

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

Date of Incident:	January 4, 2011
Time of Incident:	Approximately 9:35 pm
Location of Incident:	4335 West Roosevelt
Date of IPRA Notification:	January 4, 2011
Time of IPRA Notification:	Approximately 10:54 pm

On January 4, 2011, at approximately 10:45 pm, Chicago Police Department (Department) Units 4485A and 4485B, working as a mobile strike force, were on patrol near 13th Street and Tripp (4232 West). Officers Jesse Cavazos and Sajit Walter were in the 4485A vehicle, Officers Laurence Stiles and Andrew Larson were in the 4485B vehicle. In the alleyway Officer Cavazos observed a gold-colored vehicle (a Chevrolet Malibu) traveling eastbound in reverse with its headlights off. Earlier in the day, Officer Larson provided the other Officers with information concerning a gold-colored Malibu suspected to contain narcotics and a gun. Officer Cavazos radioed Officers Stiles and Larson to advise them that the vehicle in the alleyway matched the description of the Malibu. Both the 4485A and 4485B vehicles drove toward the Malibu in an attempt to investigate further. At Kolin (4332 West), the Malibu turned northbound and stopped at the intersection of Roosevelt (1200 South). The 4485A vehicle moved in front of the Malibu, parking perpendicular on Roosevelt approximately one car length away. Simultaneously, the 4485B vehicle stopped behind the Malibu, approximately one car length away. Officer Walter exited the front passenger door of the 4485A vehicle on Roosevelt and walked westbound towards the Malibu driver.

As Officer Walter walked, the Malibu reversed and struck the front bumper of the 4485B vehicle parked behind it on Kolin. The Malibu then shifted direction toward Officer Walter, who was near the trunk of the 4485A vehicle causing Officer Walter to backpedal and get out of the way. At that time, Officer Walter saw an individual, inside the rear passenger side of the Malibu, point a handgun in his direction. Officer Walter fired into the vehicle five times. His shots struck two occupants of the vehicle: [REDACTED], the front passenger-side occupant, and [REDACTED], the rear passenger-side occupant. The Malibu hit Officer Walter on his right knee, then hit the rear bumper of the 4485A car and fled the scene with the 4485B vehicle in pursuit. The 4485A vehicle subsequently joined this pursuit, which ended near 5th Avenue and Tripp. As the occupants of the Malibu were being detained by Officers, a silver gun-shaped cigarette lighter was recovered from [REDACTED]. No firearm was recovered. The Independent Police Review Authority (IPRA) initiated an investigation into Officer Walter's firearm discharge.¹ This case was originally closed on May 31, 2016. It was re-opened on September 1, 2016.

[REDACTED], one of the two passengers whom Officer Walter shot, filed suit in [REDACTED] v. City of Chicago, et al., 14 L [REDACTED], in the Circuit Court of Cook County, naming *inter alia*, Officers Walter,

¹ On September 15, 2017 the Civilian Office of Police Accountability (COPA) succeeded IPRA as the City's civilian law enforcement oversight agency. Thus investigation, which began under IPRA, was transferred to COPA. The recommendations set forth herein are the recommendations of COPA.

Cavazos, Stiles and Larsen as defendants.² The re-filed suit, [REDACTED] v. City of Chicago, 17 L [REDACTED] went to trial in February 2018, resulting in a mistrial on February 13, 2018. The case was tried again on March 7, 2018, which resulted in a \$1,241,907.00 verdict in plaintiff's favor on March 15, 2108.

This matter was the subject of two prior contradictory IPRA analyses. As explained in detail in Section VI below, COPA investigators determined that each of the prior IPRA analyses was flawed.

In addition to re-examining the IPRA investigations and conclusions, Civilian Office of Police Accountability (COPA) investigators also examined and considered testimony that occurred as part of both civil trials. The 2016 findings of exonerated have been changed to not sustained because of the most recent investigation. The results of this investigation are as follows.³

II. INVOLVED PARTIES

Involved Officer #1:	Sajit Walter, Star #11288, Employee #100738, Date of Appointment May 1, 20006, Police Officer, Unit of Assignment Unit 191, DOB: February 28, 1972, Male, Asian
Involved Individual #1	[REDACTED], DOB: April 5, 1995, Male, Black (Juvenile)
Subject #2	[REDACTED], DOB: September 23, 1995, Male, Black (Juvenile)
Subject #3:	[REDACTED]; DOB: May 20, 1994, Male, Black (Juvenile)
Subject #4:	[REDACTED], DOB: December 18, 1995, Male, Black (Juvenile)

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer Walter	1. It is alleged that on January 4, 2011, at approximately 9:35 pm, in the vicinity of 4335 West Roosevelt, Officer Sajit Walter used deadly force against [REDACTED], [REDACTED], [REDACTED], and [REDACTED] without justification, in violation of the Department use of deadly force policy.	1. Not Sustained

² Plaintiff voluntarily dismissed that case and re-filed it under as [REDACTED] v. Chicago, 17 L [REDACTED]. However, the trial transcripts that are investigative attachments all have the 14 L [REDACTED] caption.

³ This file was re-opened September 1, 2016, by then General Counsel Helen O'Shaughnessy. Ms. O'Shaughnessy drafted a memo to the file indicating the re-open was appropriate as a draft of a summary report in this matter dating to 2014 contained findings that differed from those of a subsequent report (May 31, 2016) that had been approved by IPRA's Chief Administrator. The first report's existence was neither indicated in CLEAR, nor brought to the Chief Administrator's attention before this investigation was closed with exonerated findings on May 31, 2016. Ms. O'Shaughnessy recommended re-opening the matter and assigning it to a new team to evaluate the contradictory report findings - the October 2014 report sustained findings for Allegations #1 and #2 and the May 2016 report approved by IPRA's Chief Administrator exonerated the Officer with regard to allegations #1 and #2. Ms. O'Shaughnessy's memo and the reports are contained in CLEAR as file Attachment 112. The re-opened investigation included review and analysis of the October 2014 and May 2016 reports. COPA investigators also reviewed new evidence including thousands of pages of deposition and trial testimony from both the Officers and subjects involved. COPA investigators also conducted an additional interview with Accused Officer Sajit Walter using a demonstrative that was utilized at both civil trials.

	2. It is alleged that on January 4, 2011, at approximately 9:35 pm, in the vicinity of 4335 West Roosevelt, Officer Sajit Walter fired into a moving vehicle without justification, in violation of the Department use of deadly force policy.	2. Not Sustained
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IV. APPLICABLE RULES AND LAWS

Rules and Regulations of the Chicago Police Department

1. Rule 6, Disobedience of an order or directive, whether written or oral.
2. Rule 8, Disrespect or maltreatment of any person, while on or off duty.
3. Rule 9, Engaging in any unjustified verbal or physical altercation, while on or off duty
4. Rule 38, Unlawful or unnecessary use or display of a weapon.

General Orders

1. Chicago Police Department General Order, G03-02 “Use of Force Guidelines,” Effective 01 October 2002 through 15 October 2017
2. Chicago Police Department General Order, G03-02-03 “Deadly Force,” Effective October 01, 2002 through February 10, 2015

Federal Law

1. Fourth Amendment of the U.S. Constitution

State Law

1. Force likely to cause death or great bodily harm, 720 ILCS 5/7-8 (1998)
2. Peace officer’s use of force in making arrest, 720 ILCS 5/7-5 (1986)

V. INVESTIGATION

To fully investigate the allegations that form the basis of this log number, IPRA (and later COPA) investigators undertook the evidentiary inquiries described below.

A. Interviews

1. Police Officers

IPRA investigators interviewed Officer Sajit Walter on January 6, 2011.⁴ On the night of January 4, 2011 Officer Walter was riding in Unit 4485A with his partner, Officer Jesse Cavazos. Unit 4485A was operating in conjunction with Unit 4485B, in which Officers Laurence Stiles and Andrew Larson were riding. Early in their tour, Officer Larson informed the other Officers of a tip he received concerning a gold Chevrolet Malibu. According to Officer Larson, the Malibu was suspected to be occupied by four black males who were dealing narcotics and had a gun in the airbag compartment. Around 9:30 pm, Units 4485A and 4485B were approaching Tripp while headed eastbound on 13th Street, when Officer Cavazos noticed a gold/tan Chevrolet Malibu reversing eastbound through an alley just north of the Officers' position. Via the car-to-car radio, Unit 4485A car alerted 4485B of the suspect vehicle, which then had its headlights extinguished.

