

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	November 27, 2016
Time of Incident:	Approximately 11:28 p.m.
Location of Incident:	23 N. Kenton Ave.; 4529 W. Washington Blvd.
Date of COPA Notification:	November 28, 2016
Time of COPA Notification:	Approximately 12:03 a.m.

The incident began as a domestic altercation on the evening of November 27, 2016, between [REDACTED] and his girlfriend [REDACTED] in an apartment at [REDACTED]. Ms. [REDACTED] was eight (8) months pregnant at the time of the altercation. Mr. [REDACTED] repeatedly shot Ms. [REDACTED] including two (2) shots to her abdomen and one shot in her face that entered through her mouth and exited her neck. Her baby, [REDACTED] sustained a graze wound to his back and was delivered via emergency C-section. Ms. [REDACTED] and her infant were listed in critical condition. Mr. [REDACTED] fled the apartment in an unknown direction before the police responded. Numerous on-duty police officers responded and patrolled the area searching for Mr. [REDACTED].

Mr. [REDACTED] then approached a police vehicle that was parked in the area of 23 N. Kenton Ave., pointed a handgun, and shot at Officer Thomas Surma and Officer Ursula Karcz before fleeing towards a gangway located at 4529 W. Washington Blvd. Despite numerous instructions from multiple officers ordering Mr. [REDACTED] to drop the gun he was holding, Mr. [REDACTED] continued to point his gun at officers and fire at them. Five officers returned fire at Mr. [REDACTED] while he was in the gangway, striking Mr. [REDACTED] twice. Mr. [REDACTED] was transported to Stroger Hospital, where he was pronounced dead at 2:00 a.m. on November 28, 2016.

## II. INVOLVED PARTIES

Involved Officer #1:	Sean Najm, Star #5088, Employee ID# [REDACTED], Date of Appointment: November 27, 2006, Rank: Police Officer, Unit of Assignment: 011, DOB: [REDACTED], 1981, Male, White.
Involved Officer #2:	Thomas Surma, Star #7993, Employee ID# [REDACTED], Date of Appointment: June 21, 1999, Rank: Police Officer, Unit of Assignment: 016, DOB: [REDACTED] 1973, Male, White.

<sup>1</sup> 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.

Involved Officer #3: Monica Calixto, Star #13690, Employee ID# [REDACTED], Date of Appointment: February 2, 2015, Rank: Police Officer, Unit of Assignment: 011, DOB: [REDACTED], 1988, Female, Hispanic.

Involved Officer #4: Miles Furllet, Star #6211, Employee ID# [REDACTED], Date of Appointment: October 31, 2012, Rank: Police Officer, Unit of Assignment: 011, DOB: [REDACTED], 1986, Male, White

Involved Officer #5: [REDACTED] Wallace, Star #2207, Employee ID# [REDACTED], Date of Appointment: December 5, 1994, Rank: Police Officer, Unit of Assignment: 017/313, DOB: [REDACTED], 1970.

Subject #1: [REDACTED] DOB: [REDACTED], 1982, Male, Black

**III. NO ALLEGATIONS**


**IV. APPLICABLE RULES AND LAWS**

Rules

- 1.
- 2.
- 3.

General Orders

1. G.O. #03-02-03: Deadly Force

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**Special Orders**

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- 1.
- 2.
- 3.

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**Federal Laws**

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- 1.
- 2.
- 3.

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**State Laws**

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1. 720 ILCS 5/7-5 (1986)
- 2.
- 3.

**V. INVESTIGATION<sup>2</sup>****a. Interviews****Officer Thomas Surma #7993<sup>3</sup>**

IPRA interviewed Officer Thomas Surma, #7993, on January 20, 2017. Officer Surma stated that his partner on the date of incident was Officer Ursula Karcz and that the marked squad car he was driving was not equipped with a vehicle camera. Neither officer was wearing a body camera. During their tour of duty that evening, Officer Surma parked the vehicle near 23 N. Kenton Ave. facing northbound. Officer Surma recalled that it had been raining earlier in the day but he did not believe that it was raining at the time of the incident.

At approximately 11:27 p.m., Officer Surma heard a “strange” “indistinguishable” sound coming from behind the vehicle to his left, that sounded “almost like a dog yelping, like a dog who’s been hit by a car.” He heard the sound again and turned to look behind him to his left and saw an individual, now known to be Mr. ██████████ running towards Officer Surma’s vehicle pointing a large semiautomatic handgun at Officer Surma. Mr. ██████████ jogged up to the driver’s side of the squad car and pointed his gun at the officers from four or five feet away. Mr. ██████████ continued moving towards the front of the squad car. After Mr. ██████████ reached the front of the car, Officer Surma grabbed his gun with his right hand opened the car door with his left hand and attempted to

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Atts 186, 187

lower himself behind the seat to make himself a smaller target. Officer Surma was halfway out of the car and attempting to stand up to engage Mr. [REDACTED] when Mr. [REDACTED] took one (1) shot at Officer Surma from a distance of a few feet from the front bumper of the police vehicle. Officer Surma recalled seeing a “muzzle flash” so close to him that it was “huge ... almost like a cannon goin’ off,” Officer Surma fell down immediately to his right and felt “something” on his forehead as he was lying on the ground. Officer Surma’s gun fell out of his hand and landed on the ground.

