TO:

Chief Administrator

Independent Police Review Authority

FROM:

Inv. Chantall Morley #159

SUBJECT:

Log #1079728

U #16-003

REFERENCE:

RD #HZ193832, Battery- Agg. PO: Other Dangerous Weapon, Assault- Agg. PO: Other Dangerous Weapon, Narcotics- Poss:

Cannabis 30 gms Or Less

DATE/TIME:

19 March 2016, 2230 hours

LOCATION:

(Sidewalk)

INVOLVED

OFFICER:

ROLDAN, Giovanni.; Chicago Police Officer, Star #12457; Unit 019; Hispanic male; Employee # DOB: 1979; DOA: 29 April

2002; Off-duty; Casual dressed.

OFFICER'S

WEAPON:

Smith & Wesson 5943 Tactical; 9mm semi-automatic pistol; Serial # ; City Registration # ; FOID # ; Winchester 9mm Luger + P ammunition; 12 live rounds recovered from magazine, 1 live round recovered from the chamber; listed weapon capacity of 15 rounds; Fired two (2) times according to the Tactical Response Report (TRR).

OFFICER'S

INJURIES:

Struck on left arm with a baseball bat.

SUBJECT:

Hispanic male; DOB 1983; and/or .

SUBJECT'S

WEAPON:

Baseball bat.

SUBJECT'S

INJURIES:

Multiple gunshot wounds.

SUBJECT:

.; Hispanic male; DOB 1998;

SUBJECT'S

WEAPON:

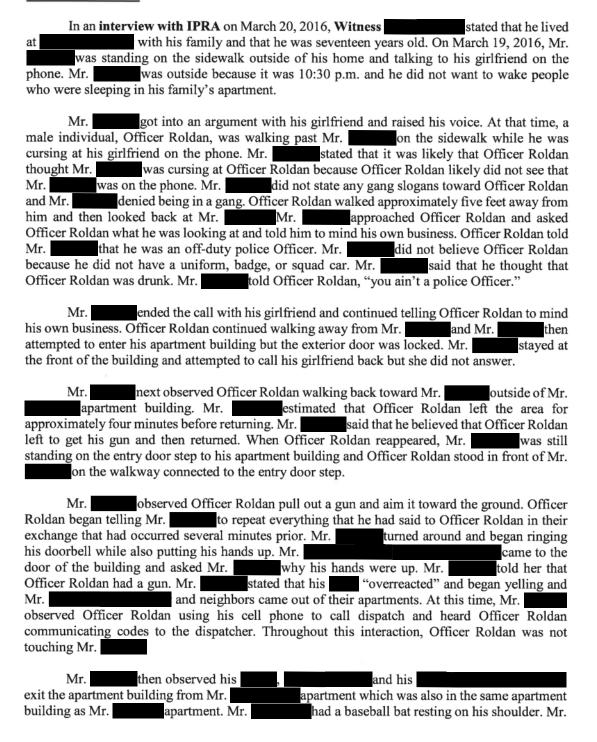
N/A

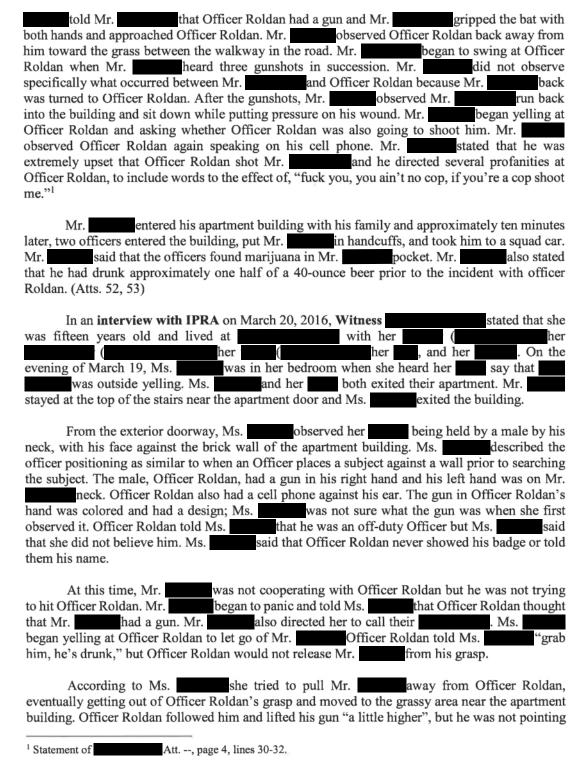
SUBJECT'S INJURIES:	N/A	
IPRA NOTIFICATIONS:	Chief Administrator Sharon Fairley Deputy Chief Administrator Mark Grba Director of Community Outreach and Engagement Larry Merritt Supervising Investigator Sherry Daun Investigator Chantall Morley Investigator Caterina Oliveri	
TIME OF IPRA NOTIFICATION:	11:08 p.m.	
TIME OF IPRA RESPONSE:	11:45 p.m.	
SUMMARY OF INC	CIDENT	
car near his host standing near began arguing with e Officer Roldan unhol also called 911 to rep	2016 at approximately 10:20 p.m., Officer Roldan was walking to his parked use. While he was walking, Officer Roldan encountered a young male, are the apartment building where he lived. Officer Roldan and Mr. ach other and Officer Roldan observed Mr. reach for his waistband. Stered his service weapon and began searching Mr. Officer Roldan ort the incident. Mr. stated that Officer Roldan told Mr. that police Officer but Mr. did not believe him.	
While this was occurring, Mr. family heard yelling from inside their apartment and exited the apartment building. Mr. family began yelling at Officer Roldan and requested that he let go of Mr. Mr. was inside the apartment building and learned that Mr. was being held at gun point outside the building by an unknown male. Mr. ran outside of the apartment building with a baseball bat and swung it at Officer Roldan. Officer Roldan blocked the bat with his forearm and then discharged his firearm two times, striking Mr.		
INVESTIGATION		

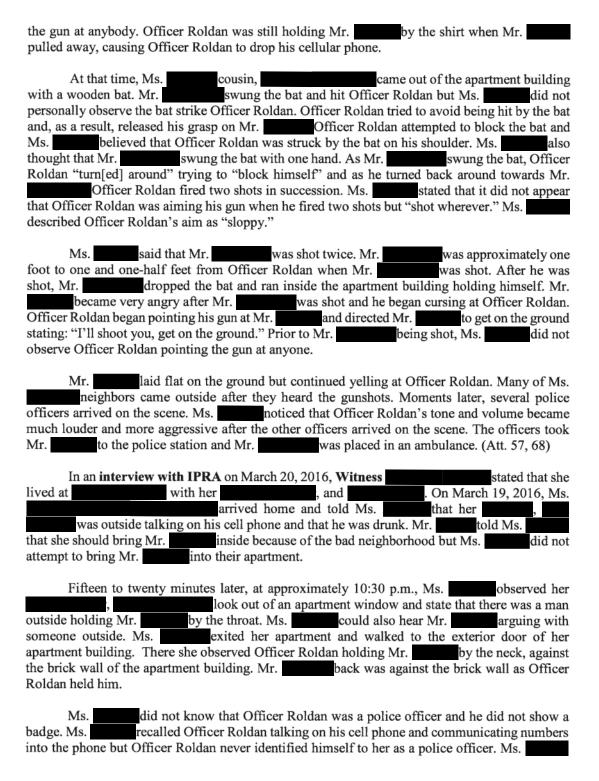
IPRA obtained relevant video, forensic, and documentary evidence associated with this incident. Additionally, IPRA interviewed witnesses, who witnessed various aspects of this incident. IPRA also interviewed involved Police Officer, Giovanni Roldan.

The following are summaries of the relevant evidence obtained in this investigation:

Civilian Interviews







investigates officer's conduct to report him. Ms. Roldan was to scare him away. During the altercation, Ms. noticed that Mr. was intoxicated. Mr. appeared agitated and was arguing with Officer Roldan, Mr. told Officer Roldan, "shoot me if you want." Ms. and told Mr. to be quiet and to get inside. At one point, Mr. got out of Officer Roldan's grasp and they both moved to a grassy area near the apartment building. Ms. continued attempting to bring Mr. apartment building and ripped Mr. shirt near the collar. Ms. neighbors looking outside because they likely heard the yelling. At this point, Ms. had been outside attempting to get Mr. apartment building for approximately "ten minutes." Ms. holding a gun throughout these ten minutes and if she had seen Officer Roldan holding a gun, she would have screamed. According to Ms. "all of a sudden," her nephew, Mr. ran out of the apartment building. Ms. said that Officer Roldan fired two shots at Mr. was approximately ten feet from Officer Roldan. After being shot, Mr. ran back into the apartment building. Ms. did not hear any words exchanged between Mr. and Officer Roldan. Ms. later saw a wooden bat lying on the ground outside of did not see the bat prior to the shooting. Ms. the apartment building but Ms. observed Officer Roldan holding a black gun after she heard the gunshots. Less than five minutes was shot, several police officers arrived on the scene. The officers handcuffed Mr. and took him to the police station. Mr. was placed into an ambulance. (Att. 60, 69) In an interview with IPRA on July 1, 2016, Witness stated that he was thirteen years old and lived at with his and . On March 19, 2016, Mr. was in his living room when he heard his looked out his window and saw speaking outside. Mr. against the exterior wall with a male holding him by the back of the neck. Mr. also observed that the male, Officer Roldan, was holding something in his hand and seemed to be speaking to somebody on a cell phone. Officer Roldan's gun did not appear to be a police officer's gun and Mr. did not think that Officer Roldan was a police officer. called for his cousin, to show her what was occurring exited the apartment and went outside near Officer Roldan. Ms. outside. Ms. began yelling at Officer Roldan. As the yelling occurred, Ms. told Mr. to get their

also recalled telling Officer Roldan that she was going to call the news, or someone that

alerted

joined

and she also exited the apartment

could tell that

in telling Officer Roldan that

also grabbed

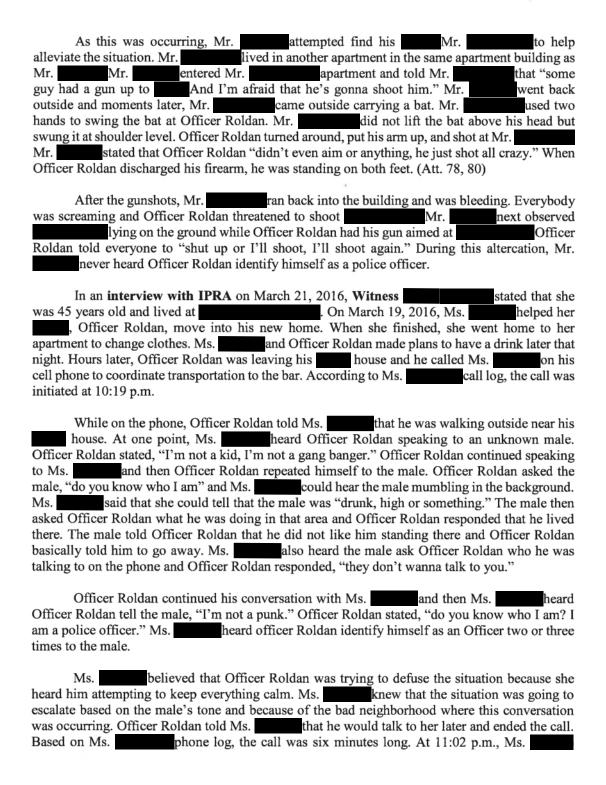
was scared.

Mr.

in an attempt to get him inside the building. Mr.

lived there and that Officer Roldan should let him go.

and walked outside near Officer Roldan.



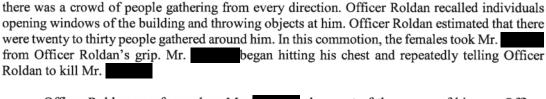
received a call from her aunt who had heard shots fired outside of her house. Ms. learned that Officer Roldan had been involved in a shooting incident. (Att. 64, 65) **Police Officer Interviews** In an interview with IPRA on June 17, 2016, Involved Shooting Officer Giovanni Roldan, #12457, stated that on March 19, 2016, he was off-duty on his regular day off. Officer Roldan had recently purchased a home and was in the process of moving. Officer Roldan had borrowed his friend's truck to move his belongings from his storage unit to his new home. His assisted him during the day. After he finished moving his belongings, Officer Roldan drove to his house, which is he was living at the time. The residence is located at . Officer Roldan ate dinner and left the residence at approximately 10:00 p.m. to meet with his , Ms. Roldan began walking towards his vehicle that was parked two blocks away from his residence. Officer Roldan called Ms. as he was walking toward his vehicle. phone, at the corner of Monitor and Schubert. The male, later identified as approximately 5'6" and 150 pounds. Mr.