Officers Cavazos and Walter turned north onto Tripp and proceeded towards the Malibu. Officer Cavazos then turned west into the alley, following directly behind the Malibu. The Officers activated their emergency lights, prompting the Malibu to shift into forward gear and drive westbound in the alleyway. As the Malibu drove along the alleyway, its headlights remained extinguished. Reaching Kolin, the Malibu changed direction and headed northbound. At the corner of Kolin and Roosevelt, the Malibu slowed to nearly a full stop, allowing 4485A to overtake it. Officer Cavazos parked 4485A on Roosevelt perpendicular to the Malibu and Officer Walter exited the front passenger door.

Once Officer Walter exited his vehicle, the Malibu reversed away from him, at which time he heard a "big noise."⁵ He later learned that the Malibu reversed directly into Unit 4485B, which was positioned behind the vehicle. Officer Walter drew his weapon from its holster, pointed it at the occupants of the Malibu, announced his office, and yelled "police stop."⁶ He estimated that he was then three to five feet from the Malibu. The Malibu drove forward, accelerated quickly, heading straight at Officer Walter. As he began backpedaling to the northeast to get out of the vehicle's path, it struck him in the right knee⁷ and then hit the 4485A car. According to Officer Walter, "within seconds or milliseconds," his attention was drawn to the rear seat passenger, who was pointing a silver gun at him. As the Malibu was driving straight at him and the passenger displayed a firearm, Officer Walter discharged his firearm into the Malibu to eliminate the threats. Officer Walter confirmed that he was moving and backpedaling while firing, and that he was within approximately three to four feet of the Malibu when he fired. After Officer Walter fired his weapon, the Malibu fled westbound on Roosevelt, with 4485B in pursuit.

As the pursuit began, Officers Walter and Larson announced shots fired by the police over the radio. At the corner of Kolin and Roosevelt, Officer Walter saw the pursuit begin, during which the Malibu sideswiped Unit 4485B. Officer Cavazos made a U-turn in the 4485A vehicle on Roosevelt, Officer Walter reentered the passenger seat, and 4485A drove westbound on Roosevelt. Approaching Kostner, Officer Walter saw the Malibu exit a gas station on the northwest corner of Kostner and Roosevelt, then proceed northbound on Kostner. Following the Malibu, Unit 4485A turned north on Kostner, becoming the lead pursuit vehicle. The pursuit continued north on Kostner to Fifth Avenue, where the Malibu turned eastbound. Reaching Fifth and Tripp, the Malibu veered left onto Tripp, then jumped the curb and crashed into a fence.

The Malibu's driver and a rear-seat passenger fled the scene on foot. Exiting Unit 4485A and approaching the Malibu, Officer Walter observed two individuals still inside, one in the front passenger seat and one in the rear passenger seat, and instructed them to show their hands. The passengers

⁴ Attachments 58 and 59.

⁵ Attachment 59, p. 9.

⁶ *Id.*

⁷ Officer Walter indicated that he was later taken to the hospital for x-rays on his knee and was diagnosed with a right-knee sprain.

informed Officer Walter they had been shot. Officer Walter requested an ambulance via radio. Other responding officers removed the two passengers from the Malibu. Officer Walter believed other Officers searched the passengers, but he did not observe the recovery of a firearm at the scene. Officer Walter asked his supervisor, Sergeant Chung, whether a firearm had been recovered from the scene. Sergeant Chung indicated that Officer Larson had the gun, which he later showed Officer Walter.

IPRA conducted a second interview of Officer Walter on May 21, 2014.⁸ Officer Walter confirmed that he fired at least one shot while the Malibu was coming directly at him. Specifically, he stated, “With the car coming right at me and with the rear seat passenger pointing the gun at me, I probably fired one or two shots at that moment.”⁹ He then said, “That’s what I recall. But later on, I figured out, or somebody told me that I fired about five shots.”¹⁰ When asked to clarify further, Officer Walter stated, “And also at the same moment when the car started coming at me, I fired my shots because I’m worried about the car coming at me and hitting me. While I was backing up and then as soon as the car brushes me, I see the gun too, a silver gun right in the rear seat of the rear seat pointing the gun at me so I continue shooting.”¹¹ When further pressed on the fact that no bullets or bullet damage were found at or near the front of the vehicle, Officer Walter stated:

At that moment, I can’t explain how the shooting happened because it was a matter of seconds. And I didn’t use my sights, I drew my gun and I, the main thing was to try to save my life. And the threat of the car coming right at me and with the gun pointing at me, I didn’t align my sights, I didn’t have time, it was a matter of maybe seconds. So, I don’t know exactly where the shots went to.¹²

Investigators asked Officer Walter to describe the direction of the Malibu’s travel although he indicated initially that it came in his direction. He stated that although he perceived it to be coming directly at him, the Malibu was also trying to flee in a northwesterly direction.¹³ He said that, as a result, “the shots fired would have been more on an angle. And I also observed the guy with the gun and I continued shooting. So the car was more in a northwest way and it [the shots] probably ended up on the rear door and on the tail lamp.”¹⁴ Nevertheless, he described the event timeline more specifically than in his first interview, stating essentially that as the Malibu accelerated quickly toward him, he began to back pedal, shot at least once at the vehicle, was struck by the vehicle on the knee, saw the backseat passenger holding a firearm and pointing at him, and observed the Malibu strike his vehicle, Unit 4485A.

Officer Walter also provided some detail about his course of action regarding the Malibu crash on Tripp. He said that after the Malibu crashed on Tripp, he immediately exited his vehicle and attempted to secure the Malibu. Officer Walter stated, “I get out of the car and my initial response was to go to the crashed car and I know that there is a gun in the car since he pointed at me, so I have my gun from my holster and I’m trying to secure the car.”¹⁵ Seeing other officers were securing the two men inside

⁸ Attachments 86, 87, and 88.

⁹ Attachment 86, page 16.

¹⁰ *Id.*

¹¹ *Id.* at 18.

¹² *Id.* at 19.

¹³ *Id.* See Attachment 51, pp. 4-5. Photographs taken by the evidence technicians on scene identify tire tracks showing the likely travel of the Malibu.

¹⁴ Attachment 86, pp. 21-22.

¹⁵ *Id.* at 24.

the Malibu, Officer Walter left the immediate area to help his partners, who he thought were still pursuing the other Malibu occupants as they fled on foot following the crash.

Officer Walter testified in a discovery deposition on April 30, 2014 in the matter captioned [REDACTED] v. Chicago, (Circuit Court of Cook County Case No. 14 L [REDACTED] (the Litigation). Officer Walter's deposition testimony was largely consistent with his statements to IPRA.

Officer Walter testified in the Litigation on February 7, 2018, and March 12, 2018.^{16,17} His testimony was largely consistent with his prior statements at deposition and to Department detectives and IPRA investigators.

COPA Supervising Investigators interviewed Officer Walter on June 28, 2018.¹⁸ Officer Walter was brought in to review an exhibit used in the Litigation and to address questions about his positioning while discharging his weapon. Photographs of the exhibit and Officer Walter's approximate placement of the vehicles and himself using in the exhibit are detailed below.¹⁹

Officer Walter was first asked to place Unit 4485A, Unit 4485B, and the Malibu in their approximate positions when he exited Unit 4485A. He further placed a "W" in his approximate position immediately after exiting his vehicle. Officer Walter placed himself and the vehicles as shown in *Figure 1* below.

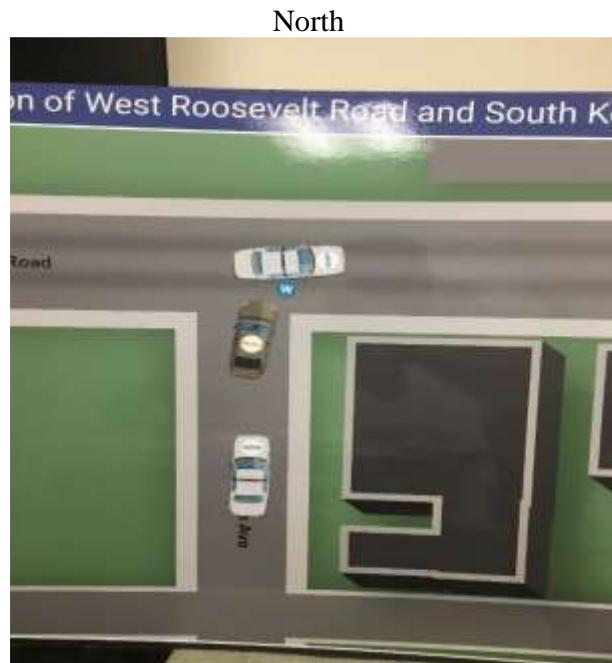


Figure 1.

The white vehicle at the top of *Figure 1* represents Unit 4485A and the blue "W" Officer Walter's position. The middle vehicle represents the Malibu driven by [REDACTED] and the white vehicle located nearer the bottom of *Figure 1* represents Unit 4485B.

