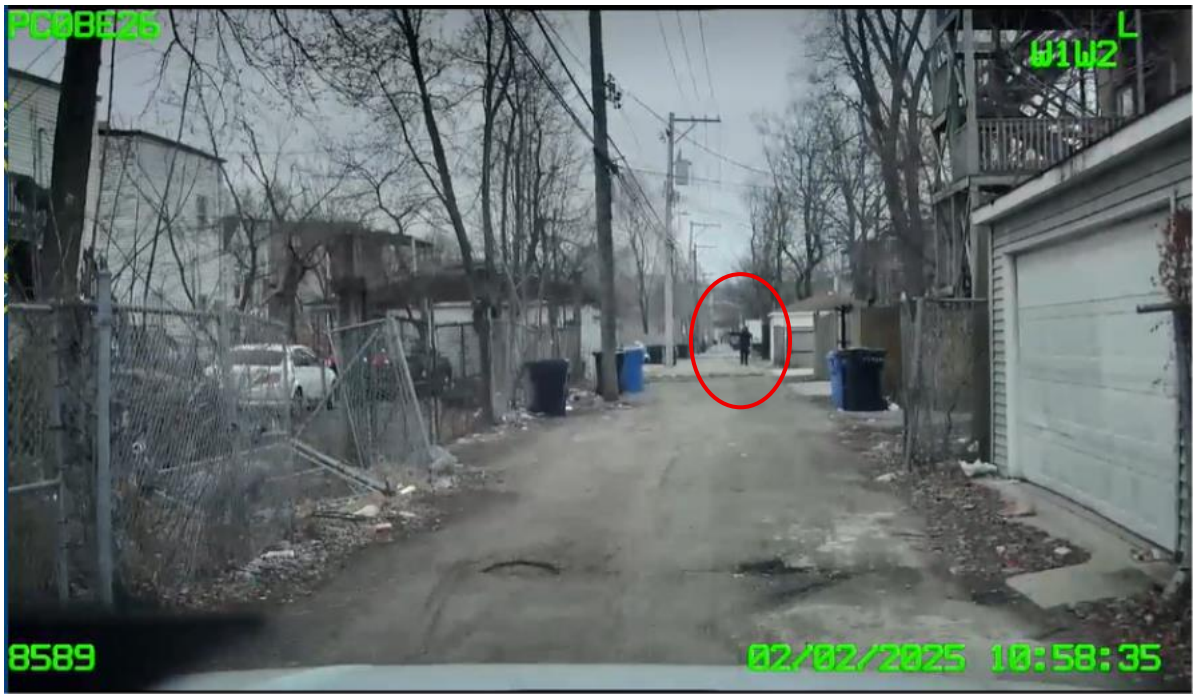
II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows:

On February 2, 2025, at approximately 10:47AM, Chicago Police Officers David Granado, Michael Oswald, Alberto Temosihue, Jr., Joel Rodriguez and Husam Masoud responded to what initially started as a burglary call from the building owner of 1822 S. Central Park. The building owner related he was observing surveillance cameras around his building and saw a black male wearing a ski mask and dark clothing climb into a rear window of the building using a ladder. That same man, now known to be Kurt Kilbert, ran out of the front door of the building.

Kilbert hopped over a metal fence and ran north down Central Park. Responding Officer Moises Bermudez attempted to apprehend Kilbert but was unsuccessful. Officer Bermudez and another responding officer pursued Kilbert on West 18th Street to the west alley of Central Park. Kilbert travelled through yards and then went to the alley west of Millard and eventually exited from the alley on Lawndale. Several officers in uniform who were arriving in the neighborhood observed Kilbert walking southbound on the sidewalk. Kilbert was holding a handgun with an extended magazine. Near the address of 1649 S. Lawndale, Kilbert discharged his firearm towards three uniformed officers, who were located in the street and sidewalk of Lawndale, north of Kilbert's position. Kilbert then continued south on Lawndale. Near the northwest corner of Lawndale and 18th Street, Kilbert fired shots in the direction of Field Training Officer David Granado and Probationary Police Officer Michael Oswald, both in uniform, who had arrived on scene and exited their marked squad car. Officer Granado and Officer Oswald returned fire and took cover.

Kilbert then walked west on 18th Street to the west alley of Lawndale and then south down the alley, as officers pursued him. Kilbert made his way to the rear of 1821 S. Ridgeway then west through the yards emerging on Ridgeway where he crossed the street. Kilbert then fired in the direction of Officer Alberto Temosihue and Officer Alexander Verta, both in civilian dress with ballistic vests bearing CPD insignia on the front and the word POLICE on the back. Officers Temosihue and Verta arrived on Ridgeway in their unmarked squad car. Officer Temosihue returned fire at approximately 1834 S. Ridgeway. Kilbert made his way to the west alley of Ridgeway and walked north. Officer Temosihue followed Kilbert's path. Officers Husam Masoud and Officer Joel Rodriguez, both in uniform, made their way into a vacant lot located at 1828 S. Ridgeway, attempting to intercept Kilbert. Kilbert was observed with his firearm in hand and his arm extended towards the vacant lot. Kilbert discharged his firearm in the direction of the vacant lot where the officers were located. Officers Rodriguez and Masoud discharged their weapons as Kilbert approached them.



The officers then retreated from the vacant lot to the sidewalk and took cover. Kilbert continued to walk north in the alley until he fell to the ground at 1829 S. Hamlin.

