

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

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| Date of Incident: | January 15, 2018 |
| Time of Incident: | 2:59 pm |
| Location of Incident: | ██████████ Chicago, IL 60619 |
| Date of COPA Notification: | January 15, 2018 |
| Time of COPA Notification: | 6:21 pm |

On January 15, 2018, at approximately 2:59 pm, Beat 661C, Officers Keith Crot, Samuel Flores, and Danielle Deering were dispatched to ██████████ for a possible home invasion, in which ██████████ reported that men had pushed their way into her home and were holding her husband at gunpoint. On arrival, Officer Crot heard a male voice inside say, “please don’t, stop, stop.” He entered the home and encountered a man (now known as ██████████) pointing a firearm at ██████████. Officer Crot chased ██████████ into the basement. As ██████████ ascended stairs to an outside back door, he turned and pointed his firearm. Officer Crot discharged his firearm one time and did not strike ██████████. ██████████ threw his firearm onto the neighboring garage but was apprehended.

Officer Flores followed Officer Crot into the residence and observed someone to his left (now known as ██████████) wearing a ski mask, holding a black semi-automatic pistol in his right hand and a bag in his left. ██████████ had the gun raised, pointing at Officer Flores. As ██████████ neared the front door, Officer Flores discharged his firearm once at ██████████. ██████████ returned fire and stumbled out the door. Officer Flores was not struck by a bullet. Officer Deering was on the porch during the exchange of gunfire between ██████████ and Officer Flores. ██████████ stumbled out the front door, down the steps, and onto the lawn. He pointed his firearm in Officer Deering’s direction. Officer Deering discharged her firearm once in his direction. ██████████ threw the firearm under a parked van and crawled away, where he was apprehended shortly thereafter.

II. INVOLVED PARTIES

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|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Involved Officer #1: | Crot, Keith #11624, Employee ID# ██████████ Date of Appointment July 2, 2012, Police Officer (PO), Unit 006, Date of Birth (DOB) ██████████, 1983, male, White |
| Involved Officer #2: | Flores, Samuel #17305, Employee ID# ██████████ Date of Appointment November 23, 2013, PO, Unit 006, DOB ██████████, 1988, male, Hispanic |

| | |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Involved Officer #3: | Deering, Danielle #13716, Employee ID# [REDACTED] Date of Appointment November 30, 2012, PO, Unit 006, DOB [REDACTED], 1986, female, White |
| Involved Individual #1: | [REDACTED] DOB [REDACTED], 1990, male, Black |
| Involved Individual #2 | [REDACTED] DOB [REDACTED], 1987, male, Black |

III. ALLEGATIONS

Any discharge of an officer’s firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. However, COPA determined evidence did not exist which would require allegations of excessive force against Officers Crot, Flores, or Deering.¹

IV. APPLICABLE RULES AND LAWS

General Orders

1. General Order G03-02: Use of Force (effective October 16, 2017-February 28, 2020)
2. General Order G03-02-03: Firearms Discharge Incidents Involving Sworn Members (effective October 16, 2017-February 28, 2020)

Federal Laws

1. U.S. Constitution: Fourth Amendment

State Laws

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

V. INVESTIGATION

a. Interviews

On February 14, 2018, **Officer Samuel Flores, #17305**, was interviewed at COPA.² Officer Flores said that on January 15, 2018, he was on duty, wearing civilian dress, working Beat 661C, in an unmarked beige Ford Explorer, with his two partners, Officer Crot and Officer Deering. While on patrol, they heard an OEMC transmission of a man with a gun close to their location. As they drove towards the location in response to the call, OEMC broadcast additional information that the victim was hiding in the garage, and there was a person in the house with a gun. Upon their arrival, Officer Flores parked the squad car in front of [REDACTED]. Officers Crot and Deering went to the south side of the residence and attempted entry into the yard,

¹ Related Log #1088136 was initiated to address the allegation that the Involved Officers failed to activate their body-worn cameras as required by Special Order S03-14.

² Atts. 37, 42

while he went to the north side of the building into the gangway to contact the victim in the garage. Officer Crot said someone in the residence yelled, and Officer Crot made entry into the residence.

As Officer Crot entered the residence, Officer Flores heard Officer Crot yell, “stop.” Officer Flores ascended the front stairs and entered the residence behind Officer Crot. When he entered the residence, Officer Flores saw someone exit a doorway to his left. Officer Flores turned and saw a black male dressed in all black, wearing a ski mask (later identified as ██████████) held a gun in his right hand and a bag in his left hand. ██████████ had his right hand on top of his left hand to support the gun and pointed the gun at Officer Flores. Officer Flores pointed his weapon at ██████████ and moved in a circular pattern to his right, while ██████████ moved toward his right. Officer Flores said he moved in this direction to create space and seek cover, because they were approximately two to three feet from each other. He did not believe he was able to take cover at this time.

██████████ continued to circle and back up toward the front door as Officer Flores also circled, moving to his right. Officer Flores believed he told ██████████ to “stop.” As ██████████ approached the door, Officer Flores fired one round at ██████████ from about ten feet. Flores stopped firing because he did not know if Officer Deering would enter the door. He also stopped firing because he believed that ██████████ was not a threat to him anymore. After Officer Flores fired his shot, and almost simultaneous to Officer Flores firing, ██████████ fired a shot. Officer Flores heard ██████████ fire and saw smoke from his weapon. At this point, Officer Flores sought cover behind a small wall near the dining area.