Officer Walter indicated that he began moving in the direction of the driver's side of the Malibu to ask the driver for his driver's license, but the Malibu reversed at a very fast speed into Unit 4485B. The

¹⁶ Attachment 119.

¹⁷ Attachment 120.

¹⁸ Attachments 124-31.

¹⁹ The photographs taken of the demonstrative are labeled as Figures 1-7 and are contained within Attachment 132.

positioning of the vehicles and Officer Walter immediately after the Malibu struck 4485B, including is indicated in *Figure 2* below.

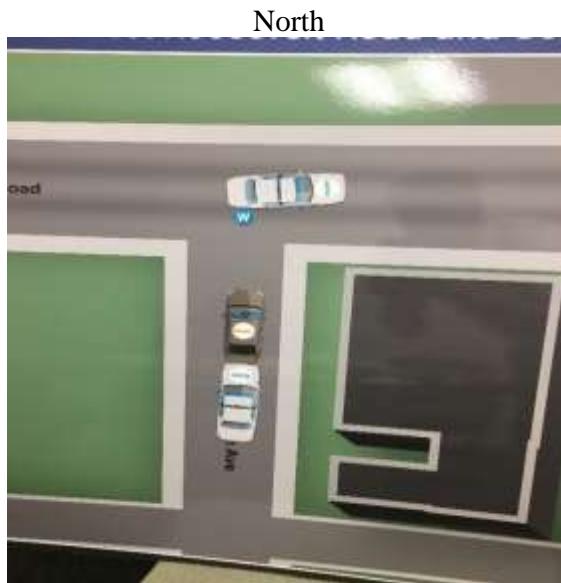


Figure 2.

Officer Walter said that the Malibu then revved its engine and began moving toward him and Unit 4485A as he began to backpedal in a northeast direction. Officer Walter said that when he heard the Malibu's engine rev, tires screech and the thud as it hit Unit 4485B, he did not know what the driver would do next. In *Figure 3* below, Officer Walter indicated the approximate positioning of himself and the Malibu when he fired his first shot at the Malibu from a non-stationary, moving position.

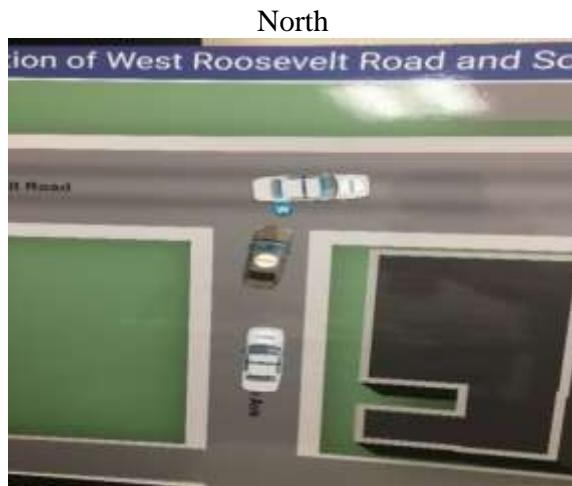


Figure 3.

Officer Walter stated that he believed the Malibu was also traveling in a slightly northeasterly direction because it traveled directly at him. He remembered the center of the Malibu's front end veering directly at him and that he was unable to dodge the Malibu because his Unit 4485A was directly behind him. He said that he believed he was going to be pinned against Unit 4485A by the Malibu and that after he fired one shot, the Malibu struck him on the right knee and then struck the rear of Unit 4485A. In *Figure 4* below, he indicated his position as well as those of the Malibu and Unit 4485A when the Malibu struck his right knee.

North



Figure 4.

Officer Walter stated that he was between 4485A's trunk and the Malibu's rear seat, likely backpedaling, when the Malibu struck 4485A.²⁰ *Figure 5* below describes Officer Walter's, the Malibu's, and Unit 4485A positions when the Malibu struck 4485A.

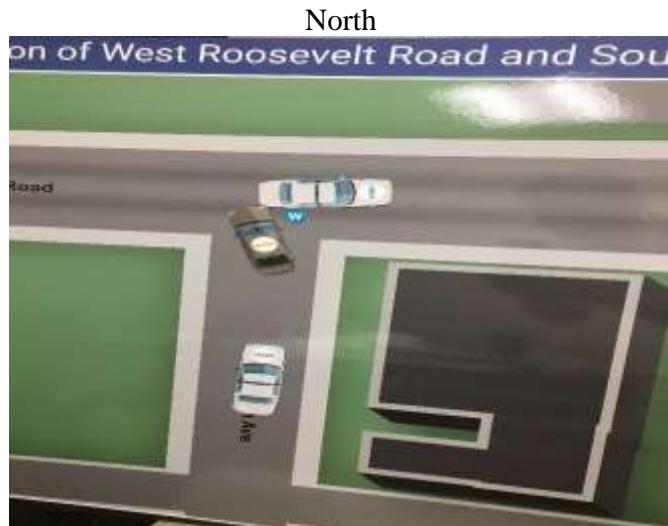


Figure 5.

Just after the Malibu struck 4485A, it continued to veer west on Roosevelt. Simultaneously, the subject in the back of the vehicle, now known to be [REDACTED], raised what Officer Walter believed was a handgun. *Figure 6* below details the approximate positions of Officer Walter, Unit 4485A, and the Malibu when [REDACTED] raised toward Officer Walter an object, he believed was a gun. Officer Walter then discharged his firearm at [REDACTED]. He believed that he fired three to four rounds toward the backseat passenger until he no longer perceived a threat.

North

²⁰ Attachment 129, page 13, lines 5-9.



Figure 6.

Officer Walter was confronted multiple times by investigators with the fact that none of the bullets struck the front of the vehicle - including its windshield and hood. All five bullet strikes were apparent. Specifically, investigators asked Officer Walter why the bullet damage and trajectory of his discharges is not consistent with his recollection of firing at least one round prior to the Malibu striking his knee, while the vehicle was directly in front of him. He answered that it was his perception that the vehicle came directly toward him, creating a fear that he could be killed.²¹ He acknowledged that while the vehicle was, in fact, likely initially moving at a sharp northeast angle in his direction, it then moved abruptly to the northwest, which may have caused him to discharge his weapon toward the Malibu at an angle and not while the vehicle was directly in front of him. He believed the discrepancy may result from his faulty perception that the Malibu was coming directly at him rather than approaching at a slight angle, but he maintained that this was his perception and honest belief as to what occurred.²²

He also reiterated his belief that all of his five shots were within a second or two, or “milliseconds,” in rapid succession. Further, he does not dispute the final shot, which likely struck the rear taillight, was hit. Officer Walter indicated that in the fluidity of the moment, as the Malibu traveled past him at high speed, he perceived the rear seat passenger to be raising a gun, which would have caused him to fire as the car passed him. *Figure 7* below describes the approximate locations of Officer Walter, Unit 4485A, and the Malibu when he fired his final shot as the Malibu traveled past him at high speed.²³

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²¹ Attachment 129, page 18, lines 19-21.

²² Attachment 129, page 22, lines 16-20.

²³ Attachment 129, page 26, lines 9-23.

North

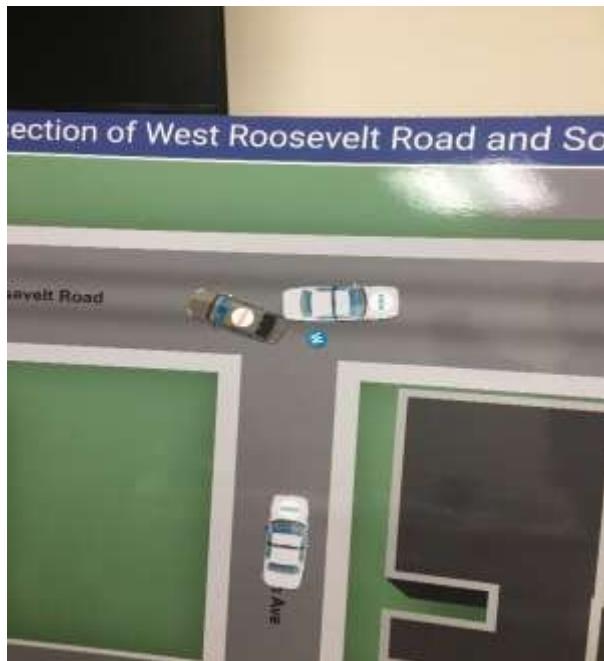


Figure 7.

Officer Walter admitted that, during the pursuit, he never told his partners that he saw a backseat passenger with a firearm. He admitted this would have been important information for them to know, but the chaotic nature of the pursuit did not allow him time to inform his partners of this danger.