While Officer Surma was still on the ground, he looked behind him and saw the wheels of another vehicle and two individuals wearing shoes and pants that he recognized likely belonged to police officers. He stated that someone told him to stay down and asked if he had been hit, to which he replied he did not know. Officer Surma then grabbed his gun off the ground and stood up to engage Mr. [REDACTED] when he saw Mr. [REDACTED] “still standing there” and then immediately disappear, heading east as if he was “hugging” the wall of a nearby building. Officer Surma waited to see if Mr. [REDACTED] was going to appear again. When Mr. [REDACTED] did not reappear, Officer Surma walked towards the alley where Mr. [REDACTED] had disappeared with his gun raised, but did not see Mr. [REDACTED]. Officer Surma then reported over his police radio that he had been shot at and gave a description of Mr. [REDACTED] before moving forward down the alley to look for Mr. [REDACTED] and beginning to set up a perimeter. Another squad car pulled up to the location in the alley where Officer Surma was located before he heard over the police radio that Mr. [REDACTED] was seen hopping fences somewhere east of their location. Officer Surma and other officers then ran east through the alley across a yard to the location where the incident eventually occurred at 4529 W. Washington Blvd.

Officer Surma recalled that it was dark in the yard as he and other officers walked towards the front of the house. He heard a lot of officers yelling, “Police, police, put the gun down.” As he continued walking, Officer Surma saw Mr. [REDACTED] sitting a few steps down on a “recess” pointing a gun in Officer Surma’s direction. The recess appeared to be an entrance to a basement and was well-lit. Officer Surma did not have time to fire so he ducked to his left, hugging the side of the building. Officer Surma then heard gunshots but did not see Mr. [REDACTED] shoot. Officer Surma went to engage Mr. [REDACTED] again and saw Mr. [REDACTED] gun in hand, leaning his body forward as if he was either going to run towards the officers or lean over the recess and shoot down the gangway. At that point, Officer Surma fired two shots before taking cover again while trying to inch his way closer to Mr. [REDACTED] while issuing verbal commands to drop the gun. When Mr. [REDACTED] continued to point his gun, Officer Surma fired his weapon again. After the shooting ended, Officer Surma heard someone screaming and believed that Mr. [REDACTED] had been struck. He approached Mr. [REDACTED] and saw that Mr. [REDACTED] was in a seated position and had dropped his gun but that it was within an inch or two of his body. Mr. [REDACTED] was still breathing and conscious when Officer Surma approached. Officer Surma then walked towards the front of the house to get the exact address and used his radio to call for an ambulance to be dispatched for Mr. [REDACTED]. Officer Surma was transported by ambulance to Loyola University Hospital for treatment of his injuries.

**Officer Ursula Karcz #7944<sup>4</sup>**

IPRA interviewed Officer Ursula Karcz, #7944 on January 24, 2017. Officer Karcz stated that her partner on the date of incident was Officer Thomas Surma and that the marked squad car they were assigned was not equipped with a vehicle camera. Neither officer was wearing a body camera. Officer Karcz was working a “lunch relief” for another unit on Kenton Ave. between Washington Boulevard and Madison Street. Mr. ██████ positioned himself 5 to 10 feet in front of Officer Karcz’ squad car, and he fired approximately two gunshots at her and Officer Surma. Mr. ██████ did not say anything before he began shooting at the officers. Officer Karcz stated that Officer Surma moved towards the direction of the alley, and signaled that he could see that Mr. ██████ was still waving his gun around. Soon after, more officers arrived and maneuvered into locations that had cover. Many officers ran by, shouting that the suspect was going in the gangway. After the police officers ran by, there was a flurry of gunshots.