Officer Flores lost sight of ██████████ and then heard an additional gunshot that Officer Flores believed came from the front porch, which was the last place Officer Flores believed Officer Deering was located. Officer Flores went toward the front door and met Officer Deering in the foyer area. Both officers asked the other if they had been shot and both replied they had not. Officer Flores asked about ██████████ and Officer Deering told him she believed he was in the street.

Officer Flores and Officer Deering exited the residence. Officer Flores saw ██████████ legs near a van just south of the residence, and ██████████ appeared to be trying to crawl away. Officer Flores moved around a parked vehicle in front of the residence into the street where ██████████ was crawling. Officer Flores ordered ██████████ to show his hands, and ██████████ complied. When Officer Flores did not see a weapon in ██████████ hands, he approached ██████████ to handcuff him. As Officer Flores handcuffed ██████████ Officer Deering came up behind Officer Flores and assisted in handcuffing ██████████. ██████████ told Officer Flores he was shot in the leg.³ Officer Flores called for an ambulance. A neighbor who was near his vehicle told the officers ██████████ threw the gun under the van. Officer Deering secured the gun until assisting units arrived and guarded the gun. One responding unit took control of ██████████. Officers Flores and Deering went down the street until they were called for interviews.

On February 14, 2018, **Officer Danielle Deering, #13716**, was interviewed at COPA.⁴ Officer Deering said that on January 15, 2018, she was on duty, working Beat 661C with her two partners, Officer Crot and Officer Flores. While on patrol, they heard an OEMC transmission about

³ ██████████ was later revealed to have a broken leg, presumably from falling to the ground. He did not sustain a gunshot wound.

⁴ Atts. 36, 43

a man with a gun in the area where they were patrolling. While en route to the location, additional information was relayed that a female was in the garage, and a subject posing as a delivery man had a gun and was holding her husband in the residence. Officer Flores parked the squad car just north of the residence. Officer Deering exited the squad car, approached the south side of the residence, and went to the wrought iron fence. Officer Deering could see the side door propped open and heard something going on inside the residence. Officer Deering attempted to enter the gate, but it was locked. Officer Crot walked down the fence line and reported that someone in the residence was “screaming for help.”⁵

Officer Crot, followed by Officer Flores, ascended the front stairs and entered the residence. Officer Deering ascended the stairs and stopped at the door. She thought if the subjects exited the residence, there was no one to cover the front of the residence. Officer Deering heard two shots. As Officer Deering reached for the door handle, a subject (later identified as ██████) ran into Officer Deering. Officer Deering saw a gun in ██████ right hand and some kind of bag in his left hand. ██████ jumped off the porch, landed on his back, in the parkway between the sidewalk and the street. Officer Deering drew her weapon and attempted to take cover at the edge of the porch, but she did not believe she could take cover. Officer Deering said she saw ██████ “still facing [her] with the weapon in his hand. He went to point the gun at [her], and when he started pointing the gun at [her], and he upped it, [she] took one shot, and then, tried to get cover.”⁶ She does not believe she gave verbal commands because it happened so quickly. Officer Deering’s partners were in the residence, and she did not know if anything happened to them. After she fired her weapon, Officer Deering entered the residence.

Officer Deering met Officer Flores as she entered the residence, and they checked on each other. Officer Flores asked Officer Deering if she knew where ██████ was. Officer Deering told him ██████ was possibly in the street. Officers Deering and Flores exited the residence and attempted to locate ██████. As they approached the street, they used parked vehicles for cover. Officer Deering heard Officer Flores order ██████ to show his hands. When she saw Officer Flores move toward ██████ she moved toward ██████ and helped Officer Flores handcuff ██████. Officer Deering asked, “Where’s the gun. He had a gun.”⁷ A neighbor (later identified as ██████) told the officers ██████ put the gun under the van. ██████ said he was shot, and Officer Flores called for EMS. The man who had been held in the residence (later identified as ██████) picked up items from the front walkway but complied and returned to the residence when Officer Deering told him to put them down.

On March 28, 2018, **Officer Keith Crot, #11624**, was interviewed at COPA.⁸ Officer Crot said that on January 15, 2018, he was on duty, working Beat 661C with his partners, Officer Flores and Officer Deering. Officer Crot said while they were on patrol, an OEMC dispatch came about a male subject posing as a mail carrier holding a gun to the caller’s (later identified as ██████) husband’s head and entering the residence. Ms. ██████ had escaped to the garage. Officer Crot noted the officers were close to the location of the call. Upon their arrival at ██████, Officer Flores parked the squad car just south of the residence. They did not see any

⁵ Att. 43 pg. 18, line 9

⁶ Att. 43, pg. 22, lines 15-18.