COPA investigators also asked Officer Walter whether it was possible that his perception of the Malibu's location, during the second or two he fired at and it struck him could be mistaken. He allowed that while it was absolutely his perception that he fired at the vehicle as it came directly toward him, he understands that it does not entirely match the ballistic evidence which, in accounting for all of his five shots, indicates none of the discharges were in the front of the vehicle. He cannot explain the discrepancy, but stated that he can only offer his perception of those "milliseconds" in his mind. Officer Walter agreed his perception of the event, and specifically firing at the front of the vehicle, may be wrong based on the physical and ballistic evidence. However, he can offer no reasonable explanation for the discrepancies because his recollection and perception of the event is as he has consistently stated. Specifically, Officer Walter said, "Again, it's milliseconds. So, it could have been at the same time, hitting my car, and then, I'm firing, thinking that the car's coming right at me."²⁴

IPRA investigators interviewed witness Officer Jesse Cavazos On January 7, 2011.²⁵ On the evening of January 4, 2011, Officer Cavazos was on patrol with Officers Walter, Larson, and Stiles. Although the officers were working as one unit, Cavazos drove and Walter rode in Unit 4485A, while Larson and Stiles were in 4485B. Near 13th and Tripp, Officer Cavazos observed a gold/tan colored Chevrolet Malibu driving in reverse in an alley. Officer Cavazos activated his squad car's emergency lights and attempted to stop the Malibu, which refused to pull over. In explaining his basis for stopping the vehicle, Officer Cavazos referenced a tip Officer Larson received concerning a gold Malibu with four male occupants who were selling drugs and had a gun in the vehicle's airbag compartment.

²⁴ Attachment 131, pp. 22-23.

²⁵ Attachments 56 and 57.

At Roosevelt and Kolin, the Malibu appeared as if it was going to turn left (westbound) onto Roosevelt; however, Unit 4485A overtook the Malibu and stopped perpendicular to its front. Officer Walter then exited the passenger side of the squad car, saying, “police, stop.”²⁶ As this happened, Unit 4485B came to a stop directly behind the Malibu, which then reversed and stuck the front of 4485B. By this time, Officer Cavazos partially emerged from the driver’s seat of Unit 4485A and observed the Malibu shift into forward gear. Suspecting a pursuit was about to commence, Officer Cavazos returned to his vehicle. From Officer Cavazos’s standpoint, the Malibu drove directly toward Officer Walter and Unit 4485A, causing Officer Walter to try and jump out of the way of the vehicle. Four to six gunshots went off, both immediately before and after the Malibu struck Officer Walter.

As Officer Cavazos was in the driver’s seat in Unit 4485A, he was unable to see which direction the gunfire came from. As the Malibu fled the scene, Officer Cavazos made a U-turn in Unit 4485A, putting the vehicle in a westbound position. Officer Walter got back into the vehicle and Officer Cavazos began to pursue the Malibu. Officer Cavazos did not indicate that Officer Walter mentioned seeing a gun, nor did he say whether Officer Walter said who fired the shots. The IPRA investigator failed to ask Officer Cavazos whether Officer Walter mentioned seeing a gun. The pursuit ultimately ended on Tripp where the Malibu crashed into a fence. Two passengers fled the Malibu on foot, one of whom Officer Cavazos chased and placed into custody. Back at the crash scene, Officer Cavazos received word from multiple officers that a weapon had been recovered.

Officer Cavazos testified in a discovery deposition on April 30, 2014.²⁷ At deposition, Officer Cavazos gave an account of the January 4, 2011 incident that was largely consistent with his statement to IPRA.

Officer Cavazos testified at trial in the Litigation on February 7, 2018.²⁸ His testimony was consistent with his statement to IPRA and deposition testimony.

IPRA investigators interviewed witness Officer Laurence Stiles on January 5, 2011.²⁹ That evening, Officer Stiles was working with Officers Larson, Walter, and Cavazos. While Officers Stiles and Larson were in Unit 4485B, Officers Walter and Cavazos operated from Unit 4485A. Early in their tour, Officer Larson informed the other Officers of a tip that a gold Malibu possibly containing guns was in the area. During their patrol, Officer Cavazos contacted Unit 4485B via car-to-car radio, indicating he observed a gold Malibu in an alleyway. As the Malibu reversed with its headlights extinguished, the Officers decided to conduct a traffic stop.

Unit 4485A proceeded north on Tripp toward the Malibu, while 4485B traveled north along an alleyway. While Unit 4485B drove north, Officer Stiles observed the Malibu proceed forward across his field of vision, headed westbound in the alleyway. Officer Stiles then observed Unit 4485A follow the Malibu westbound, at which time Unit 4485B turned into the east-west alleyway, following Unit 4485A westbound. At Kolin, the Malibu turned north and came to a stop at the corner of Kolin and Roosevelt. Unit 4485A pulled perpendicular in front of the Malibu, while 4485B stopped behind it. From his position, Officer Stiles was able to see Officer Walter exit the passenger side of Unit 4485A, at which point the Malibu reversed and hit Unit 4485B.

After striking Unit 4485B, the Malibu drove forward toward Officer Walter and Unit 4485A. Officer Walter began backpedaling, but the Malibu both him and Unit 4485A. Once Unit 4485A was struck,

²⁶ Attachment 57, p. 5.

²⁷ Attachment 102.

²⁸ Attachment 133.

²⁹ Attachments 54 and 55.

Officer Stiles heard gunshots and saw Officer Walter fire at the Malibu. As the Malibu escaped the scene, Officer Stiles put Unit 4485B into drive following the Malibu westbound on Roosevelt. While headed westbound, Unit 4485B came parallel with the Malibu and the Malibu sideswiped Unit 4485B. The Malibu turned north on Kostner while Unit 4485B continued to travel west on Roosevelt. Unit 4485A then lead the pursuit, which ultimately terminated at 5th and Tripp, where the Malibu hit a fence. Although Officer Stiles did not see a weapon recovered from the scene, he was aware that Officer Larson took custody of a replica handgun while on scene.

Officer Stiles testified in a discovery deposition on April 30, 2014.³⁰ At deposition, Officer Stiles gave an account of the January 4, 2011 incident that was largely consistent with his statement to IPRA.

Officer Stiles testified at trial in the Litigation on February 7, 2018.³¹ His trial testimony was consistent with his statement to IPRA and deposition testimony with no additional information elicited.

IPRA investigators interviewed witness Officer Andrew Larson on January 5, 2011.³² That evening, Officer Larson was working with Officers Stiles, Cavazos, and Walter. While all four officers worked together, Officers Larson and Stiles were assigned to Unit 4485B while Officers Cavazos and Walter were in Unit 4485A. At the beginning of their assignment, Officer Larson shared a tip that he had heard of a “tan or gold Chevy Malibu . . . that was bein’ used to sell narcotics in the area and that they were supposedly storing a gun in the airbag of that car.”³³ As Units 4485A and 4485B traveled eastbound on 13th Street, Officer Cavazos stated over the car-to-car radio that he observed a vehicle matching Officer Larson’s description.

To close on the Malibu, Unit 4485A turned north on Tripp, while 4485B went north in the alley west of Tripp. Unit 4485A passed across Officer Larson’s field of view going west in the alleyway north of 13th Street. 4485B turned west to follow Unit 4485A. At Kolin, the Malibu turned north, then came to a stop at the corner of Kolin and Roosevelt. Unit 4485A pulled perpendicular in front of the Malibu, while 4485B pulled up a half car length behind the Malibu. While Officer Larson began to exit from the passenger side of Unit 4485B, the Malibu reversed and struck the front of his vehicle. Immediately thereafter, the Malibu moved forward, heading toward Unit 4485A. At that point, Officer Larson noticed that Officer Walter had exited 4485A and that the Malibu was accelerating towards him.

Officer Walter attempted to move back, but the Malibu struck both him and the rear of Unit 4485A. At the same time, as Officer Larson returned to his seat in Unit 4485B, he heard Officer Walter fire at the Malibu four or five times. After the shooting, the Malibu escaped the scene, so Unit 4485B moved to pursue it. While headed west on Roosevelt, the two vehicles came parallel with one another, at which time the Malibu sideswiped the passenger side of Unit 4485B. At Kostner, the Malibu cut northbound while Unit 4485B continued westbound on Roosevelt. To return to the pursuit, Unit 4485B made a U-turn on Roosevelt, while the 4485A vehicle took lead in the pursuit.

The pursuit ended at Tripp and 5th, where the Malibu crashed into a fence. Once the scene was secured, Officer Larson was approached by his supervisor, Sergeant Chung who instructed Officer Larson to hold onto a suspected handgun. Chung did not tell Officer Larson where the handgun was recovered. Officer Larson attempted to manipulate the weapon to “make it safe,” at which point he realized the

³⁰ Attachment 104.

³¹ Attachment 134.