**Officer Miles Furlet #6211<sup>5</sup>**

IPRA interviewed Officer Miles Furlet, #6211, on January 20, 2017. Officer Furlet stated that his partner on the date of incident was Officer Daniel Jones and that the marked squad car they were assigned was not equipped with a vehicle camera. Neither officer was wearing a body camera. Officer Furlet was in the 11th District police station when he heard a “person shot” call over the police radio. Several minutes after the “person shot” call, Officer Furlet heard a “10-1 shots fired at the police” call over the police radio. Officers Furlet and Jones responded to the 10-1 call with Officer Najm and Officer Aporongao in the same vehicle. Upon arrival to the area of 23 N. Kenton Ave., Officer Furlet exited his vehicle. He saw an officer using his radio. Officer Furlet approached the officer (now known to be Officer Surma), and asked him if he was OK. Officer Surma told Officer Furlet that they were searching for a black male in all black clothing. Officers Furlet, Jones, Najm and Aporongao began to walk eastbound in the alley between Madison Street and Washington Boulevard. As they were walking, Officer Furlet heard, either on his radio or someone else’s radio, that the subject individual was running. Officer Furlet observed officers running eastbound on Washington Boulevard, and he began to run in their direction. Officers Jones, Najm and Aporongao ran towards the south end of the gangway, while Officer Furlet approached the yard near the gangway of 4529 W. Washington Blvd. From Officer Furlet’s location, he heard officers yelling, “Drop the gun.” Officer Furlet began to yell “show me your hands” and “drop the gun,” since everyone else was yelling for the subject to drop the gun. Once he was close enough to see Mr. ██████ Officer Furlet stated that the subject had a gun in his right hand. Officer Furlet said that Mr. ██████ raised his gun at him, and Officer Furlet proceeded to fire his weapon once at Mr. ██████ Officer Furlet then took cover. He observed one officer to the east of him discharging his weapon at Mr. ██████ Once the shooting ceased, Officer Furlet saw flashlights and heard someone yell, “He’s down.” When Officer Furlet approached, Mr. ██████ was being placed in custody by Officer Najm. Officer Furlet observed a weapon near Mr. ██████ under the foot of an officer.

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<sup>4</sup> Atts. 197, 198

<sup>5</sup> Atts. 189, 190

**Officer Sean Najm #5088<sup>6</sup>**

IPRA interviewed Officer Sean Najm, #5088, on January 20, 2017. Officer Najm was not equipped with a body camera and the vehicle he was operating was not equipped with an in-car camera. Officer Najm responded to a 10-1 call over the dispatch radio. At the time he heard the radio call, he was inside the 11th District police station. Officer Najm stated that he drove to the location of the 10-1 call with Officers Furet, Jones, and Aporongao. Officer Najm parked the car on the west side of Kenton Ave., just south of the alley location described in the radio call. Upon exiting the vehicle, Officer Najm and the other three officers he was with began to proceed eastbound in the alley. Officer Najm heard a call on the radio saying the offender was running, and Officer Najm began to run towards the location described by the officer on the radio. Officer Najm observed multiple officers running towards the rear yard of the address of incident, when he heard multiple officers yelling, "Drop the gun." Officer Najm did not initially see Mr. ██████ in the backyard, so he proceeded into the gangway. Officer Najm then observed Mr. ██████ standing against the wall along the north wall of the gangway. Officer Najm observed a black pistol in Mr. ██████ right hand located near his stomach. At this point, everyone was yelling at Mr. ██████ to drop the gun. After several commands were given for Mr. ██████ to drop the gun, Mr. ██████ proceeded to lean into the gangway, point his gun towards the north side of the gangway, and then swing to the south side of the gangway and point his gun in that direction. Officer Najm jumped back against the wall, and Mr. ██████ retreated into the gangway. Mr. ██████ proceeded to repeat the same action, pointing the gun north and then south. Mr. ██████ then fired his gun approximately two times at Officer Najm. Officer Najm immediately returned fire. Mr. ██████ then retreated into the gangway. Mr. ██████ came back out and began to fire again at Officer Najm, who returned fire. Mr. ██████ then fell back against the wall and slid down to a seated position, with the gun still in his hand. As Officer Najm continued to order Mr. ██████ to drop the gun, Mr. ██████ raised his gun towards Officer Najm again, and Officer Najm fired his weapon, after which the gun fell from Mr. ██████ hand. Officer Najm then proceeded to handcuff Mr. ██████. While being handcuffed, Mr. ██████ looked at Officer Najm and said, "There, I dropped the fucking gun now."

**Officer Monica Calixto #13690<sup>7</sup>**

IPRA interviewed Officer Monica Calixto, #13690 on January 24, 2017. On the evening of the date of incident Officer Calixto was on duty and in uniform with her partner, Officer Eduardo Flores, #17622. Officer Calixto was not equipped with a body camera, but the vehicle she was assigned was equipped with an in-car camera. Officer Calixto's vehicle was parked outside of Mt. Sinai Hospital when she responded to a 10-1 call over the radio. Officer Flores drove the squad car with Officer Calixto as passenger to Madison Street and Kenton Avenue. They exited the vehicle at 4529 W. Washington Blvd. As they pulled up, Officer Calixto heard someone on the radio state, "He is going in the gangway—he's running." As Officer Calixto approached with her gun out, Mr. ██████ faced Officer Calixto and placed his hands in the air and said that he did not have a gun. Mr. ██████ began to slowly walk backwards into the gangway with his hands into the air. Officer Calixto observed Mr. ██████ pick up a handgun from the gangway with his left hand