⁷ Att. 43 pg. 33, lines 22-23

⁸ Atts. 54, 61

activity at the residence. While walking around the property to verify the dispatch and see if the female caller was in the garage, Officer Crot heard a male voice yell, in essence, "Please don't, don't, stop, stop, stop, okay, okay, okay."⁹

Officer Crot returned to the front of the residence, ascended the stairs, and rang the doorbell. When he went to grab the doorknob, the door opened. When Officer Crot entered the residence, he saw a male subject with no shirt on (later identified as ██████████) and another male (later identified as ██████████) with a gun in his right hand next to Mr. ██████████. Mr. ██████████ ran toward Officer Crot saying, "help me, help me, they're robbing me, please help me." Because Mr. ██████████ was moving toward Officer Crot, Officer Crot moved Mr. ██████████ out of the way and pursued ██████████ who ran through the dining room to a doorway. Officer Crot told ██████████ "Police, stop. Drop the gun."¹⁰ The doorway led to stairs to the basement. ██████████ descended the stairs, and Officer Crot followed, giving commands to "stop, drop the gun." ██████████ ran through the basement to another doorway. Officer Crot followed. While going through the basement, Officer Crot heard several gunshots and believed ██████████ fired at him. The doorway led to another set of stairs ██████████ ascended. When Officer Crot arrived at the doorway, he looked around the corner and saw ██████████ near the top of the stairs. As Officer Crot rounded the corner, he saw ██████████ look over his right shoulder, raise his right arm, and point the gun at Officer Crot. Officer Crot tried to move out of the way, but hit a wall and felt trapped, so he fired his weapon once "in fear for his life."¹¹

Officer Crot saw ██████████ exit the residence into the backyard. Officer Crot ascended the stairs to follow but stopped to talk to Mr. ██████████ and lost sight of ██████████¹² Once in the yard, Officer Crot saw ██████████ look over his shoulder toward him and run east toward the end of the yard. Officer Crot did not see a gun in ██████████ hand at that time. When ██████████ got to the fence, he tried to climb it, but Officer Crot grabbed him. When Officer Crot grabbed ██████████ the fence collapsed, and they fell into the alley with Officer Crot on top of ██████████. Officer Kinney and Hapaniewski were in the alley and assisted Officer Crot in handcuffing ██████████. Officer Crot searched ██████████ waist area for the gun but did not find it. He told Officers Kinney and Hapaniewski ██████████ shot at him and that they needed to find the gun. Officer Crot went to look for his partners. He found Officers Flores and Deering in the front of the residence.

On March 26, 2018, **Officer Ross Hapaniewski, #17077**, was interviewed at COPA.¹³ Officer Hapaniewski said that on January 15, 2018, he was on duty, working Beat 661A with his partner, Officer Kinney. While on patrol, OEMC broadcasted a report that two men with guns entered a residence, and a female resident barricaded herself in the garage. When they arrived at ██████████ Officer Hapaniewski saw the other officers exit their squad. He told his partner to drive around the back to the garage. When they arrived in the alley behind ██████████ Officer Hapaniewski exited the squad car and approached the fence near the garage. Officer Hapaniewski heard more than two gunshots, which he believed came from the residence. Officer Hapaniewski sought cover at the rear of the squad car while his partner sought cover at the

⁹ Att. 61, pg. 11, lines 13-14

¹⁰ Att. 61, pg. 13, line 23

¹¹ Att 61, pg. 15, lines 6-7.

¹² At the landing, Officer Crot met Mr. ██████████. Officer Crot asked if Mr. ██████████ was shot, and Mr. ██████████ said that he was not. Officer Crot told Mr. ██████████ to stay inside the house while Officer Crot pursued ██████████ into the backyard.

¹³ Att. 52

front of the squad car. Officer Hapaniewski broadcast “shots fired” over the radio. From his position, Officer Hapaniewski could see a black male subject (now known to be ██████ near the rear fence. Officer Hapaniewski saw Officer Crot grab ██████ and the fence fell over. Officer Hapaniewski moved in to assist Officer Crot. Officer Crot yelled something about people shooting. Officer Hapaniewski had heard shots fired and assumed ██████ may be armed. Officer Hapaniewski grabbed ██████ left arm, pulled it from his pocket, and assisted in handcuffing him. After he was handcuffed, Officer Hapaniewski checked him for weapons. Officer Hapaniewski never saw ██████ with a weapon.

On March 26, 2018, **Officer James Kinney, #17082**, was interviewed at COPA.¹⁴ Officer Kinney said that on January 15, 2018, he was on duty, working Beat 661A with his partner, Officer Hapaniewski. They heard an OEMC dispatch of a person locked in the garage and subjects “entered [the residence] armed with weapons.”¹⁵ When Officers Kinney and Hapaniewski arrived at ██████ Officer Kinney parked in the alley because the victim was supposedly hiding in the garage. Another police unit responded to the front of the residence. After they exited the squad car, Officer Kinney heard more than two gunshots. Officer Kinney looked over the gate of the backyard and saw a subject (now known to be ██████) run toward the gate. ██████ ran into the gate. Officer Crot grabbed ██████ and the gate fell into the alley. Officer Kinney and his partner assisted in taking ██████ into custody. Officer Crot told him ██████ had a gun and shot at him. Officer Kinney never saw ██████ with a gun, nor did he see a gun near ██████. Officer Kinney later found out the gun was found on a nearby garage roof.

██████████ was interviewed by detectives at Area South on January 16, 2018, in reference to the home invasion at her residence.¹⁶ Ms. ██████ described what happened as an armed subject posed as someone delivering a package to gain access to her home. After the offender pulled out a gun, Ms. ██████ ran out the back door, locked herself in the garage, and called the police. Ms. ██████ was in the garage for about 10 minutes and heard who she believed to be officers in the alley. Ms. ██████ heard about three gunshots she thought came from the alley and heard a commotion near the back fence. Ms. ██████ told the dispatcher to have the officers come to the window of the garage and show their badges. Once Ms. ██████ felt safe, she exited the garage with the officers and entered her residence.

