

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 4, 2014
Time of Incident:	10:00 p.m.
Location of Incident:	4747 W. Byron – in the alley
Date of IPRA Notification:	May 3, 2016
Time of IPRA Notification:	3:40 p.m.

On July 4, 2014, at 9:53 p.m., Officer Eric Bellomy and Sergeant Nicholas Redelsperger² were involved in an officer-involved shooting involving ██████████³ While they were pursuing ██████████ in the alley behind 4747 W. Byron, Officer Bellomy maneuvered the Department vehicle he was driving to cause ██████████ and the vehicle to collide. ██████████ fell down, returned to his feet, charged at Sgt. Redelsperger, and pushed him down onto the ground. Sgt. Redelsperger and ██████████ both fell onto the ground. While ██████████ was lying motionless on the ground, Sgt. Redelsperger kicked him to the head/face. Officer Bellomy assisted Sgt. Redelsperger in handcuffing ██████████ The officers then noticed that ██████████ had been shot. ██████████ subsequently died of the gunshot wounds.

II. INVOLVED PARTIES

Involved Officer #1:	Eric Bellomy, Star #7355, Emp.# ██████████, Date of Appointment: March 8, 1999, PO, Unit: 016, Date of Birth: ██████████, 1965, Male, White
Involved Sergeant #1:	Nicholas Redelsperger, Star #1940, Emp.# ██████████, Date of Appointment: July 27, 1998, Sergeant, Unit: 005/017, Date of Birth: ██████████, 1973, Male, White
Involved Individual #1:	██████████ Date of Birth: ██████████ 1999, Male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
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¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

² Nicholas Redelsperger was the rank of Police Officer at the time of this incident and was promoted to the rank of Sergeant on October 19, 2018. Sergeant Redelsperger will be identified by his current rank in this report.

³ The police-involved shooting was investigated under Log 1070148. This report will only address the investigation as they are relevant and material to the allegations related to this log.

Officer Eric Bellomy	1. Maneuvered the Department vehicle to cause [REDACTED] and the Department vehicle to collide, in violation of Rule 10.	Not Sustained
Sergeant Nicholas Redelsperger	1. Kicked [REDACTED] at or about his face/head, in violation of Rule 8. 2. Failed to document your contact with [REDACTED] in a Tactical Response Report, in violation of Rule 6.	Sustained / 30-day Suspension Sustained / 5-day Suspension

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6 - Disobedience of an order or directive, whether written or oral.
2. Rule 8 – Disrespect to and maltreatment of any person, while on or off-duty.
3. Rule 10 – Inattention to duty.

General Orders

1. G03-02 – Use of Force Guidelines (eff. 10/1/02 – 10/15/17)
2. G03-02-01 – Use of Force Model (eff. 5/16/12 – 10/16/17)
3. G03-02-02 – Force Options (eff. 5/16/12 – 3/11/15)
4. G03-02-05 – Incidents Requiring the Completion of a Tactical Response Report (eff. 10/1/02 – 10/30/14)

V. INVESTIGATION⁴

a. Interviews⁵

In a statement to IPRA on June 16, 2016, **Accused Officer Eric Bellomy**⁶ stated that he was involved in a officer-involved shooting that was investigated under Log# 1070148. Officer Bellomy stood by the statement that he had previously provided for that investigation on July 5, 2014,⁷ but added the following information regarding the allegation against him. Officer Bellomy stated that during Sgt. Redelsperger's foot pursuit of [REDACTED] Officer Bellomy drove the Department vehicle down the alley, passing both Sgt. Redelsperger and [REDACTED]. As Officer Bellomy passed Sgt.

⁴ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁵ Several Department members and civilians were deposed in the course of the pretrial discovery process in [REDACTED] *Sr. v. City of Chicago, et al.*, Case No. 15 CV-3119, in the United States District Court, Northern District of Illinois, Eastern Division. (See Attachments 49 – 51, 56, 58 – 65). Only those depositions that are material to this investigation are summarized in this report.