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<sup>6</sup> Atts. 192, 193

<sup>7</sup> Atts. 195, 196

and pointed it in Officer Calixto's direction. Officer Calixto and the other officers immediately yelled, "Gun, watch out for cross-fire," and proceeded to take cover near the building. Officer Calixto then heard someone state "shots fired" and "We need someone in that building," which she believed referred to 4523 W. Washington Blvd. The building at 4523 W. Washington Blvd. was next to the recess of the gangway where Mr. [REDACTED] was taking cover. From the steps leading up to 4523 W. Washington Blvd., an officer would have another angle from which to engage Mr. [REDACTED]. Officer Calixto left her location and moved to the stairs of 4523 W. Washington Blvd. and began firing her weapon at Mr. [REDACTED] as he was firing his gun at the officers in the gangway. Mr. [REDACTED] then moved back into the cover of the gangway, out of Officer Calixto's vision. Officer Calixto moved downstairs to take cover. When she went back upstairs, she observed Mr. [REDACTED] facing her with his gun pointed towards her. She proceeded to fire her weapon twice, and took cover again. At that point, she felt something hit her in her left shoulder. Officer Calixto was three steps down from the landing of the stairs when an additional officer came to the landing and stated, "Offender down, stop shooting." Officer Calixto repeated, "Offender down, stop shooting." She then saw officers placing Mr. [REDACTED] in custody.

#### Officer [REDACTED] Wallace #16827<sup>8</sup>

IPRA interviewed Officer [REDACTED] Wallace, #16827 on January 26, 2017. On the evening of the date of incident, Officer Wallace was working with Officer Sosa and Officer De La Rosa. Officer Wallace was operating an unmarked SUV that was not equipped with an in-car camera. None of the officers were equipped with body-cameras. Officer Wallace and his partners heard a 10-1 call over the radio. Officers Wallace, Sosa, and De La Rosa drove to the location reported, stopping the car north of Madison Street at the mouth of the alleyway. Officer Wallace overheard officers yelling that the subject was running, and he ran north on Kilbourn Avenue to Washington Boulevard, and then turned westbound. Officer Wallace then observed Mr. [REDACTED] who had his weapon out and pointed towards Officer Wallace, heading towards the gangway. Officer Wallace stated that he heard shots fired, and immediately returned fire, discharging his weapon 5 times. When he got to the stairs of 4523 W. Washington Blvd., he could see that Mr. [REDACTED] was down, and Officer Wallace called to other officers to tell them that Mr. [REDACTED] was down. Officer Wallace observed Officer Calixto firing her weapon at the same time Officer Wallace was firing his.

[REDACTED]

IPRA interviewed [REDACTED] on November 30, 2016, at [REDACTED]. Mr. [REDACTED] stated that he was awake in bed when he heard commotion outside around 11:30 p.m. He heard a "loud boom" that sounded like glass was shattering outside of his house. Mr. [REDACTED] then stated that within seconds of the loud boom, he heard an officer yell, "Put the gun down" twice, which was then followed by approximately twenty (20) gunshots. Mr. [REDACTED] stated that he believed that he heard gunshots from two different guns based on the different sounds

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<sup>8</sup> Atts. 200, 201

<sup>9</sup> Atts. 71

of the gunshots being fired, in that one was louder than the other. Mr. [REDACTED] did not witness any of the shooting. Mr. [REDACTED] stated that his car, a 2000 Ford Explorer, was parked behind his house at the time of the incident. He stated that he found that there was blood on the car and the passenger side window had been shattered. Mr. [REDACTED] took photos of the damage to his vehicle the next morning and provided those images to IPRA.

[REDACTED]<sup>0</sup>

IPRA interviewed [REDACTED] the wife of [REDACTED] on November 30, 2016, at their residence at [REDACTED]. Ms. [REDACTED] stated that she was in their home getting ready for bed with her children when she heard a loud “commotion,” with voices arguing, and a male officer’s voice yelling, “Put your gun down, put your gun down,” right before shots were fired. She thought there were two different guns based on her hearing two different sounds, with one set of shots sounding louder than the other. Ms. [REDACTED] did not witness any of the shooting.

[REDACTED]

COPA spoke with [REDACTED] on September 21, 2017. Mr. [REDACTED] said he called 911 after he heard a gunshot while exiting his car near [REDACTED] [REDACTED]. Mr. [REDACTED] stayed in his car and then observed an unidentified black male run north on Kilpatrick Avenue while holding a gun. Mr. [REDACTED] did not observe the black male or anyone else fire a gun. No officer was chasing the black male. Mr. [REDACTED] did not hear any more gunshots after seeing the black male. Mr. [REDACTED] did not observe the police-involved shooting. A detectives’ Supplementary Report indicates that Mr. [REDACTED] tentatively identified Mr. [REDACTED] from a photo array as the person he observed running northbound on Kilpatrick Avenue with the gun.

[REDACTED]

COPA spoke with [REDACTED] on September 21, 2017. Ms. [REDACTED] said she was driving her car east on Madison Street near the viaduct at Kenton Avenue when she saw a male run north across Madison Street toward Washington Boulevard. She did not see if the male who was running was holding a handgun. She said that, at the same approximate time when she saw the man running, her car was struck by a marked police car. Ms. [REDACTED] was not injured in the accident. She did not hear gunshots and did not witness the police-involved shooting.