██████████ was interviewed by detectives at Area South on January 16, 2018, in reference to the home invasion at his residence.¹⁷ Mr. ██████ described what happened when a subject (later identified as ██████) used a package to pretend he was delivery driver. When Mr. ██████ opened the door, ██████ pulled a gun and forced his way in. Then ██████ and another man now known as ██████ forced Mr. ██████ to sit on a couch. ██████ stayed with Mr. ██████ pointing his gun at Mr. ██████ while ██████ looked in other rooms. At various points, both subjects poked Mr. ██████ with their guns.

¹⁴ Att. 53

¹⁵ Att. 53 at 7:07

¹⁶ Att. 58. COPA found this interview to be sufficient and did not obtain a separate interview form Ms. ██████. Ms. ██████ was also interviewed by detectives on January 15, 2018, to try to identify the offenders via photo array, but she was unable to do so. See Att. 57.

¹⁷ Att. 59. COPA found this interview to be sufficient and did not obtain a separate interview form Ms. ██████. In a previous non-recorded interview, Mr. ██████ had identified ██████ from a photo array. He did so again on this recording.

After some time, an officer rang the bell, announced he was the police, and entered. At the time, ██████ had his gun pointed at Mr. ██████ then ran towards the front door, and Mr. ██████ heard two gunshots. He did not see who fired shots. After the shots, ██████ ran toward the rear of the house. Mr. ██████ tripped him, but ██████ got up and continued to run. ██████ ran down a stairway to the basement, and an officer pursued him. ██████ then went toward a second set of stairs that led to the back door and basement. Mr. ██████ followed and went down a different stairwell. As he was going towards the back of the house, Mr. ██████ said he heard another gunshot but did not know who fired. The officer chased ██████ out the back door into the yard. Mr. ██████ looked out the door and saw the officer handcuff ██████ Mr. ██████ saw the fence knocked over.

██████████ was interviewed by detectives at Area South on January 16, 2018.¹⁸ ██████ lived at ██████, which is one house south of the ██████ house. ██████ said that on January 15, 2018, he was cleaning snow off his truck when he saw a man come out of Mr. ██████ house and walk south toward ██████ house. The man then ran back to Mr. ██████ house. About a minute or two later, police officers showed up, looked around, and then went into the ██████ house. Right after the officers went inside, ██████ heard gun shots. He saw two men come out, one of whom fell down the stairs and landed near the street. That man crawled into the street and threw an object under ██████ wife's van. When the police came out, ██████ directed them to the object under the van.

b. Digital Evidence

The **Crime Scene Photographs**¹⁹ document the scene and evidence recovered from the street in front of ██████ the interior and exterior of the residence, and the garage at ██████ Avenue.

CPD recovered the **Vivint system video**²⁰ from the ██████ residence's security system. The Vivint system is a motion activated system that recorded video and audio when the camera detected motion.

One camera was located next to the front door and faced west showing the porch area down to the street. The video begins with a postal worker throwing a package onto the front porch. Next, a black male (later identified as ██████) ascends the stairs, rings the doorbell, and holds the package to the door. As the door opens, there is a short verbal exchange between ██████ and homeowner Mr. ██████ then pulls out a pistol, points it at Mr. ██████ and forces him back into the residence. A second black male (later identified as ██████) ascends the stairs with a pistol in his hand and enters the residence.

Sometime later, the officers arrive on scene. Officer Crot ascends the stairs, enters the residence, and says, "Let me see your hands." Officer Flores ascends the stairs, enters the residence, and more yelling can be heard. Approximately twelve seconds after Officer Crot enters the home, and within five seconds of Officer Flores entering the door, two gunshots can be heard.

¹⁸ Att. 60

¹⁹ Att. 41 is in the case file.

²⁰ In addition to the porch and side camera, a third camera captured the alley and garage. The third camera depicted the arrival of a dark colored police SUV, but no other relevant information.

Officer Deering was ascending the front stairs and was opening the door as the two shots were heard. █████ stumbles out the door, running into Officer Deering as he goes down the stairs, (See Figure 1 below). Officer Deering turns in █████ direction and draws her weapon. █████ who is now on the sidewalk in front of the home, only partially visible to the camera, appears to turn back towards Officer Deering. She fires one shot as she backs up. Officer Deering turns and enters the residence. The audio captures the report of “shots fired” being dispatched over the radio. The remainder of the video captures officer movement but no further relevant conduct.



Figure 1: Screen shot from Vivint video depicting █████ falling to porch next to Officer Deering. Arrow added to show the gun in his hand, which appears to be in slide lock.

The side camera faced east and showed the rear door of the residence to the alley. It included some of the adjacent residence to the south. The video shows █████ exit the residence and run toward the alley. (See Figure 2 below.) He slips in the snow and falls, dropping his pistol. He then picks up the pistol and throws it on the roof of the garage to the south of █████ Avenue. Officer Crot exits the residence and chases █████ Officer Crot catches up to █████ as █████ attempts to climb the fence, causing the fence to collapse into the alley. Officer Crot lands on top of █████ in the alley. Officers in the alley move toward them and take █████ into custody. The remainder of the video shows the homeowner and officers moving in the yard and officers in the adjacent yard.



Figure 2: Screen shot from Vivant video depicting [REDACTED] exiting the rear door of [REDACTED] with a gun in his hand.