As Officer Roldan was walking, he observed a young male, who was also talking on his phone, at the corner of Monitor and Schubert. The male, later identified as approximately 5'6" and 150 pounds. Mr. asked Officer Roldan who he was talking to and Officer Roldan told Mr. it was not any of his concern. Mr. asked "whadda you be about" which Officer Roldan understood as Mr. asking Officer Roldan his gang affiliation. Officer Roldan told him that he was a policeman and Mr. stated, "I don't give a fuck wahtchu are, you could die like the rest of 'em." Officer Roldan said that Mr. appeared to be under the influence of a narcotic and had an angry demeanor.

During this conversation, Mr. was approximately two arm lengths away from Officer Roldan and was blocking Officer Roldan's path on the sidewalk. At this point, Officer Roldan ended his phone call with Ms. Mr. reached then for his waistband and Officer Roldan told Mr. tet me see your hands." Mr. did not follow verbal direction and continued grabbing for his waistband. Officer Roldan drew his firearm from his holster on his right-side hip. Officer Roldan's firearm was his service weapon which was loaded with authorized ammunition.

Officer Roldan grabbed Mr. was facing toward the wall and Officer Roldan began searching him. Officer Roldan did not find any weapons. Mr. was irate and Officer Roldan told him to calm down. Officer Roldan holstered his weapon to call 911. As Officer Roldan was speaking to the 911 dispatcher, Mr. pressed a doorbell button on the side of the building multiple times. Mr. also began calling for somebody, by name, who Mr. seemed to believe was inside the apartment building.

Seconds later, an older female and a young female exited the building screaming. Officer Roldan told them to calm down and that he was an off-duty police officer. Both females were yelling "call the cops" and "let him go." Officer Roldan also recalled the older female yelling that the police had already killed one of her sons and she would not let them kill another. At this time,



Officer Roldan was focused on Mr. when, out of the corner of his eye, Officer Roldan saw a male run out of the apartment building raising a baseball bat above his head in a "tomahawk motion." Officer Roldan put up his forearm to brace for the impact and the male, later identified as Mr. struck Officer Roldan with the wooden baseball bat. Officer Roldan was struck with the baseball bat more than once.

Officer Roldan fell to the ground, to a knee position, and observed Mr. charging at him again with the baseball bat. Officer Roldan told him to put the bat down but Mr. did not listen to his command. Officer Roldan felt reasonable fear for his life and fired two rounds. Officer Roldan stated that he only fired twice because he did not want to kill Mr.

Mr. Pran back into the apartment building and Officer Roldan could no longer see him. Officer Roldan also heard the baseball bat hit the ground. Officer Roldan again called 911 and reported that he was an off-duty police officer. He reported a 10-1 and police officers arrived at the scene several minutes later. When they arrived, Officer Roldan dropped his weapon and announced that he was a police officer. The responding officers took Officer Roldan to the ambulance and shortly thereafter, Officer Roldan observed Mr. Walking out of the building holding his side.

Officer Roldan was taken to Northwestern Hospital. Officer Roldan suffered contusions to his wrist and a slightly dislocated shoulder. At the time of the interview, Officer Roldan was listed as IOD "Injury on Duty." (Att. 73, 74)

Video & Audio Evidence

None of the in-car cameras from responding vehicles captured any video of the shooting. At the time of the incident, none of the responding officers were equipped with body worn cameras. (Atts. 38, 39)

The Office of Emergency Management and Communication (OEMC) Event Queries and Police Radio Transmissions were collected and made part of this case file. The following is a summary of the relevant audio recordings. At approximately 22:27 hours, Officer Roldan dialed 911 and reported a male Hispanic, with curly hair and dressed in blue jeans and black jacket, standing at the corner of 2644 N. Monitor flashing gang signs at vehicles and asking him what gang he [Officer Roldan] belongs to. At approximately 22:30 hours, Officer Roldan dialed 911 and requested officers at Schubert and Monitor. Several individuals are heard yelling in the background. One male individual is heard yelling, "shoot me, bro... Shoot me... Shoot me". Two shots are fired and the officer reports shots fired by the police. Subsequent telephone calls were made to 911 to report the incident and to request an ambulance. Furthermore, Police Radio transmissions document that a male was shot in the stomach. (Att. 18)