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<sup>10</sup> Att. 74

<sup>11</sup> Att. 208, 216

<sup>12</sup> Att. 209



**b. Digital Evidence**

**The in-car camera video from Beat 1121R<sup>13</sup>** recorded the shooting incident in which Officer Surma sustained the apparent graze wound to his head. That in-car camera video indicates that at approximately 2326:03 hours on 27 November 2016, as Beat 1121R drives east on Madison Street approaching a viaduct at Kenton Avenue, a person runs from the south side of Madison Street to the north side. Beat 1121R drives east of the viaduct and turns north from Madison Street onto Kenton Avenue, which has the appearance of an alley. A marked squad car, occupied by Officers Surma and Karcz, is parked facing north on the east side of Kenton Avenue, just south of the north alley of Madison Street. As a person (believed to be Mr. [REDACTED]) runs to the front of the parked squad car, that person turns and apparently fires a weapon at the parked squad car as Officer Surma opens his door. Officer Surma falls and then gets up. Other officers arrive on foot. The person who fired runs east in the north alley of Madison Street. Beat 1121R drives north on Kenton Avenue to the north alley of Madison Street, then backs up and drives north on Kenton Avenue to Washington Boulevard. Beat 1121R turns east and drives to Kilbourn Avenue, where it turns southbound and parks near what appears to be a gas station. The rest of the video did not depict the officer-involved shooting.

**Videos from the body cameras<sup>14</sup>** worn by non-shooting **Officers Carrera, Hageline, Morales, Orozco, and Piotrowski** were obtained and reviewed by IPRA. The videos depict the responding officers running towards the scene as multiple gunshots are heard. The videos show the recessed area in the moments just after the gunfire ceased, as police officers can be seen entering the recessed area and yelling, "He's down, he's down."

**Video recorded by the CPD Forensic Services Division<sup>15</sup>** depicts the conditions at the scene near the time of the incident. The video was taken shortly after 2:00 a.m. on the morning of November 28, 2016. It was raining at the time that the video was taken, and standing water and puddles can be seen on the streets. The video shows a street or alleyway that appears to be North Kenton Avenue. It is well-lit by street lights.

**POD video<sup>16</sup>** depicted officers responding to the vicinity of 4655 W. Adams St. and 4529 W. Washington Blvd., but the video did not depict the officer-involved shooting.

**The Office of Emergency Management and Communications (OEMC) Event Queries<sup>17</sup>** and police radio transmissions were collected and made part of this case file. The following is a summary of the relevant audio recordings. Police Radio transmissions document that on November 27, 2016, at 11:28 p.m., Beat 1113 reported shots fired at police. The officer then reported that the offender is "... in north alley ... east of viaduct." From 11:34 p.m. to 11:35

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<sup>13</sup> Att. 230

<sup>14</sup> Att. 164

<sup>15</sup> Att. 157

<sup>16</sup> Atts. 115, 116

<sup>17</sup> Atts. 43, 114

p.m., multiple officers from Beat 1113 reported shots fired. At 11:35 p.m. Beat 1113 reported that, "He's down," and, "Trying to get him in custody now."

**c. Physical Evidence (Forensic Evidence, including Medical and Autopsy Information)**

The **Crime Scene Processing Report #321555**<sup>18</sup> indicated that one "USA" 9mm Luger fired cartridge casing was recovered in the gravel at 23 N. Kenton Ave. A "USA" 9mm cartridge was recovered from a puddle at 29 N. Kenton Ave. Other fired evidence was recovered at the shooting scene in the gangway and vicinity of 4529 W. Washington Blvd. The weapon believed to have been fired by Mr. [REDACTED] a Hi-Point 9mm semi-automatic pistol, was recovered from the ground in the gangway. The Hi-Point pistol's firing chamber was empty, and its magazine was not fully seated into the grip/receiver. The magazine contained four cartridges. The weapon had been stolen.

**Illinois State Police (ISP) Forensic Science Laboratory Reports**<sup>19</sup> dated February 15, 2017, February 22, 2017, and March 28, 2017, document that the Hi-Point pistol was operable and was test fired. No latent impressions suitable for comparison were found on the weapon, its magazine or the four cartridges that were in the magazine. ISP ran tests of the Gunshot Residue Collection Kit administered to Mr. [REDACTED] and the results indicated that Mr. [REDACTED] "may have discharged a firearm, may have been in the environment of a discharged firearm, may have contacted a PGSR related item with the left hand, or may have received the particles from an environmental source." The 9mm casing (labeled "Armscor" by ISP) recovered from the gravel at 23 N. Kenton Ave. was found to have been fired from the Hi-Point pistol. Analysis of some of the other fired evidence from the gangway at 4529 W. Washington Blvd. was deferred. No other fired evidence that was analyzed was found to have been fired from the Hi-Point pistol. Two fired bullets recovered at the Stroger Hospital morgue had .45-caliber characteristics, but they could not be identified or eliminated as having been fired from the .45-cal. pistol fired by Officer Najm, which had the same characteristics displayed by the two bullets. The two bullets had not been fired from the .45-cal. pistol of Officer Wallace.