³² Attachments 60 and 61.

³³ Attachment 61, p. 5.

weapon was a replica.³⁴ He put the replica in his pocket and gave it to evidence technicians when they arrived on scene.

Officer Larson testified at trial in the Litigation on February 7, 2018.³⁵ His trial testimony was consistent with his statement to IPRA, with no additional information elicited.

IPRA investigators interviewed Sergeant Stephen Chung on January 27, 2011.^{36,37} On the evening of January 4, 2011, Sgt. Chung was working Beat 4475 with Officer Thomas Zacccone when a call came over the radio of shots fired by police. The Officers headed in the direction of the pursuit, ending up in the area of Tripp and 5th. Sgt Chung saw Officer Walter by a Malibu, attempting to control the Malibu passengers at gunpoint. Assisting officers then took the passengers into custody, at which point the rear-seat passenger was searched. In the man's waistband officers found a small, silver, semi-automatic handgun. Chung took custody of the handgun and gave it to Officer Larson for processing.

IPRA investigators interviewed witness [REDACTED] on December 11, 2013 regarding his involvement in the January 4, 2011 incident.³⁸ [REDACTED] stated that on that evening, at approximately 9:30 pm, he and three friends were riding in a Chevrolet Malibu they "rented from a hype."³⁹ While [REDACTED] drove the Malibu in a back alleyway, he noticed a police vehicle behind him with its lights off. To exit the alleyway, [REDACTED] turned north on Kolin toward Roosevelt. The police then activated their emergency lights without sirens, so he pulled the vehicle over at the intersection of Kolin and Roosevelt. Once the Malibu stopped, a police car cut in front of it, at which point both officers exited the vehicle with their guns raised. As officers instructed those sitting inside the Malibu to raise their hands, everyone in the Malibu yelled, "go, go, go," whereupon the officers opened fire.⁴⁰

[REDACTED] further stated that at the time of the shooting, one of the back passengers in the Malibu had a "lighter gun or something like that."⁴¹ [REDACTED] said he had enough room to get past the police vehicle, so he drove away from the scene. The police pursued the Malibu up to 5th and Tripp, where [REDACTED] crashed the Malibu. He exited the vehicle and attempted run, but he was eventually apprehended by officers. When asked, [REDACTED] indicated he did not see the cigarette-lighter gun on the evening of the incident, but he later learned the lighter was recovered from one of the Malibu passengers.

IPRA was unsuccessful in its efforts to interview the other three occupants of the Malibu - [REDACTED], [REDACTED], and [REDACTED]. IPRA investigators spoke with Mr. [REDACTED] on January 5, 2011, but an interview could not be conducted due to his status as an unaccompanied minor.⁴² On January 7, 2011, IPRA investigators were unsuccessful in their attempt to reach Mr. [REDACTED] by telephone and at his last known address.⁴³ IPRA investigators were also unable to obtain a statement from [REDACTED] that day due to his medically comatose state.⁴⁴

³⁴ *Id.* at 31.

³⁵ Attachment 135.

³⁶ Sergeant Chung now holds the rank of Commander.

³⁷ Attachments 62 and 63.

³⁸ Attachments 67 and 68. Mr. [REDACTED] statement was taken at the Cook County Jail complex.

³⁹ Attachment 68, p. 5.

⁴⁰ *Id.* at 6.

⁴¹ *Id.* at 11.

⁴² Attachment 35.

⁴³ Attachment 37.

⁴⁴ *Id.*

Investigators also contacted [REDACTED] mother [REDACTED], who informed investigators that her lawyer had advised her and her entire family not to speak with anyone regarding the incident.⁴⁵

[REDACTED] testified in the Litigation on February 8, 2018.⁴⁶ That evening, at or around 6:00 pm, he met with [REDACTED], who had access to a “tan little car” and wanted to visit his girlfriend.⁴⁷ [REDACTED] rode with [REDACTED] to pick up, first, [REDACTED] and, then, [REDACTED]. According to [REDACTED] drove the car, [REDACTED] sat in the front passenger seat, [REDACTED] was in the rear passenger seat, and [REDACTED] was in the rear driver’s seat. [REDACTED] was the only one to drive the car the entire evening. At or around 7:00 pm, they drove to [REDACTED] girlfriend’s house at Ashland and Roosevelt and, afterwards, they drove west to Pulaski and Roosevelt.

[REDACTED] recounted how [REDACTED] turned left (south) off Roosevelt onto Kildare (4300 W), made a right into the alley heading west, and then an immediate right on Kolin heading north, when he saw blue lights. [REDACTED] pulled to the right on Kolin and a police car pulled ahead of them. A police officer, described as dark skinned and aggressive by [REDACTED] now known as Officer Sajit Walter, came toward the passenger side of the Malibu with his gun drawn and told the occupants to put their hands up. [REDACTED] heard a tapping sound and believed it was Officer Walter tapping on the passenger-side window with his gun but could not be certain.⁴⁸ [REDACTED] heard gunshots immediately afterwards. [REDACTED] was shot first in the left hand while his hands were up. He shouted he was shot and, while [REDACTED] pulled away from the curb, he was shot again in the back. Seconds later, he heard the other rear seat occupant [REDACTED] shout he was shot in the leg.

[REDACTED] did not recall [REDACTED] backing up before the gunshots and then driving forward to strike Officer Walter or the police car. [REDACTED] drove from the scene at Kolin and Roosevelt, first heading west on Roosevelt, then driving through a gas station to go north on Kostner (4400 W) before turning right on Fifth, left on Tripp, and crashing the Malibu into a gate. [REDACTED] and [REDACTED] fled the crash. [REDACTED] tried to exit the Malibu, but his door was pinned against the gate. He climbed over the center console and fell out of the car from the driver’s side door and laid on the ground until a police officer cuffed him and placed him in an ambulance.

[REDACTED] stated he never saw the gun-shaped lighter. He never saw [REDACTED] point it at a police officer or mess around with the lighter earlier in the evening. He also clarified Officer Walter’s position at Roosevelt and Kolin. Officer Walter approached the Malibu from the front, coming toward the passenger side. He was not standing parallel to [REDACTED] or at the front end when the shooting commenced. [REDACTED] recalled Officer Walter standing somewhere between the front and back passenger doors when he fired his weapon.

[REDACTED] testified in the Litigation on March 13, 2018.⁴⁹ During this testimony, [REDACTED] recounted his involvement in the January 4, 2011 incident. That evening, [REDACTED] was sitting in the rear passenger seat of a Chevrolet Malibu driven by [REDACTED].⁵⁰ [REDACTED] was sitting in the front passenger seat. A fourth individual, unknown to [REDACTED], sat in the rear driver’s side seat. [REDACTED] first recalled seeing a squad car behind the Malibu as the car exited the alleyway northbound onto

⁴⁵ *Id.*

⁴⁶ Attachment 136.

⁴⁷ *Id.* at 921.

⁴⁸ *Id.* at 945.

⁴⁹ Attachment 137. [REDACTED] did not testify in the first trial, 14 L [REDACTED] that ended in a mistrial in February 2018. He testified for the first time on March 13, 2018, in the second trial regarding 14 L [REDACTED]

⁵⁰ [REDACTED] first name is rendered as [REDACTED] in the trial transcript.

Kolin Avenue. According to [REDACTED] as the Malibu came to a stop at Kolin and Roosevelt, a police car “zoomed around” and stopped with the passenger side facing the front end of the Malibu when someone quickly exited the vehicle from the front passenger side and started shooting at the Malibu. When the Malibu stopped at Kolin and Roosevelt, [REDACTED] recalled seeing [REDACTED] with his hands in the air in the front passenger seat. During this event, [REDACTED] was struck by a bullet.

The alleged silver handgun was a gun-shaped lighter [REDACTED] received from a friend on the day of incident, right before entering the Malibu. [REDACTED] denied pointing a gun at any officers, stating it would not be right to point a gun-shaped lighter at officers because “they got real guns.”⁵¹ According to [REDACTED] the lighter remained in the right-side pocket of his cargo pants during the entire incident. He never took it out his pocket and he never brandished the lighter at any point at an officer. Before [REDACTED] entered the ambulance, a police officer patted him down and removed the gun-shaped lighter from his pocket. After the lighter was recovered and while he was detained, [REDACTED] recalled hearing at least two officers discuss amongst themselves that [REDACTED] pointed a weapon at an officer. [REDACTED] testified that he gave a statement to an assistant state’s attorney and two Chicago police detectives shortly after the January 4, 2011 incident in which he never said he brandished a lighter at an officer. [REDACTED] acknowledged he had a lighter on his person during the incident and that it was shaped like a gun.