Body Worn Cameras²¹ (BWC) were activated after the incident or were activated by responding officers upon their arrival and after the incident.²²

c. Physical Evidence

The **Crime Scene Processing Report** Number (No.) [REDACTED] identified the recovered evidence, including : the involved officers' weapons (Officer Flores' Smith & Wesson MP9 and Officers Crot's and Deering's Glock 19s); the Crvena Zastava CZ99 recovered from the garage roof at [REDACTED] Avenue (presumably [REDACTED] weapon); the Springfield Armory XD 9 recovered from under the van at [REDACTED] Avenue (presumably [REDACTED] weapon); biological swabs taken from [REDACTED] and [REDACTED] black gloves from the street at [REDACTED] Avenue; a watch and inhaler recovered from the walkway to [REDACTED] a magazine with an unknown number of rounds recovered from the yard at [REDACTED] expended shell casing recovered from the basement stairs at [REDACTED] expended shell casing recovered from the street pavement at [REDACTED] expended shell casing recovered from front yard at [REDACTED]; expended shell casing recovered from the living room at [REDACTED] metal fragment recovered from the living room at [REDACTED] and a yellow bag containing Louis Vuitton purse on porch at [REDACTED]

The **Illinois State Police (ISP) Laboratory**, analyzed the evidence related to this case under ISP Case # [REDACTED] # [REDACTED] with varied dates for completed reports. The ISP

²¹ Att. 20

²² COPA notes that [REDACTED] makes a reference in one of the BWCs that an officer punched him. It is possible that this action happened when Officer Crot was on top of him as captured in the security video described above. The action at that point in the video is not clear. Based on that, and the fact that COPA did not receive a complaint from [REDACTED] COPA did not serve any allegation about the statement [REDACTED] made on the video.

²³ Att. 22

report dated January 17, 2018,²⁴ indicates gunshot residue (GSR) screens taken from [REDACTED] and [REDACTED] found no gunshot residue on either subject.

The **ISP Laboratory Report** dated January 18, 2018,²⁵ indicates a latent impression (fingerprint) found on the magazine from the Springfield Armory XD 9 recovered at [REDACTED] Avenue matches the palmprint standard from [REDACTED]

The **ISP Laboratory Report** dated January 29, 2018,²⁶ reported the following: A Remington Peters 9mm fired shell casing (recovered from the street) was fired from the recovered Springfield Armory XD 9. A Winchester 9mm Luger +P fired shell casing (recovered from the basement stairs) was fired from a Glock 19 (Officer Crot's firearm). A Winchester 9mm +P fired shell casing (recovered from the living room) was fired from a Smith and Wesson M&P9 (Officer Flores's firearm), and a Winchester 9mm +P fired shell casing (recovered from the front yard) was fired from a Glock 19 (Officer Deering's firearm).

The **ISP Laboratory Report** dated June 19, 2018,²⁷ indicates that two of the nine²⁸ metal fragments submitted for analysis are consistent with a 38-class caliber²⁹ displaying six land and groove impressions with a right-hand twist. The two identifiable fragments recovered were not fired from any of the officers' firearms and could not be identified as fired or eliminated from the Springfield Armory XD 9 or CZ99.

d. Documentary Evidence

The **Original Case Incident Report** under RD # [REDACTED] lists the crimes committed as home invasion and aggravated assault, with a handgun, to a police officer. The report lists the victims as: Officer Crot, Officer Flores, Officer Deering, [REDACTED] and [REDACTED]. The offenders are [REDACTED] and [REDACTED].

The **Arrest Report** for [REDACTED] [REDACTED] states the charged offenses were home invasion and aggravated assault to a police officer. The narrative states when Officer Crot entered the residence, he saw [REDACTED] armed with a handgun and [REDACTED] telling Officer Crot he was being robbed. [REDACTED] ran toward the rear of the residence into the basement with Officer Crot in pursuit. [REDACTED] ran to an outside door where he pointed the gun at Officer Crot. The officer continued to pursue [REDACTED] into the yard where he, Officer Hapaniewski, and Officer Kinney were able to apprehend [REDACTED].

The **Arrest Report** for [REDACTED] [REDACTED] states the charged offenses were home invasion and aggravated assault to a police officer. The narrative states when the officer arrived and entered the

²⁴ Att. 44

²⁵ Att. 45

²⁶ Att. 46

²⁷ Att. 62

²⁸ The other seven fragments were not suitable for comparison.

²⁹ A .38 caliber bullet's diameter is .357 inches while a 9mm bullet diameter is .355 inches.

³⁰ Att. 5,6

³¹ Att. 7

³² Att. 8

residence, [REDACTED] exited a bedroom holding a handgun. [REDACTED] pointed the gun at Officer Flores. As [REDACTED] fled and exited the residence, he jumped off the porch, fell to the ground, and pointed the gun at Officer Deering. Officer Flores then placed [REDACTED] in custody.

The **Docket Reports from Cook County Criminal Court** indicate that [REDACTED] was indicted on 35 felony counts including Home Invasion with a Firearm, Aggravated Assault of a Police Officer with a Firearm, and Reckless Discharge of a Firearm.³³ [REDACTED] was indicted on 18 felony counts including Home Invasion with a Firearm and Aggravated Assault of a Peace Officer with a Firearm.³⁴ As of November 17, 2020, both cases were still pending.