A **CPD Ballistic Information Alert**<sup>20</sup> indicated that fired evidence collected from three crime scenes was possibly related to the Hi-Point pistol. Two of the crime scenes were those at 4655 W. Adams St. and 4529 W. Washington Blvd. The third crime scene was 246 S. Kilpatrick Ave., where a person was shot on 23 November 2016.

**Evidence Technician Photographs**<sup>21</sup> depict the scene and recovered evidence. Photographs of the scene show the building at 4529 W. Washington Blvd. and the recessed area leading to a basement or side entrance on the left (east) side of the building. The entrance can be accessed from both the front and back yards of the house. There are four (4) stairs going down into the recessed area of the building. There appears to be an operational outdoor light mounted to the building overhead in the recessed area. Shell casings were found in the recessed area, as well as a

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<sup>18</sup>Att. 32

<sup>19</sup>Atts. 166-168

<sup>20</sup>Att. 229

<sup>21</sup>Att. 158

handgun. The photographs also depict the front of 4523 W. Washington Blvd. and the steps leading up to the door.

**IPRA obtained photographs from [REDACTED]** of the damage to his car that occurred during the incident. Mr. [REDACTED] took the photos with his mobile phone on November 28, 2016, around 7:00 a.m. The photographs show broken glass on the seat and floor of the passenger side of the vehicle and in the cup holders at the front of the center console. Blood is also visible in multiple locations in the interior of the vehicle, including on the driver's seat and the driver and passenger side of the center console.

**The information included in Crime Scene Processing Report #321555 and the ISP reports<sup>23</sup>** regarding fired evidence was consistent with the statements from Officers Wallace, Najm, Surma and Calixto as to where they were positioned when they fired. No fired evidence was analyzed as coming from Officer Furllet's weapon.

**A Chicago Fire Department Ambulance Report<sup>24</sup>** documents that an ambulance was dispatched at approximately 11:36 p.m. on November 27, 2016, and arrived on scene at approximately 11:39 p.m. The paramedics had some difficulty in locating the patient at the scene. It took approximately ten (10) minutes for the paramedics to locate Mr. [REDACTED]. When the paramedics arrived, information about Mr. [REDACTED] condition was communicated to paramedics by CFD personnel who arrived with CFD Engine 113, who had attempted to resuscitate Mr. [REDACTED] while waiting for the ambulance to arrive. Mr. [REDACTED] was noted to have five (5) penetrating wounds to the abdomen. Mr. [REDACTED] was unresponsive when the paramedics arrived and had no detectable pulse. The paramedics initiated CPR and medical aid and monitored Mr. [REDACTED] condition while en route to Stroger Hospital.

**IPRA observed the post-mortem examination<sup>25</sup>** of Mr. [REDACTED] body on **November 29, 2016**. Two of the gunshot wounds to Mr. [REDACTED] were through-and-through, meaning that they entered and exited the body. One through-and-through wound consisted of a wound of entrance to the upper left chest that exited the upper left back near the shoulder blade. The second consisted of a wound of entrance to the right side of Mr. [REDACTED] abdomen above his waist that exited at the lower left back. There was also a horizontal graze wound to the left side of the neck. Abrasions on Mr. [REDACTED] inner right forearm and forehead were also noted. The Medical Examiner stated that the cause of death was multiple gunshot wounds and the manner was homicide.

**IPRA also obtained the Cook County Medical Examiner's Post-Mortem Report.<sup>26</sup>** Two through-and-through gunshot wounds were noted. One of the gunshots entered Mr. [REDACTED] body through his left upper arm and exited through the back of his body. The other gunshot entered Mr. [REDACTED] body through the right side of his abdomen and exited through the left side of his back. The Medical Examiner concluded that based on the examination of the skin around the entrance wounds, there was no evidence of close-range firing. A gunshot graze wound was also noted on the left side of Mr. [REDACTED] neck, as well as abrasions, bruises, and wounds on his face, arms, legs,

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<sup>22</sup>Atts. 71, 76-79

<sup>23</sup> Atts. 32, 166-168, 186, 187, 192, 193, 195, 196, 200, 201

<sup>24</sup> Att. 89

<sup>25</sup> Att. 7

<sup>26</sup> Att. 165

and back. The Medical Examiner concluded that the cause of death was multiple gunshot wounds involving the left arm, abdomen, and neck that caused bleeding in Mr. ██████ abdomen.

#### d. Documentary Evidence

**Tactical Response Reports (TRR)**<sup>27</sup> completed by **Officers Calixto, Furlet, Najm and Wallace** document that Mr. ██████ did not follow verbal direction, presented an imminent threat of battery, and attacked with a weapon likely to cause death or great bodily harm. Officer Calixto responded by discharging her firearm five times. Officer Furlet fired once. Officer Najm fired fourteen times, and Officer Wallace fired five times.