⁶ Atts. 33, 34, 48. Off. Bellomy also gave a deposition in [REDACTED] *Sr. v. City of Chicago, et al. (Id.)* (Atts. 56 and 59), during which he provided a similar statement.

⁷ Att. 23.

Redelsperger and ██████ in the alley, Officer Bellomy swerved the Department vehicle to the right, facing eastbound at the “T” of the alley to block ██████ flight path. While Officer Bellomy made that maneuver, Officer Bellomy did not know if the vehicle made any contact with ██████. However, he later saw security video regarding this incident and observed that ██████ body appeared to make contact with the vehicle during that point.

Officer Bellomy attributed this contact to ██████ “forward momentum”⁸ because ██████ was not able to stop himself when he was running at a fast-paced speed. Officer Bellomy said that he got out of the vehicle, looked under the vehicle, and cautiously walked around to the rear of the police vehicle. Once there, he observed that Sgt. Redelsperger had ██████ on the ground. Officer Bellomy denied the allegation that he used the Department vehicle to strike ██████ or have him collide with the vehicle. Officer Bellomy stated that he was not a witness or aware if Sgt. Redelsperger kicked ██████ about the head/face while he was on the ground.

In a statement to IPRA on June 17, 2016, **Accused Sergeant Nicholas Redelsperger**⁹ stated he was involved in a police-involved shooting that was investigated under Log# 1070148 and he stood by the statement that he provided on July 6, 2014.¹⁰ Sgt. Redelsperger stated Officer Bellomy was driving the police SUV and he (Sgt. Redelsperger) was running after ██████ when Officer Bellomy passed him in the alley. Sgt. Redelsperger was unaware if the Department vehicle made any contact with ██████ when Officer Bellomy blocked ██████ path of flight. Sgt. Redelsperger stated that as he approached ██████ where Officer Bellomy had blocked the alley, ██████ tackled him by using his body and both of his hands. ██████ placed his hands against Sgt. Redelsperger and pushed him back, causing the sergeant to fall back onto the ground. ██████ also fell to the ground. Sgt. Redelsperger explained that when he got up, he used his leg to swipe ██████ and make sure ██████ did not get up to flee or attack him or Officer Bellomy. Sgt. Redelsperger described using his foot in a swiping motion to prevent ██████ from attacking him or Officer Bellomy, or from fleeing the scene. Sgt. Redelsperger believed that ██████ was still a threat to him and Officer Bellomy. Sgt. Redelsperger did not complete a Tactical Response Report because he denied kicking ██████. Sgt. Redelsperger denied that his foot made contact with ██████ when he was on the ground in the alley. Sgt. Redelsperger denied the allegations made against him.

b. Digital Evidence

Video recordings¹¹ from Alert Protective Services, located at 3833 N. Cicero, captured parts of the incident. The footage captures ██████ walking away from Sgt. Redelsperger, who had exited the police SUV while on Cicero Avenue. The footage depicts ██████ fleeing from Sgt. Redelsperger and Officer Bellomy. ██████ continues to flee from the street into a parking lot area and the alley. The video footage captures ██████ fall to the ground, causing what appeared to be a silver or chrome colored gun flying from ██████ hand. The video shows Officer Bellomy’s Department vehicle pass both Sgt. Redelsperger and ██████ then angles into ██████ path through the alley, as ██████ is next to the front half of the passenger side of the patrol vehicle. ██████ collides with what appears to be the front end of the passenger side of the vehicle and falls to the ground. ██████

⁸ Att. 48, page 24, lines 6 – 15.

⁹ Att. 47. Sgt. Redelsperger also gave a deposition in ██████. v. *City of Chicago, et al.* (Att. 58), during which he provided a similar statement.

¹⁰ Att. 24.