B. Digital Evidence

Both scene locations (the Tripp Avenue accident and the Kolin Avenue shooting) were photographed by Department evidence technicians, producing **digital photographs** of the following: both Units 4485A and 4485B and any damage to them; the involved Chevrolet Malibu and damage to it; multiple views of the passenger compartment of the Malibu; multiple views of the Malibu’s rear trunk; locations of the recovered shell casings; vehicle skid-marks located at the intersection of Kolin Avenue and Roosevelt Road; glass shards located on Roosevelt Road; multiple views of the Malibu accident location on Tripp Avenue; bullet hole damage (interior and exterior) to the Malibu; the recovered gun-shaped lighter; multiple views of Officer Walter; and photos which depicted the location of other evidence collected by Department evidence technicians.⁵²

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⁵¹ Attachment 137, p. 14.

⁵² Attachments 49-52.



Figure 8. Photograph depicting two apparent bullet holes in the front passenger seat, as well as one apparent bullet hole in the front passenger seat headrest.



Figure 9. Photograph depicting the rear passenger door of the Malibu. An apparent bullet hole can be seen at the center of the interior door panel, at the juncture of the paneling and passenger window.



Figure 10. Photograph depicting the rear passenger side taillight, with an apparent bullet hole located in the reverse light lens component.



Figure 11. Photograph of the silver, gun-shaped cigarette lighter recovered from [REDACTED]



Figure 12. Photograph of Officer Walter, depicting white dust where the Malibu struck him.

C. Physical Evidence

Medical records of [REDACTED] obtained from Mount Sinai Hospital document that [REDACTED] sustained a gunshot wound to the right shoulder, with a bullet lodged in his upper abdomen.⁵³ [REDACTED] also sustained a gunshot wound to his left hand and his middle finger was partially amputated. A bullet was removed from the palm of [REDACTED] hand.

Medical records of [REDACTED] obtained from Mount Sinai Hospital document [REDACTED] sustained gunshot wounds to his right knee and left calf.⁵⁴ Medical imaging showing probable metallic fragments in [REDACTED] right knee was also documented, along with a fracture to his left fibula, and additional bullet fragments adjacent to the fracture. A note written on [REDACTED] “Initial Patient Visit / Consultation Record” under the heading “History of Present Illness” states, “15y male s/p GSW after hitting police car with his car on purpose.”⁵⁵

Medical records of Officer Sajit Walter obtained from the University of Illinois Hospital document that Officer Walter told hospital staff a vehicle “grazed” his right knee.^{56,57} Officer Walter complained of stiffness in his neck and pain in his knee. Doctors diagnosed Officer Walter with a right knee contusion and cervical strain.

⁵³ Attachment 80.

⁵⁴ Attachment 79.

⁵⁵ *Id.* at 27.

⁵⁶ Attachment 39.

⁵⁷ *Id.* at 2.

Department Crime Scene Processing Reports document items recovered during the investigation of the January 4, 2011 incident.⁵⁸ Included in these items are five expended shell casings recovered from the street pavement at approximately 4330 West Roosevelt Road; a “Ji Guan Deng” gun design cigarette lighter recovered from Officer Larson; a fired bullet recovered from the rear trunk of the Chevrolet Malibu; a fired bullet recovered from the front passenger seat of the Malibu; and a Glock Model 22, 40 caliber, semi-automatic pistol, four inch barrel, black finish, recovered from Officer Walter.

At 4:35 am, on January 5, 2011, Officer Walter’s handgun (the above-mentioned Glock 22) was recovered from Officer Walter. The weapon had a 15-round capacity magazine. When the weapon was recovered, it had 10 unfired cartridges in the magazine and one unfired round in the chamber.⁵⁹ ISP testing confirmed the five casings found on the scene were fired from Officer Walter’s weapon, but ISP could not conclusively prove or eliminate whether the fired bullets recovered from the front seat and trunk of the Malibu were fired from Officer Walter’s weapon.⁶⁰

D. Documentary Evidence

[REDACTED] and [REDACTED] were arrested under Records Division (RD) number HT105623 on January 4, 2011.^{61,62} The arrest reports document that [REDACTED] was charged with four counts of aggravated battery to an officer, as well as minor traffic offenses. [REDACTED] was charged with a single count of aggravated assault to an officer and resisting arrest. The report narratives are substantially consistent with the facts as stated in other reports and interviews.

Area 4 Detectives prepared an Original Case Incident Report and Case Supplementary Reports.⁶³ Detectives conducted a canvass of both scene locations: the intersection of Kolin Avenue and Roosevelt Road, and the 700 block of South Tripp. During a canvass of both locations, most of those contacted said they saw nothing. Some individuals did recall hearing gunshots and sirens, seeing police and other emergency vehicles, as well as individuals in custody. Detectives interviewed involved parties and witnesses to the shooting incident, which were summarized in the Original Case Incident Report. The interviews of all Officers are substantially consistent with the contents of their interviews with IPRA and COPA. Interviews of the Malibu passengers follow.

Detectives Interviewed witness [REDACTED]: [REDACTED] indicated that he got the Malibu earlier in the day from a “hype” who provided the vehicle in exchange for three rocks. [REDACTED] and [REDACTED] drove the Malibu around, eventually picking up [REDACTED] and [REDACTED]. They continued to drive around, using [REDACTED] gun-shaped lighter to smoke weed. During the evening, they found themselves in an alley near Roosevelt and Kolin. As [REDACTED] was backing down the alley, he noticed a police car pull up into the alley behind him. In response, [REDACTED] drove down the alley towards Kolin, then turned in the direction of Roosevelt. While [REDACTED] continued driving, the police car followed the Malibu, its Mars lights now illuminated.

On the corner of Roosevelt and Kolin, a marked police car stopped in front of the Malibu and an officer exited the passenger side of the vehicle. [REDACTED] drove forward towards this officer and to the left, hitting the police car as he passed by it. While [REDACTED] drove towards the police car, an officer began

⁵⁸ Attachments 30, 31, 98, 143.

⁵⁹ Attachment 31.

⁶⁰ Attachment 89.

⁶¹ Attachment 5.

⁶² Attachment 15.

⁶³ Attachment 44.

firing his weapon at the Malibu, prompting [REDACTED] to drive away from the scene. Once [REDACTED] drove away, a pursuit of the Malibu commenced, which headed west on Roosevelt, north on Kostner, then east on 5th. The pursuit ended when [REDACTED] wrecked the vehicle on Tripp.

Detectives Interviewed witness [REDACTED]: That evening, [REDACTED] had been driving around with his friends [REDACTED], [REDACTED], and [REDACTED]. [REDACTED] drove the Malibu with [REDACTED] as front passenger, [REDACTED] seated behind [REDACTED] and [REDACTED] seated behind [REDACTED]. As they were driving down an alleyway, a “blue & white” pulled into the alley behind them. [REDACTED] continued driving the Malibu, but at the intersection of Kolin and Roosevelt, he was cut off by a police car. An officer emerged from the vehicle and stood in front of the Malibu, prompting [REDACTED] to back up. Once the Malibu hit something, [REDACTED] drove fast towards the officer, who jumped out of the Malibu’s path. At this time, the Malibu hit the police car, and [REDACTED] heard the police shooting.

Detectives Interviewed witness [REDACTED]: The evening of the incident, [REDACTED] was “hanging out” when [REDACTED] arrived in a Malibu. [REDACTED] got into the vehicle, at which time they picked up another male who was unknown to [REDACTED]. At some point, while they were in an alley behind Roosevelt, a police car pulled up behind them. [REDACTED] continued driving the Malibu and emerged from the alleyway, whereupon a police car pulled in front of the Malibu, stopping at an angle. A police officer emerged from the squad car, prompting [REDACTED] to pull forward and smash into the police vehicle. As [REDACTED] drove forward, an officer shot into [REDACTED] side of the Malibu, in the direction of [REDACTED] and the front seat passenger. Although [REDACTED] drove away from the scene, the police began to chase them and [REDACTED] crashed the Malibu and fled along with the rear seat passenger. [REDACTED] was pulled from the vehicle by police officers who recovered a gun-shaped lighter from him. According to [REDACTED] the gun-shaped lighter was in his lap when police initially stopped the Malibu.