Forensic Evidence

Illinois State Police (ISP) Forensic Science Laboratory Report dated 25 May 2016,
documents the examination of Officer Roldan's gun, a Smith & Wesson, model 5943 TSW, 9mm
Luger caliber semi-automatic pistol, serial # , and a gun magazine, and found that it was
operable. The report also documents two 9mm caliber fired cartridge cases, which were tested and
determined to have been fired from Officer Roldan's firearm. A report dated July 28, 2016
documents the examination of the baseball bat recovered from the scene. No blood was found on
the baseball bat. The Laboratory did find damage to the construction of the bat. A report dated
March 29, 2017 documents DNA tests collected from the baseball bat recovered at the scene. The
primary DNA profile collected from the baseball bat matched the DNA profile of Mr.
(Atts. 82, 83, 88)

Evidence Technician Photographs depict the scene, evidence collected from the scene, Mr. clothes, Mr. clothes

Medical Reports

A Chicago Fire Department Ambulance Report documents that an ambulance arrived at the scene on March 19, 2016 at 10:40 p.m. They reported had one gunshot wound to his right upper quadrant and two wounds to the back. Mr. also complained of severe pain in his abdomen. Paramedics treated Mr. and departed the scene with the individual at 10:45 p.m. (Att. 11)

A Chicago Fire Department Ambulance Report documents that Ambulance 68 arrived at the scene on March 19, 2016 at 10:45 p.m. They reported Officer Roldan with pain in his left arm because someone had swung a bat at him. Paramedics from Ambulance 68 treated Officer Roldan and departed the scene with the individual at 11:18 p.m. Officer Roldan was transported to Northwestern Hospital and arrived there at 11:56 p.m. (Att. 10)

Medical Records from Advocate Illinois Masonic Medical Center document that on March 19, 2016, Mr. received treatment for gunshot wounds to the right upper quadrant of his abdomen and right thigh. (Att. 87)

Medical Records from Northwestern Memorial HealthCare document that on March 19, 2016, Officer Roldan received treatment to his left forearm. Officer Roldan did not suffer a fracture or dislocation. Officer Roldan did have soft tissue swelling of his forearm. (Att. 90)

Other Documentary Evidence

A Tactical Response Report (TRR) completed by Officer Roldan documents that Mr. presented an imminent threat of battery, attacked with a weapon, and used force likely to cause death or great bodily harm with a weapon. Officer Roldan responded with member's presence, verbal commands, and the discharge of his firearm. Officer Roldan discharged his firearm two (2) times. (Att. 8)

was off-duty, in citizen's dress, at a	cort (OBR) completed by Officer Roldan documents that he approximately 2230 hours, in the vicinity of Roldan with a baseball bat. Officer Roldan sustained non-fatal
The CPD's Major Inciden and obtained in the preliminary stage	t Notification (MIN) Report contains information identified ges of the investigation. (Att. 45)
reports and statements provided to II Report, dated June 2, 2016, that Elec	PRA personnel. It is also noted in the Detective Supplementary ctronically Recorded Interviews (ERIs) ² were taken of ech 20, 2016. (Atts. 93, 95, 96)
g.	Approved:
Investigator Chantall Morley	N/A Pec Tirus 45 Deputy Chief Administrator

provided to IPRA personnel.

² It is to be noted that the R/I did not request the ERIs as the detective supplementary report provided a detailed summary of each of their interviews. The interviews provided to detectives are consistent with the interviews

ANALYSIS

Based on th	e totality of the circumstances, Officer Giov	anni Roldan's use of deadly force
against	was objectively reasonable, and the	refore, Within Department policy.
A preponderance of	of evidence demonstrates that Mr.	presented an imminent threat of
death or great bodi	ly harm to Officer Roldan because Mr.	had swung a baseball bat at
Officer Roldan, stri	iking Officer Roldan in the forearm. As such,	the use of deadly force by Officer
Roldan against Mr.	was objectively reasonable and, th	nerefore, within Department policy
as outlined by the (Chicago Police Department's General Order	03-02-03, II; and the Illinois State
statute. Officer Ro	ldan's use of force also complied with applic	cable constitutional standards.