¹¹ Att. 25-26.

immediately jumps up, turns away from the patrol car, and runs into Sgt. Redelsperger, causing them both to fall to the ground. Sgt. Redelsperger gets up, approaches █████ and kicks █████ on the head or face. Both █████ head and feet move when Sgt. Redelsperger's foot appears to connect with █████ head or face. Officer Bellomy places the now motionless █████ in handcuffs. Sgt. Redelsperger and Bellomy remained near █████ as additional police units arrived at the scene.

c. Documentary Evidence

Civil Suit #15-CV-03119,¹² which was filed by █████ on behalf of his son, █████ alleged, among other things, that █████ was struck by a police vehicle during this incident.

The **Traffic Crash Report**¹³ (RD# HX-331709) documented that upon coming to a stop after a small pursuit of a man with a gun, Officer Bellomy struck a fence at 4747 W. Byron.

Evidence Technician Photographs¹⁴ depict the scene of the shooting from various angles and various locations of incident. Photographs were taken of Sgt. Redelsperger's injury to his hand and his uniform, markers that were placed in the areas, █████ weapon, and any other evidence related to this incident. The photographs of █████ depicted abrasions to both of his knees, his upper left back and chest areas, and the right side of his face and body. The Evidence Technician photographs depicted bruising and an abrasion about █████ face and the side of his head.

Additional Evidence

The **Medical Examiner's Postmortem Examination Report and Photographs**¹⁵ indicated that █████ had a perforating gunshot wound entrance on his back. The wound course was back to front and slightly upward involving the skin, subcutaneous tissue, and musculature in the area, producing an exit wound in his front left shoulder. There was also a second gunshot wound of entrance on his right lower back.¹⁶ The wound course was back to front, right to left, and upward. The wound involved the skin and subcutaneous tissue in the area, lacerating the right lobe of the liver, perforating the diaphragm, penetrating the upper lobe of the left lung, coming to rest in the upper lobe of the left lung. The wound caused injury to the liver and diaphragm, contusions of the lower lobe of the right lung, injury to the left lung, and bleeding into the chest and abdomen. A large-caliber, copper-jacketed, lead bullet was recovered from the upper lobe of the left lung. The results of the toxicology analysis revealed that █████ was positive for ethanol, with the results of 72 mg/dl.¹⁷ Medical Examiner photographs depicted the body, injuries and clothing of █████ as well as the fired bullet retrieved from the body of █████ The cause of death was multiple gunshot wounds. The manner of death was homicide.

VI. LEGAL STANDARD

¹² Atts. 5-6.

¹³ Att. 16.

¹⁴ Att 69.

¹⁵ Att. 68 and 70.

¹⁶ Although the location of this entry wound is identified as being on █████ lower back, a photograph of the gunshot wound established that it is on the side of █████ body, above his right hip. (Att. 52, Photograph #47)

¹⁷ 72 mg/dl is the equivalent of a .072 Blood Alcohol Concentration level.

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;
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 occurred and violated Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, 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. See, e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

VII. ANALYSIS

Officer Eric Bellomy

COPA finds that the allegation against Officer Bellomy is **NOT SUSTAINED** for maneuvering the Department vehicle to cause [REDACTED] and the Department vehicle to collide. Officer Bellomy stated that he swerved to the right at the T of the alley to prevent [REDACTED] from further escaping and to block his flight path. Officer Bellomy stated that he was unaware that the Department vehicle and [REDACTED] made any contact and described [REDACTED] running in a fast faced paced. Officer Bellomy denied the allegation against him and the evidence is not clear as to whether Officer Bellomy purposely used the vehicle to strike and/or to stop [REDACTED]. Therefore, due to lack of evidence and witnesses, COPA finds this allegation to be not sustained.