The **OEMC Event Query**³⁵ identifies the initial call by [REDACTED] through the officers' response, the report of shots fired, the arrest of the subjects, and the processing of the crime scene.

An Alcohol and Drug Screen³⁶ was conducted on Officers Crot, Flores, and Deering. The breathalyzer tests showed no blood alcohol concentration (BAC) for any of the officers. The drug screen was also negative for all three officers.

Officer Flores's **Tactical Response Report (TRR)**³⁷ TRR states [REDACTED] committed an assault against Officer Flores with a semi-automatic pistol. Officer Flores fired one round. [REDACTED] was transported to Christ Medical Center for an injury not related to the gunshot, which did not strike him.

Officer Crot's **TRR**³⁸ states that [REDACTED] committed an assault against Officer Crot with a semi-automatic pistol. Officer Crot fired one round.

Officer Deering's **TRR**³⁹ states [REDACTED] committed an assault against Officer Deering with a semi-automatic pistol. Officer Deering fired one round. [REDACTED] was transported to Christ Medical Center for an injury unrelated to the gunshot, which did not strike him.

The **Detective Supplementary Report**⁴⁰ describes the detectives' arrival at the scene and is materially consistent with other CPD reports and evidence collected by COPA during this investigation.

VI. LEGAL STANDARD

a. Standard of Review

The applicable standard of proof is preponderance of the evidence. A **preponderance of evidence** is evidence indicating that it is more likely than not that the conduct occurred and violated

³³ Att. 68

³⁴ Att. 69

³⁵ Att. 11

³⁶ Atts. 16, 17, 18, 47, 48, 49

³⁷ Att. 29

³⁸ Att. 30

³⁹ Att. 31

⁴⁰ Att. 55

Department policy.⁴¹ 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.

b. Use of Deadly Force

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.⁴² Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat, or resistance presented by the subject; and (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.⁴³ The Department's "highest priority is the sanctity of human life."⁴⁴

Department policy dictates that "[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."⁴⁵ Thus, an officer may only use deadly force in two situations.⁴⁶ First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.⁴⁷ "A threat is imminent when it is objectively reasonable to believe that:

- a. the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm."⁴⁸

Department policy recognizes that Department members must make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight."⁴⁹

⁴¹ 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 been found to be more probably true than not).

⁴² General Order G03-02(III)(B)(1) (effective October 16, 2017, to February 28, 2020).

⁴³ *Id.*; *Graham v. Connor*, 490 U.S. 386, 396 (1989).

⁴⁴ *Id.* at (II)(A).

⁴⁵ *Id.* at (III)(C)(3).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at (III)(C)(2).

⁴⁹ *Id.* at (II)(D).

VII. ANALYSIS

A preponderance of the evidence demonstrates that the three officers' uses of deadly force were objectively reasonable in light of the totality of the circumstances. Their use of deadly force was a last resort and was necessary to prevent the imminent threat of death or great bodily harm presented by [REDACTED] and [REDACTED].

In making the determinations discussed herein, COPA evaluated all available statements and evidence discussed above, to weigh the credibility of all involved parties. As part of this review, COPA found the officers and Mr. [REDACTED] to be credible.⁵⁰ These statements are materially consistent with each other, and are supported by video, firearm, and physical evidence.

In reaching its conclusions, COPA makes the following two findings applicable to all officers. *First*, COPA finds that both [REDACTED] and [REDACTED] were not only armed but were wielding their firearms throughout the entire time the officers were present. Mr. [REDACTED] stated that both men had guns drawn while they were in the home, including that [REDACTED] was pointing his firearm at Mr. [REDACTED]. The fact that they had their firearms drawn is corroborated by the Vivint video which shows both men drawing their firearms as they enter the home, and then each man holding a gun when they leave the home (Figures 1 and 2 above).

Second, COPA finds that at the moment the officers entered the home, they had an objectively reasonable belief that an armed home invasion was in progress.⁵¹ Prior to arrival, they had received OEMC dispatches that a man with a gun had posed as a delivery man and was now inside the home with the caller's husband. Upon arrival, they corroborated that call when they heard yells for help through the open side door. Further, upon entry, Officer Crot saw [REDACTED] with his gun pointed at Mr. [REDACTED] and Officer Flores saw [REDACTED] running with a gun.

Therefore, COPA finds that it was objectively reasonable for the officers to believe, immediately upon entry into the home, that [REDACTED] and [REDACTED] were not only armed with firearms, but that they were in the process of committing a violent felony.

a. Officer Flores Reasonably Believed that [REDACTED] Pointed a Firearm and Posed a Threat of Death or Great Bodily Harm.

Officer Flores stated that he discharged his firearm at [REDACTED] because, as the officer entered the home, [REDACTED] ran towards the front door with a firearm in one hand pointed towards Officer

⁵⁰ COPA additionally finds Ms. [REDACTED] and Mr. [REDACTED] to be credible and their accounts to corroborate the officers' accounts of why the officers responded to the residence and some portions of what occurred once [REDACTED] and [REDACTED] fled the residence. However, they were not eyewitnesses to any of the officers' firearm discharges, and, therefore, have limited weight in evaluating the officers' uses of deadly force.

⁵¹ Under 720 ILCS 5/19-6, Home Invasion is a Class X felony in which someone "knowingly enters the dwelling place of another when he or she knows or has reason to know that one or more persons is present . . . and . . . while armed with a firearm uses force or threatens the imminent use of force upon any person or persons within the dwelling place whether or not injury occurs."