CPD Policy, Illinois State Statute, & Constitutional Standards

The applicable Chicago Police Department's General Order is 03-02-03, II, which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she 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 will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

...a peace Officer, or any person whom he has summoned or directed to assist him, 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. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

Finally, determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is 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. *Graham v. Connor*, 490 U.S. 386, 397 (1989). *See Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are

instructive in making the determination of whether an Officer's use of force is 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." *Graham*, 490 U.S. at 396 (citing Tennessee v. Garner, 471 U.S. 1, 8-9 (1985)). 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." *Graham*, 490 U.S. at 396-97. 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." *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)).

Officer-Involved Shooting

There is a preponderance of evidence showing that Officer Roldan reasonably believed that deadly force was necessary to prevent Mr. from causing death or bodily harm to Officer Roldan. During the altercation between Officer Roldan and Mr. Officer Roldan briefly observed Mr. run towards him from a side angle and swing a baseball bat at Officer Roldan. Officer Roldan attempted to block the baseball bat and it struck Officer Roldan in the arm. Officer Roldan believed that Mr. was going to strike him again with the baseball bat and Officer Roldan discharged his firearm to prevent Mr. from causing Officer Roldan additional bodily harm with the baseball bat.
Prior to Mr. striking Officer Roldan, Officer Roldan stated that he had unholstered his service weapon but he did not point the weapon at Mr. or anyone else that was involved in the incident. This was corroborated by the statement of who stated that she never witnessed Officer Roldan point the firearm at anyone until Mr. was shot. Further, stated that she never observed Officer Roldan's gun prior to the shooting of Mr.
Further, Officer Roldan repeatedly stated that he was a police officer prior to Mr. involvement. and both stated in their interviews that they heard Officer Roldan identify himself as a police officer. also stated in her interview that she attempted to scare Officer Roldan when she told him that she was going to call the news, or someone that investigates police officer misconduct. It is unlikely that would have made this statement if she did not also hear Officer Roldan identify himself as the police. Further, all three of these eyewitnesses heard Officer Roldan on his cell phone communicating codes which sounded similar to police codes.
Mr. exited the apartment building seemingly unaware that Officer Roldan was a police officer. Despite his supposed lack of knowledge, Mr. did not have the right to strike Officer Roldan with the baseball bat because Officer Roldan did not have his gun pointed at Mr. or any other individual. Further, in the brief seconds that Mr. was outside the apartment building, it is possible that he did not observe the gun in Officer Roldan's possession

because did not observe Officer Roldan's gun in the ten minutes that she was involved in the altercation.
Officer Roldan stated that Mr. swung the baseball bat at him in a "tomahawk motion" and Officer Roldan blocked the baseball bat with his arm. This was corroborated by the statements of multiple witnesses who observed Mr. grip the baseball bat with two hands and strike Officer Roldan. This is further corroborated by the injuries sustained by Officer Roldan.
Officer Roldan stated that Mr. was attempting to strike Officer Roldan again when Officer Roldan discharged his firearm. and reported that Officer Roldan's aim was "sloppy" and that he "shot all crazy." Yet, both of Officer Roldan's shots hit Mr. Thus, it is likely that Officer Roldan discharged his firearm directly towards Mr. because Officer Roldan believed that Mr. presented an imminent threat to Officer Roldan.
The fact that Mr. had struck Officer Roldan with a baseball bat and was likely going to strike him again demonstrates that Officer Roldan was reasonable in his belief that Mr. presented an imminent threat to Officer Roldan.
CONCLUSION AND FINDING
Because Officer Roldan reasonably believed that Mr. presented an imminent threat to Officer Roldan, Officer Roldan was entitled to use deadly force against Mr. The evidence clearly shows that an Officer with similar training and experience would reasonably believe that Mr. posed an immediate threat of death or serious bodily harm to the Officer and the public. Accordingly, Officer Roldan's use of deadly force was objectively reasonable as outlined by the Chicago Police Department's General Order 03-02-03, II; and the Illinois State statute. Officer Roldan's use of force also complied with the Fourth Amendment.
Approved:
Debuty Chief Administrator, COPA