Sergeant Nicholas Redelsperger

COPA finds that Allegation #1 against Sgt. Redelsperger is **SUSTAINED**. In spite of Sgt. Redelsperger's denial of kicking [REDACTED] about the head/face, there is more than sufficient evidence to support this occurred. Both the medical examiner's report and photographs, as well as the Evidence Technician photographs depicted bruising and an abrasion about [REDACTED] face and the side

of his head. Moreover, the security video showed that once [REDACTED] collided with Sgt. Redelsperger, he fell back and onto the ground and never moved. Sgt. Redelsperger had already recovered the weapon that had been dropped by [REDACTED] remained motionless on the ground and was no longer the threat Sgt. Redelsperger alleged to himself or Officer Bellomy. The video showed that [REDACTED] was on the ground when Sgt. Redelsperger kicked him with enough force to his head / face to cause [REDACTED] body to jerk from head to toe. Therefore, this allegation is sustained.

COPA finds that Allegation #2 against Sgt. Redelsperger is **SUSTAINED** in that he failed to document his contact with [REDACTED] in a Tactical Response Report. The evidence to support this finding is in the video recording, which captured Sgt. Redelsperger directing a kick at [REDACTED] about the head/face. Further, the medical examiner's report and the Evidence Technician photographs depicted bruising and an abrasion about [REDACTED] face and the side of his head. Sgt. Redelsperger denied the allegation against him and explained that he swiped his foot near [REDACTED] to prevent him from escaping or further attacking him or Officer Bellomy. However, the video showed that once [REDACTED] collided with Sgt. Redelsperger, he fell back and onto the ground. [REDACTED] remained on the ground motionless and was no longer a threat to Sgt. Redelsperger as he alleged. [REDACTED] had already dropped his weapon which was picked up by Sgt. Redelsperger and did not get up after he fell. This evidence showed that Sgt. Redelsperger was in violation of General Order 03-02-05 in that he failed to document his contact with [REDACTED] in a Tactical Response Report.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Nicholas Redelsperger

i. Complimentary and Disciplinary History

- 1. Complimentary:** 2 Department Commendations, 52 Honorable Mentions, 13 Complimentary Letters, 1 Honorable Mention Ribbon Award, 1 Life Saving Award.
- 2. Disciplinary:** Officer Redelsperger has no relevant disciplinary history.

ii. Recommended Penalty, by Allegations

- 1. Allegation No. 1:** COPA finds this misconduct to be significant and serious in nature. Although this encounter involved considerable risk to both Officer Redelsperger and his partner's safety, the threat had been greatly diminished at the time of the excessive force. Specifically, Officer Redelsperger had recovered [REDACTED] weapon during the foot pursuit and therefore had no reason to believe he was still armed when he kicked him. Furthermore, [REDACTED] was laying in the street, after being shot and struck by a vehicle, when Officer Redelsperger kicked him. The video does not show [REDACTED] posing a threat to Officer Redelsperger at the time he kicked him. Instead this action appears to be punitive in nature. Additionally, Officer Redelsperger fails to take any meaningful

accountability for his action. Given the age of the case and the limitations on imposing discipline for excessive force allegations more than five years after occurrence, COPA is prevented from recommending a substantial length of suspension. Accordingly, COPA recommends a 30-day suspension.

2. **Allegation No. 2:** COPA recommends a 5-day suspension for Officer Redelsperger’s failure to document the kick in his TRR. The seriousness of Officer Redelsperger’s action makes his failure to document it inherently more problematic. Therefore, COPA finds that a 5-day suspension is appropriate.

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Eric Bellomy	1. Maneuvered the Department vehicle to cause [REDACTED] and the Department vehicle to collide, in violation of Rule 10.	Not Sustained
Sergeant Nicholas Redelsperger	1 Kicked [REDACTED] at or about his head/face, in violation of Rule 8.	Sustained / 30-day Suspension
	2. Failed to document his contact with [REDACTED] in a Tactical Response Report, in violation of Rule 6.	Sustained / 5-day Suspension

Approved:

[REDACTED]

 Andrea Kersten
 Deputy Chief Administrator – Chief Investigator

December 26, 2019

 Date

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	Maira Webb
Supervising Investigator:	Loren Seidner
Deputy Chief Administrator:	Andrea Kersten