Flores. COPA finds that it was objectively reasonable for Officer Flores to believe that ██████ posed an imminent threat of death or great bodily harm for the following reasons.

First, it was objectively reasonable for Officer Flores to believe that ██████ actions were immediately likely to cause death or great bodily harm to himself or others unless action was taken. ██████ was armed with a firearm that he was pointing at Officer Flores while in the same room of a residence. Moreover, Officer Flores reasonably believed that ██████ had forced his way into the home at gunpoint. It was also reasonable to believe that, since he had been caught in the act of committing a home invasion, ██████ may use deadly force against Mr. ██████ Officer Flores, or the other officers. The crime scene processing report, which shows a bullet strike in the wall near the front door, is consistent with Officer's Flores's statement he fired at ██████ as he neared the front door. The report also indicates a bullet was fired in the opposite direction going through a chair cushion, leaving a fragment on the living room floor, which is consistent with Officer Flores's statement that ██████ fired at him. Bullet fragments found in the living room are consistent with the firearm recovered from the street, which witnesses saw ██████ discard.⁵² While Officer Flores stated that ██████ did not shoot prior to his own firearm discharge, officers are not required to wait until they are fired upon before using deadly force to protect themselves.⁵³

Second, the preponderance of the evidence supports that ██████ had an instrument to cause death or great bodily harm, because he was armed with a firearm. Officer Flores and Officer Deering both saw what appeared to be a firearm in ██████ hand, as did Mr. ██████ This is also corroborated by the Vivant video footage. Additionally, this is corroborated by Mr. ██████ account, in which he saw ██████ discard some object near his vehicle, which is where a firearm was ultimately recovered by the responding officers. The laboratory analysis results demonstrate that ██████ fingerprint was found on the magazine to this firearm, illustrating yet another link between the recovered firearm and ██████ himself.

Third, it was objectively reasonable for Officer Flores to believe that ██████ had the opportunity and ability to cause death or great bodily harm. Officer Flores was aware that he and ██████ were confined to the same room inside the residence, with Mr. ██████ in an adjacent room, thereby raising the risk to all three people. ██████ ultimately demonstrated that he had the opportunity and ability to fire his weapon when he did so, prior to escaping through the door. Moreover, ██████ was moving towards the front door as Officer Deering was approaching from the outside, thus creating a risk that he would shoot her.

In addition to these factors, Officer Flores reasonably believed that using deadly force was a last resort. He stated that he was attempting to avoid ██████ by "circling" to the right, but that ██████ continued pointing his firearm. Officer Flores further stated that he attempted to find cover but was unable to do so.

⁵² The fired shell casing from the Springfield XD 9 was recovered from the street between 9035 and ██████ Avenue. The video of ██████ exiting the residence showed the pistol in ██████ hand appears to be in slide lock, which rendered the weapon inoperable until the malfunction was addressed. Officer Flores stated ██████ fired at him inside the house. There was no shell casing from the XD 9 recovered inside the house. It is believed the shell casing was dislodged when ██████ threw the XD 9 under the van.

⁵³ See, *Thompson v. Hubbard*, 257 F.3d 896 (8th Cir. 2001) (holding that there is no requirement that an officer wait until a shot is fired in his or her direction before employing deadly force to protect himself or herself).

Moreover, it was objectively reasonable for Officer Flores to believe that deadly force was necessary to prevent [REDACTED] from escaping and that [REDACTED] posed an imminent threat of death or great bodily harm unless arrested without delay. At the time Officer Flores fired his weapon, an objectively reasonable officer would have believed that an armed [REDACTED] was attempting to escape. Officer Flores believed that Officer Deering was near the front door. It was objectively reasonable to believe that [REDACTED] would pose a threat to Officer Deering or any other officers who may have been responding to the scene. Additionally, because it was the middle of the day on a residential street, it was objectively reasonable to believe [REDACTED] would pose an imminent threat of death or great bodily harm to civilians as he attempted to escape.

The preponderance of the evidence establishes that it was objectively reasonable for Officer Flores to find that [REDACTED] posed an imminent threat of death or great bodily harm, or alternatively, to believe [REDACTED] may escape, and posed an imminent threat of death or great bodily harm if not arrested, and that his use of deadly force was a necessary last resort. Therefore, COPA finds Officer Flores' use of deadly force to be within policy.

b. Officer Deering Reasonably Believed that [REDACTED] Pointed a Firearm and Posed a Threat of Death or Great Bodily Harm.

Officer Deering stated that she discharged her firearm at [REDACTED] because, after hearing two gunshots from inside the home, he pushed his way past her while carrying a firearm. He then fell into the yard and pointed the firearm at her while she stood on the steps, leaving her no option but to shoot to protect herself. COPA finds that it was objectively reasonable for Officer Deering to believe that [REDACTED] posed an imminent threat of death or great bodily harm for the following reasons.