All responding officers authored Tactical Response Reports (TRR) regarding the incident.⁶⁴ All four officers indicated that [REDACTED] used the Malibu as a weapon, failed to follow verbal direction, and fled the scene after using force likely to cause death or great bodily harm.⁶⁵ Officers Stiles, Cavazos, and Larson used their member’s presence against [REDACTED] while Officer Walter used his presence, verbal commands, and firearm. The Incident Commander’s narrative within Officer Walter’s [REDACTED] TRR states, “The officer was struck by the vehicle driven by this subject and the officer observed a passenger inside the vehicle with a handgun.”⁶⁶

Officer Walter filled out TRRs regarding [REDACTED] and [REDACTED] stating that he used his presence and firearm against both individuals.⁶⁷ The Incident Commander’s narrative in Officer Walter’s TRR for [REDACTED] states that “The officer observed this subject point a firearm in his direction and in fear of his life, the officer fired his weapon.”⁶⁸ Officer Walter’s TRR for [REDACTED] states that [REDACTED] “was the front seat passenger in a vehicle that was used as a weapon to strike and injure four police officers.”⁶⁹

All responding officers authored Officer Battery Reports (OBR) regarding the incident.⁷⁰ The OBRs indicate all four officers were injured, suffering non-fatal minor injuries when a vehicle was

⁶⁴ Attachments 6, 8, 11,13, 16 and 18.

⁶⁵ [REDACTED] first name is rendered as [REDACTED] in the officers’ report.

⁶⁶ Attachment 6, p. 2.

⁶⁷ Attachments 16 and 18.

⁶⁸ Attachment 16, p. 2.

⁶⁹ Attachment 18, p. 1.

⁷⁰ Attachments 7, 9, 12, 14, and 17.

used as a weapon. Officer Walter also indicated in his OBR regarding [REDACTED] that a firearm was used as a weapon: “The offender pointed a replica firearm at the R/O, causing the R/O to fear for his life and the lives of his fellow Officers.”⁷¹

Event queries were produced for six event numbers relating to the incident. These include event numbers 1100415530, 1100415724, 1100415943, 1100416889, 1100502869, and 110041708.⁷² Event #1100415724 offers the most information relevant to this investigation, with the remarks section indicating, “4485B attempted to put a stop on a car at Roosevelt/Kostner and the vehicle with 4 males inside rammed 4485B car with their car at which time Officer Walter fired weapon...at this time 2 offender have been shot...amb enroute...condition unk at this time.”⁷³

E. Additional Evidence

Prior to commencement of the retrial in the Litigation, the parties argued *motions in limine*, regarding *inter alia*, admissibility of plaintiff’s criminal convictions arising from the incident.⁷⁴

Both [REDACTED] and [REDACTED] pled guilty and were convicted of criminal charges related to the incident. [REDACTED] pled guilty to the aggravated battery of a police officer for knowingly causing bodily harm with a motor vehicle and to criminal damage of government supported property. [REDACTED] pled guilty to aggravated assault for knowingly pointing what appeared to be a handgun at a police officer. The court held that if either [REDACTED] or [REDACTED] made assertions in the Litigation that contradicted the record in his criminal conviction, defense counsel could present the records and facts to which he testified or stipulated in his criminal trial. [REDACTED] did not testify in the Litigation, but evidence regarding [REDACTED] conviction was introduced as he contradicted statements made in the criminal proceedings.⁷⁵

VI. PREVIOUS IPRA INVESTIGATIONS

A. First IPRA Investigation

While IPRA’s first investigation sustained the allegations against Officer Walter, it appears that only select facts were relied upon to reach the stated conclusion.

The first IPRA summary report asserted that Officer Walter unnecessarily exposed himself to danger by moving forward towards the Malibu directly into its only escape path. However, at that moment Officer Walter was arguably attempting to get to the Malibu driver’s window to investigate. At that point, he had no reason to believe the Malibu would drive towards him. While it faults Officer Walter’s thought process, the first report’s analysis offers no valid reason that he should have known of the imminent danger.

The draft report summarizing IPRA’s first investigation states that, contrary to Department General Order 02-08-03, III-B, Officer Walter failed to immediately move out of the path of a moving vehicle, thereby “position[ing] himself in a path that he knew, or should have known, the Malibu would drive through.” In support, the report asserts that rather than moving out of the Malibu’s path, Walter drew his gun and yelled “police, stop” as he moved toward the driver’s side of the vehicle. However, Officer

⁷¹ Attachment 17, p. 2.

⁷² Attachments 19-25.

⁷³ Attachment 21.

⁷⁴ Attachment 138, Report of Proceedings in 14 L [REDACTED] (March 8, 2018).

⁷⁵ [REDACTED] did not testify in the Litigation at either trial. [REDACTED] testified in the retrial.

Walter's statements regarding when he recognized danger was imminent and drew his weapon may be read as inconsistent. IPRA failed to probe the possible inconsistencies.

For example, in his second statement to IPRA, Officer Walter indicated that he took his gun out and yelled "police, stop" after the Malibu backed into the 4485B vehicle. In the same interview, he also said that when he saw the Malibu coming towards him, he began to back pedal and shoot simultaneously. The confusion is exacerbated in the first report's "conclusion" section, which while finding that Officer Walter violated the General Order, acknowledges that he attempted to evade the Malibu, stating that he "could and, eventually, did move out of the vehicle's path." Such a disjointed analysis does not support a finding by a preponderance of evidence.

In addition, the first summary report contends that Officer Walter was wrong to use deadly force when he began to fire at the Malibu as the vehicle's driver had only committed traffic violations. However, the assertion that the driver had only committed traffic violations is spurious. All officers questioned about the timing of the shots agree that Officer Walter began to fire only after the Malibu backed into the 4485B vehicle and drove at him. The first report's finding completely ignores the fact that in addition to committing "traffic violations" the Malibu driver steered the vehicle directly at Officer Walter. It also disregards the fact that all four officers stated that they had information about four male blacks in a tan or gold Malibu who had a gun and narcotics.

While the Malibu likely moved in Officer Walter's direction to escape through the open space, Officer Walter would have reasonably feared sustaining serious bodily injury, particularly since the driver of the Malibu told police officers that he had driven towards Officer Walter and to the left in his attempt to escape. In addition, another occupant of the Malibu told police officers that the Malibu had, at least initially, driven towards Officer Walter. Whether or not the vehicle actually struck the Officer all witnesses agree it was driven at him.

B. Second IPRA Investigation

IPRA's second investigation, which exonerated Officer Walter, concluded that based on the totality of the circumstances, his decision to shoot when the vehicle was coming towards him and to continue to shoot after he saw the right rear passenger point what looked like a gun at him was reasonable. Unfortunately, this conclusion failed to take account of relevant facts which could be the basis for a different finding.

Significantly, the summary report of investigation concludes that Officer Walter fired at the Malibu as the vehicle was coming towards him. However, the finding disregards contrary physical evidence that indicates the shots were not fired into the front of the Malibu. In fact, in subsequent interviews, even Officer Walter admitted that the physical evidence (bullet holes in the side of the vehicle all coming from shots taken from a position behind the Malibu) did not match his account of the event.

Equally important, IPRA's findings in the second report appear to have relied heavily on Officer Walter's subjective belief that he observed [REDACTED] pointing a firearm towards him. While there was a small (approximately 3" or 4" in length) replica cigarette lighter handgun recovered from [REDACTED] after the shooting, IPRA concluded there was insufficient basis to question Officer Walter's statement that he actually observed the fake weapon pointed at him. However, Officer Walter was the only officer who claimed to see the fake weapon and all the involved civilians, including [REDACTED] denied pointing the fake weapon at Officer Walter.

Importantly, immediately after Officer Walter fired the shots and got back into the 4485A vehicle, he failed to tell his partner that he had seen a weapon. Nor did he pass that critical information on to Officers Stiles and Larson in the 4485B vehicle via car-to-car radio, although they continued to pursue

the Malibu. Nor did Officer Walter pass the information to other responding units over the police net. As a result of this omission, none of the many other parties at risk was aware of the possible threat [REDACTED] posed. It was not until after the event concluded that Officer Walter approached Sergeant Chung and asked him whether a weapon had been recovered.

In sum, IPRA's second investigation failed to fully vet the credibility of Officer Walter's account. The plaintiff's attorney in the Litigation was able to develop evidence favorable to his client's case through more detailed exploration of all the involved officers' credibility. Such evidence could have been developed by IPRA. Review of such evidence may have led to a different conclusion as it did in the instant analysis.

Neither the first nor the second IPRA investigation adequately addressed critical issues in a transparent manner. Both investigations seemingly selected and discarded facts to support contradictory conclusions. Further, neither investigative file indicates that efforts were made to fully explore the officers' or witnesses' credibility.