Kilbert was handcuffed and his weapon, a loaded Glock Model 19 Gen 5 9mm Luger semiautomatic pistol with an extended magazine, was recovered as officers rendered aid to Kilbert on scene. One live round was in the chamber of Kilbert's firearm, and 13 live rounds were in the magazine. The firearm had an extended magazine with a listed capacity of 31 rounds. Ballistics testing confirmed that 11 fired cartridge cases recovered from the scene were identified as having been fired by Kilbert's weapon. He was subsequently transported to Mount Sinai Hospital where he was pronounced deceased. Though Officers David Granado, Michael Oswald, Alberto Temosihue Jr., Joel Rodriguez and Husam Masoud all discharged their weapons at Kilbert, the Medical Examiner determined that Kilbert was struck one time.

On February 3, 2025, the Cook County Medical Examiner's Office performed a postmortem examination on Kurt Kilbert and determined the cause of death to be a gunshot wound of the neck and the manner of his death to be homicide. It was determined that Kilbert had a penetrating gunshot wound to the neck which entered the right back of the neck and terminated in the tongue. There was no evidence of close-range firing. Blunt force injuries were noted on Kilbert, including multiple abrasions to his face, including a laceration on his right forehead and left upper lip. It should be noted that after being struck by gunfire in the alley, Kilbert fell to the ground, face forward, onto a cement parking slab. A deformed copper-colored jacketed bullet was recovered from Kilbert's body and was subsequently found suitable for identification by the Illinois State Police Crime Laboratory for testing. The deformed bullet was identified as having been discharged from Officer Temosihue's weapon. Kilbert's Toxicology Report noted the presence of Delta-9 Carboxy THC and Delta-9 THC, both principle psychoactive ingredients of marijuana/hashish, in his blood.

Portions of this incident were recorded on body worn cameras, squad and civilian car dash cameras, and a surveillance camera. The video depicted the officers ordering Kilbert to stop and to put his hands up, which Kilbert failed to heed. Video also captured Kilbert discharging his weapon multiple times in the direction of the responding officers, both in uniform and civilian dress, and marked squad cars. Officers discharging their weapons at Kilbert was also captured on video.

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first-degree or second-degree murder would require proof beyond a reasonable doubt that the officers involved were **not** legally justified in using deadly force against Kurt Kilbert. In other words, a judge or a jury would need to conclude that the officers **did not** reasonably believe that they or others were in imminent danger of great bodily harm or death. In this case, however, the evidence has established that the use of deadly force by Chicago Police Officers David Granado, Alberto Temosihue, Jr., Joel Rodriguez, Husam Masoud and Probationary Police Officer Michael Oswald was objectively reasonable.

On the date of this incident, officers responded to a call of a residential burglary in progress. The officers observed Kilbert matching the description of the burglary suspect holding a firearm with an extended magazine. Kilbert discharged his firearm in the direction of multiple officers at 1649 S. Lawndale. The officers did not return fire at that location. Near the northwest corner of 18th Street and Lawndale, Kilbert again discharged his firearm, this time in the direction of Officer Granado and Probationary Officer Oswald. Those officers took cover, and both returned fire. Kilbert then fired in the direction of Officers Temosihue and Verta. Officer Temosihue returned fire near 1834 S. Ridgeway. Kilbert then proceeded to an empty lot where he pointed and discharged his firearm in the direction of other officers. Officers Rodriguez and Masoud discharged their weapons at Kilbert. Throughout this time, Kilbert posed a deadly threat both to the responding officers and the civilians living in the neighborhood. Ballistics testing confirmed that 11 fired cartridge cases recovered from the area were identified as having been fired by Kilbert's weapon.

All five officers had a reasonable belief that Kurt Kilbert placed the officers or others in imminent danger of great bodily harm or death. Furthermore, it was also reasonable for the officers to believe that the force they utilized was "necessary to prevent the arrest from being defeated by resistance or escape." By pointing and discharging his firearm at responding officers, Kilbert committed a forcible felony which involved the "infliction or threatened infliction of great bodily harm," against another. Kilbert's actions indicated he would, "endanger human life or inflict great bodily harm," unless he was arrested without delay. Additionally, it was clear that Kilbert was utilizing his firearm while attempting to escape.

Accordingly, based on the evidence reviewed in this matter and the applicable legal standard, the evidence is insufficient to support a finding beyond a reasonable doubt that Chicago Police Officers David Granado, Alberto Temosihue, Jr., Joel Rodriguez, Husam Masoud and Probationary Police Officer Michael Oswald were not legally justified in using deadly force against Kilbert.

Furthermore, in evaluating the decision to use force likely to cause death, the decision shall be viewed from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officers at the time of the decision.

An examination of the totality of these circumstances reveals that it was reasonable for the officers to believe they were in imminent danger of great bodily harm or death after Kilbert discharged his firearm multiple times at multiple officers.

Based on the evidence reviewed in this matter and the applicable legal standards, the evidence is insufficient to support the filing of criminal charges for the use of deadly force by Chicago Police Officers David Granado, Alberto Temosihue, Jr., Joel Rodriguez, Husam Masoud and Probationary Police Officer Michael Oswald. Therefore, the Cook County State's Attorney's Office will not pursue criminal charges in this case.

Pursuant to policies and enacted legislation, the State's Attorney's Office referred the review of the case to the Office of the Illinois State's Attorneys Appellate Prosecutor (ILSAAP) for an additional review. ILSAAP reviewed the case and on August 10, 2026, concurred that no criminal charges are appropriate.

This conclusion is based entirely on the relevant criminal laws and standards of proof in Illinois and does not limit administrative action by the Chicago Police Department or civil actions where less stringent laws, rules, and legal standards of proof apply. The Cook County State's Attorney's Office expresses no opinion regarding the propriety or likelihood of success of any such actions.