A **TRR** completed by **Officer Surma**<sup>28</sup> documents that Mr. ██████ did not follow verbal direction, presented an imminent threat of battery and attacked with a weapon likely to cause death or great bodily harm. Officer Surma fired at least once.

A **TRR** completed by **Officer Karcz**<sup>29</sup> documents that Mr. ██████ did not follow verbal direction, presented an imminent threat of battery and attacked with a weapon likely to cause death or great bodily harm. Officer Karcz responded with member presence.

The **Officer's Battery Reports (OBR)**<sup>30</sup> completed by Officer Calixto, Furlet, Najm, Wallace, Surma and Karcz document that Mr. ██████ pointed a firearm at them and shot at them.

A **detectives' Supplementary Report**<sup>31</sup> regarding Mr. ██████ shooting ██████ indicates that Ms. ██████ was eight months pregnant by Mr. ██████ at the time of the incident. At approximately 2230 hours on 27 November 2016, Mr. ██████ left their apartment at ██████ t. and when he returned, he acted paranoid and "became increasingly hostile." Ms. ██████ confronted Mr. ██████ about his drug usage. Mr. ██████ exited the apartment and returned approximately 30 seconds later armed with a black handgun, which he pointed in her face. Mr. ██████ put his hands around Mr. ██████ neck and started choking her. Mr. ██████ and Ms. ██████ struggled over control of the gun. Mr. ██████ maintained control of the gun and fired once, striking Ms. ██████ in the stomach. As Ms. ██████ fled out the rear door, Mr. ██████ fired again, striking her in the neck. Ms. ██████ fled upstairs and pounded on the rear door of a second-floor apartment, and the tenants there eventually opened the door and allowed her to enter. One tenant had called 911, and when officers arrived, Ms. ██████ provided them with Mr. ██████ name, his description and an account of what had occurred. Ms. ██████ was transported to Mount Sinai Hospital, where an emergency C-section was performed. The male baby, ██████ had sustained a graze wound to his back and was transferred to the neonatal intensive care unit. Both patients were in critical condition.

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<sup>27</sup> Atts. 19-22

<sup>28</sup> Att. 23. Officer Surma's TRR indicates that his superior officer, Sergeant Utz, completed Officer Surma's TRR because Officer Surma was transported to the hospital after the incident. Sgt. Utz reported that because of Officer Surma's hospitalization, Sgt. Utz was unable, on the TRR, to describe how many shots were fired by Officer Surma or whether he used sights when firing. In Officer Surma's IPRA statement, he said he fired multiple times.

<sup>29</sup> Att. 24. Officer Karcz' TRR indicates that her superior officer, Sergeant Utz, completed Officer Karcz' TRR because Officer Karcz was transported to the hospital after the incident.

<sup>30</sup> Atts. 25-30

<sup>31</sup> Att. 216

**Data from the Firearms Trace Summary**<sup>32</sup> from the Bureau of Alcohol, Tobacco, Firearms and Explosives indicated that Mr. [REDACTED] weapon was purchased in 2011 by a man from East Peoria, IL. A detectives' Supplementary Report indicated that the gun was stolen from East Peoria.

**A detectives' Supplementary Report**<sup>33</sup> indicated that Officers Nestor Estrada and Kevin O'Brien, who worked Beat 1121R, told detectives they were in their squad car and proceeding east on Madison when they observed Mr. [REDACTED] run north across Madison Street at Kenton Avenue. Officer Estrada drove the squad car north onto Kenton Avenue, and he and Officer O'Brien saw Mr. [REDACTED] fire his weapon in the direction of Officer Surma and his squad car. Officers Estrada and O'Brien checked on Officer Surma and then drove to Kilbourn Avenue and the north alley of Madison Street to set up a perimeter. After hearing that Mr. [REDACTED] had been located, they exited their squad car and heard gunshots.

The Supplementary Report also indicated that several other officers who responded to the scene heard gunshots, but did not observe Mr. [REDACTED]. Officers from Beat 1122 related to detectives that they were responding to the "10-1" report when they were involved in an auto accident at Kenton Avenue and Madison Street. Sgt. Peter Chambers told detectives that, following the shooting incident on Washington Boulevard, he observed Officer Najm handcuffing Mr. [REDACTED]. Sgt. Chambers said he thought Officer Najm had been shot because he was covered in blood. Sgt. Chambers pulled Officer Najm to the street. Officer Jesus De La Rosa, who was a partner of involved Officer Wallace, told detectives that he observed Officer Najm emerge from the gangway with blood on his hands, and he stayed with Officer Najm until other units arrived.

#### **e. Additional Evidence**

**IPRA canvassed**<sup>34</sup> the 4500 block of West Washington Boulevard on November 28, 2016, in an attempt to locate witnesses regarding the incident. IPRA was not able to identify any eyewitnesses during the canvass.