VII. ANALYSIS

During the January 4, 2011 incident, Officer Walter discharged his firearm a total of five times. Allegations were brought against Officer Walter pertaining to his decision to use deadly force. **COPA recommends findings of Not Sustained for all Allegations against Officer Walter.**

A. Legal Standards

1. Applicable law

In situations where an officer discharges his firearm to prevent great bodily harm, such actions are governed by Chicago Police Department General Order G03-02-03, "Deadly Force." Under the directive, "deadly force" is defined as "force which is likely to cause death or great bodily harm," including "the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm [and] the firing of a firearm at a vehicle in which the person to be arrested is riding."⁷⁶ Such force may be employed in situations:

- A. [...] only when [a sworn member] reasonably believes that such force is necessary:
 1. to prevent death or great bodily harm to the sworn member or to another person, or;
 2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.
- B. Firing at or into a moving vehicle is only authorized to prevent death or great bodily harm to the sworn member or another person. When confronted with an oncoming

⁷⁶ G03-02-03(I)(A) (Effective 01 October 2002 – 10 February 2015), *citing* 720 ILCS 5/7-8.

vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle's path.⁷⁷

Illinois' law also governs CPD officers' use of force. 720 ILCS 5/7-5, states that:

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 effect 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.

An officer's use of deadly force is a seizure under the Fourth Amendment. Analysis under the Fourth Amendment requires a determination of whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.⁷⁸ The following factors are instructive in determining whether an officer's use of force is objectively reasonable:

- 1) the severity of the crime at issue;
- 2) whether the suspect poses an immediate threat to the safety of the officers or others; and
- 3) whether he is actively resisting arrest or attempting to evade arrest by flight.⁷⁹

This reasonableness calculation "must embody allowance for the fact that police 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."⁸⁰ Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force."⁸¹ The analysis of the reasonableness of an officer's conduct must be grounded in the perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and "allow for the fact that police 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."⁸²

2. Burden 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;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

⁷⁷ *Id.* § (II)(A).

⁷⁸ *Graham v. Connor*, 490 U.S. 386, 397 (1989); *see also Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003).

⁷⁹ *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)).

⁸⁰ *Id.* at 396-97.

⁸¹ *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (en banc) (omitting emphasis)).

⁸² *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (quoting *Garner*, 471 U.S. at 1 (internal quotation marks omitted)).

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 the conduct reviewed did not comply with CPD policy.⁸³ If the evidence gathered in an investigation establishes that it is more likely that the conduct violated 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.⁸⁴ 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."⁸⁵

B. Findings of Fact

1. COPA finds that the Malibu drove towards Officer Walter, that he was not able to get out of the way in time, and that the vehicle struck him.

Officer Walter's medical records and the photographs showing the marks on the right leg of his pants are consistent with his claim that the Malibu struck his right leg. Similarly, photographs of the Beat 4485A squad car are consistent with Officer Walter's report that the Malibu struck the rear passenger side of the squad car as it fled.

2. COPA is unable to determine, with sufficiency, the path the Malibu traveled or where Officer Walter was standing when the vehicle struck him.

There is no objective evidence about the vehicle's speed or direction of travel during the shooting. Three of the four Malibu occupants did not cooperate with this investigation. The Malibu's occupants' versions of events found in their deposition and trial transcripts contradict one another, and in some instances, contradict statements the responding police officers attributed to them.

3. COPA is unable to determine, with sufficiency, when Officer Walter began discharging his weapon, when he stopped, or where he stood relative to the vehicle.

There is no objective physical evidence or expert analysis available to show where Officer Walter was standing when he fired.⁸⁶ Some of Officer Walter's statements indicated that he started shooting while the Malibu was stopped, while others indicated that the Malibu had already started moving before he began to fire. The other Officers present agree that the vehicle was headed towards Officer Walter prior to his firing, but they do not fix his location when he fired his weapon. Officer Walter testified that he backpedaled to move out of the way of the oncoming Malibu and started firing because the it was moving towards him. He testified that he continued to fire when he saw [REDACTED] in the rear passenger

⁸³ See Avery v. State Farm Mut. Auto. Ins. Co., 216 Ill. 2d 100, 191 (2005) ("A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.").

⁸⁴ See, e.g., People v. Coan, 2016 IL App (2d) 151036.

⁸⁵ *Id.* ¶ 28.

⁸⁶ On January 3, 2019, Supervising Investigator Becknek called Assistant Corporation Counsel Maria Maggina, who represented the City of Chicago in both civil trials. ACC Maggina confirmed that no parties retained expert witnesses for trajectory analysis or accident reconstruction. IPRA did not use such experts during its original investigation.

seat pointing a firearm at him and ceased firing once the Malibu passed him. Officer Walter admits that the physical evidence does not support his version of events. The physical evidence suggests that he fired at the passenger's side and rear driver's side of the vehicle, and not, as he recalls, at the front of the vehicle. There was also an apparent bullet hole in the rear driver's-side taillight, and bullet fragments were found in the trunk of the car. Additionally, the two individuals sitting on the passenger-side seats were the only people struck with bullets.

4. COPA finds that Officer Walter reasonably perceived the gun-shaped lighter to be a gun.

Officer Walter's claim that [REDACTED] pointed the gun-shaped lighter at him is insufficient proof on its own to establish that he perceived the replica firearm.⁸⁷ However, [REDACTED] pleaded guilty to aggravated assault with an object that resembled a firearm. [REDACTED] denied these same actions during his testimony at the civil trial, but the conviction remains unvacated. Therefore, the finding in criminal court, based on the beyond a reasonable doubt standard, still stands. Officer Walter's testimony coupled with [REDACTED] guilty plea, is sufficient for COPA to determine by a preponderance of the evidence, that [REDACTED] pointed the gun-shaped lighter in Officer Walter's direction.

C. Legal findings

The findings in both allegations against Officer Walter are linked to the conduct described in the first allegation – *i.e.*, Officer Walter's use of deadly force against the Malibu's occupants cannot be justified if, as charged in the second allegation, he violated Department directives when he discharged his weapon into a moving vehicle.

COPA finds that a motor vehicle driving at a moderate or high rate of speed towards an officer poses a risk of death or great bodily harm. The Department's use of force policy in effect at the time allowed officers to use deadly force in such circumstances.⁸⁸ Additionally, the Supreme Court found that firing at or into a moving vehicle is reasonable under the Fourth Amendment when a suspect's reckless driving puts others at risk.⁸⁹

COPA also finds that when an individual points an object at a police officer that the officer reasonably perceives to be a firearm, the officer is justified in believing there is an imminent risk of death or great bodily harm. The Department's use of force policy in effect at the time allowed officers to use deadly force in these circumstances.⁹⁰

As stated above, COPA finds that [REDACTED] pointed the gun-shaped lighter at Officer Walter. However, COPA cannot determine by a preponderance of the evidence when Officer Walter first perceived the lighter. By his own admission, it was after he had started discharging his weapon. Further, due to the lack of corroboration, COPA can neither prove nor disprove that the Officer's belief that lethal force was necessary to prevent the vehicle from harming him or others was reasonable or unreasonable, and therefore whether his actions were justified. Most significantly, physical evidence reflects that all shots were fired after the front of the vehicle had passed Officer Walter. Therefore, none of his actions could have stopped the driver from progressing further towards him. COPA cannot determine by a

⁸⁷ Additionally, it is suspicious, but not dispositive, that Officer Walter failed to inform any of his fellow officers that he believed an armed subject was in the vehicle they were pursuing and failed to mention anything at all about the perceived weapon until after the replica was recovered after the pursuit finished.

⁸⁸ G03-02-03(I)(B).

⁸⁹ See, e.g., Plumhoff v. Rickard, 134 S. Ct. 2012, 2018-20 (2014) (holding that the officers acted objectively reasonably when they fired a total of fifteen shots at a fleeing vehicle during a high-speed chase).

⁹⁰ G03-02-03(I)(A).

preponderance of the evidence whether the Officer's actions violated applicable Department rules and cannot determine by clear and convincing evidence that his actions were justified under such rules.

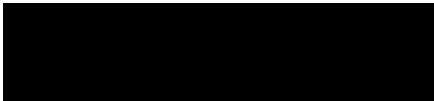
Accordingly, COPA recommends findings of Not Sustained for both Allegations.

II. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding/ Recommendation
Sajit Walter	<ol style="list-style-type: none">It is alleged that on January 4, 2011, at approximately 9:35 pm, in the vicinity of 4335 West Roosevelt, Officer Sajit Walter used deadly force against [REDACTED], [REDACTED], [REDACTED], and [REDACTED] without justification, in violation of the CPD use of deadly force policy.It is alleged that on January 4, 2011, at approximately 9:35 pm, in the vicinity of 4335 West Roosevelt, Officer Sajit Walter fired into a moving vehicle without justification, in violation of the CPD use of deadly force policy.	<p>1. Not Sustained</p> <p>2. Not Sustained</p>

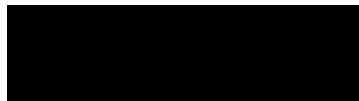
Approved:



7-6-2020

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date



7-6-2020

Sydney R. Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	15
Investigators:	Greg Masters
Supervising Investigator:	Matthew Haynam
Deputy Chief Administrator:	Angela Hearts-Glass