## **VI. ANALYSIS**

### CPD Policy, Illinois State Statute, & Constitutional Standards

A Chicago Police Officer is permitted to use deadly force based on: Chicago Police Department's Policy regarding the use of deadly force, Illinois State Statute, and applicable standards within the United States Constitution.

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<sup>32</sup> Atts. 223, 234

<sup>33</sup> Att. 234, 235 (Report is in two parts)

<sup>34</sup> Att. 8

CPD's Policy regarding the use of deadly force as identified in General Order 03-02-03, which was in effect on November 27, 2016, 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.

The legal standard in Illinois regarding the use of deadly force is identified in Illinois State Statute 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 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. 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...

Lastly, 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 Surma’s Use of Deadly Force**

There is a preponderance of evidence showing that Officer Surma reasonably believed that deadly force was necessary to prevent Mr. [REDACTED] from causing death or bodily harm to Officer Surma or others. Officer Surma observed Mr. [REDACTED] approach his vehicle and fire shots at himself and his partner, Officer Karcz, one of which grazed Officer Surma’s head. After this initial encounter, Mr. [REDACTED] continued to shoot at Officer Surma and other officers while in the gangway of 4529 W. Washington. It is uncontroverted that Mr. [REDACTED] did not comply with Officer Surma’s orders, was armed with a deadly weapon, pointed his gun, and shot at Officer Surma. Accordingly, Officer Surma’s use of force was reasonable, and therefore, Within Department Policy.

### **Officers Najm’s, Calixto’s, Furllet’s, and Wallace’s Use of Deadly Force**

There is a preponderance of evidence showing that Officers Najm, Calixto, Furllet, and Wallace (the “Involved Officers”) reasonably believed that deadly force was necessary to prevent Mr. [REDACTED] from causing death or bodily harm to the Involved Officers or others. First, the Involved Officers were aware that Mr. [REDACTED] was in possession of a firearm and had previously fired his firearm at other officers who were in pursuit of Mr. [REDACTED]. Second, it is uncontroverted that Mr. [REDACTED] was armed and pointed his firearm at the Involved Officers. Accordingly, the Involved Officers’ use of force was reasonable, and therefore, Within Department Policy.

1. The Involved Officers were reasonable in their belief that Mr. [REDACTED] was a threat because Mr. [REDACTED] had previously shot at officers who were pursuing him, he was armed, and he pointed his firearm and possibly shot at the Involved Officers.

Based on officer witness statements, Mr. [REDACTED] had fired multiple times at multiple officers over the course of the night of incident. The Involved Officers were responding to reports over the police radio that an individual was shooting at officers. The Involved Officers were aware that the offender they were searching for was armed and dangerous.

In the moments leading up to the officer-involved shooting, Mr. [REDACTED] had already fired a handgun at Officers Surma and Karcz. As Mr. [REDACTED] retreated to the gangway near 4529 W. Washington Blvd, he pointed his handgun at the Involved Officers multiple times, and possibly fired his gun at those Involved Officers.

In the course of the exchange of gunfire between the officers and Mr. [REDACTED] Officer Najm fired fourteen shots at Mr. [REDACTED] Officers Calixto and Wallace each fired five shots; and Officer Furllet fired one shot. From the evidence obtained and analyzed in this investigation, IPRA did not find evidence that contradicted the Involved Officers' account of what took place between Mr. [REDACTED] and the Involved Officers in the moments leading up to and including the shooting.

The fact that Mr. [REDACTED] pointed a gun and fired shots at one or more of the Involved Officers demonstrates that the Involved Officers were reasonable in their belief that Mr. [REDACTED] presented an imminent threat to the Involved Officers and other officers on the scene. Although ISP analysis of the fired evidence did not confirm that Mr. [REDACTED] fired at the officers while in the gangway, the involved officers were consistent in stating that he pointed his weapon at them.

**VII. CONCLUSION**

Because Officers Surma, Najm, Calixto, Furllet, and Wallace reasonably believed that Mr. [REDACTED] presented an imminent threat to themselves and other officers, Officers Surma, Najm, Calixto, Furllet, and Wallace were justified to use deadly force against Mr. [REDACTED] The evidence clearly shows that an officer with similar training and experience would reasonably believe that Mr. [REDACTED] posed an immediate threat of death or serious bodily harm to the Officers and the public. Accordingly, Officers Surma's, Najm's, Calixto's, Furllet's, and Wallace'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. Officers Surma, Najm, Calixto, Furllet, and Wallace's use of force also complied with the Fourth Amendment.

Approved:

[REDACTED]

Joshua Hunt  
Deputy Chief Administrator – Chief Investigator

5 APRIL 2018  
Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	8
<b>Investigator:</b>	James Lukas, #38
<b>Supervising Investigator:</b>	Robert Coleman ■■■
<b>Deputy Chief Administrator:</b>	Joshua Hunt