First, it was objectively reasonable for Officer Deering to believe that [REDACTED] actions were immediately likely to cause death or great bodily harm to herself or others unless action was taken. [REDACTED] was armed with a firearm that he was pointing at Officer Deering in close proximity to shoot her. Moreover, Officer Deering had caught [REDACTED] in commission of a forcible felony, thus it was reasonable to believe that he would use deadly force against her to further his escape. While [REDACTED] did not shoot at Officer Deering, officers are not required to wait until they are fired upon before using deadly force to protect themselves.⁵⁴

Second, [REDACTED] had the instrument to cause death or great bodily harm because he was armed with a firearm. Officer Deering said she was able to confirm he was armed when she got a clear view of the firearm as he stumbled out of the house. The Vivant video confirms that [REDACTED] still had the firearm in his hand as he stumbled out of the front door.⁵⁵ Moreover, her statement is additionally corroborated by [REDACTED] account, the recovered evidence, and the laboratory results.

⁵⁴ See, *Thompson v. Hubbard*, 257 F.3d 896 (8th Cir. 2001) (holding that there is no requirement that an officer wait until a shot is fired in his or her direction before employing deadly force to protect himself or herself).

⁵⁵ The video corroborates that [REDACTED] gun was plainly visible. Additionally, Officer Deering explained in her interview that she observed [REDACTED] holding the gun in his right hand while he was on the front porch

Third, it was objectively reasonable for Officer Deering to believe that ██████ had the opportunity and ability to cause death or great bodily harm. Not only did ██████ possess a firearm, but he was close enough to Officer Deering to shoot her.

In addition to these factors, Officer Deering reasonably believed that using deadly force was a last resort. She stated that she attempted to take cover behind the edge of the front porch but was unable to do so. The Vivant video confirms that she could not move further to her left to avoid being in ██████ line of fire, and that, if she moved to the right, she would be exposed further. While she did take steps backwards towards the house as she was firing, it was reasonable for her to believe she could not safely retreat into the home before ██████ had the opportunity to shoot at her.

Moreover, it was objectively reasonable for Officer Deering to believe that deadly force was necessary to prevent ██████ from escape and that ██████ posed an imminent threat of death or great bodily harm unless arrested without delay. At the time Officer Deering fired her weapon, an objectively reasonable officer would have believed that an armed ██████ was attempting to escape. It was objectively reasonable to believe that ██████ would pose a threat to any other officers who may have been responding to the scene. Additionally, because it was the middle of the day on a residential street, it was objectively reasonable to believe ██████ would pose an imminent threat of death or great bodily harm to civilians as he attempted to escape.

The preponderance of the evidence establishes that it was objectively reasonable for Officer Deering to find that ██████ posed an imminent threat of death or great bodily harm, or alternatively, to believe ██████ may escape, and posed an imminent threat of death or great bodily harm if not arrested, and that her use of deadly force was a necessary last resort. Therefore, COPA finds Officer Deering's use of deadly force to be within policy.

c. Officer Crot Reasonably Believed that ██████ Pointed a Firearm and Posed a Threat of Death or Great Bodily Harm.

Officer Crot stated that he entered the home and saw ██████ with his firearm pointed at Mr. ██████. He then pursued ██████ through the house and down one set of stairs into the basement. When ██████ was at the top of another set of stairs leading out of the basement and Officer Crot was at the bottom, Officer Crot saw ██████ raise the pistol in Officer Crot's direction, placing Officer Crot in fear of death or great bodily harm.⁵⁶ COPA finds that it was objectively reasonable for Officer Crot to believe that ██████ posed an imminent threat of death or great bodily harm for the following reasons.

First, it was objectively reasonable for Officer Crot to believe that ██████ actions were immediately likely to cause death or great bodily harm unless action was taken. ██████ was armed with a firearm that he was pointing at Officer Deering in close proximity to shoot him. Moreover, Officer Crot was aware that ██████ had forced his way into the home at gunpoint. When Officer

⁵⁶ Officer Crot further explained that, while pursuing ██████ through the basement, he heard several gunshots and believed ██████ was firing at him. Officer Crot did not articulate why he believed these shots came from ██████ nor did he indicate that he had lost sight of ██████. Therefore, COPA does not credit Officer Crot hearing these gunshots, in these circumstances, as an objectively reasonable basis for believing that ██████ fired shots. COPA relies upon other factors in its analysis.

Crot encountered him, he was pointing his firearm at Mr. ██████ in order to carry out the home invasion. ██████ fled and ignored Officer Crot's orders to stop. The totality of these factors made it reasonable for Officer Crot to believe that ██████ would shoot him in order to make good his escape as he reached the top of the back stairs. While ██████ did not shoot at Officer Crot, officers are not required to wait until they are fired upon before using deadly force to protect themselves.⁵⁷

Second, it is clear that ██████ had an instrument to cause death or great bodily harm, because he was armed with a firearm. Officer Crot's belief that he was armed was corroborated by Mr. ██████ as well as video of ██████ running out the back door with the gun in his hand. (Figure 2). Video shows him throwing an object (which appears to be a gun) onto the neighboring garage roof, where a firearm was subsequently recovered.

Third, it was objectively reasonable for Officer Crot to believe that ██████ had the opportunity and ability to cause death or great bodily harm. When Crot discharged his firearm, he and ██████ had only an unobstructed stairway between them. ██████ was raising his gun up as if to point it at Officer Crot, and Crot did not see a way to take cover.

In addition to these factors, Officer Crot reasonably believed that using deadly force was a last resort. He stated that ██████ pointed the firearm after Officer Crot had rounded the corner into the stairwell. Officer Crot tried to move right to take cover, but his movement could not provide adequate cover. His explanation is not contradicted by any evidence, and COPA finds it to be credible.

Moreover, it was objectively reasonable for Officer Crot to believe that deadly force was necessary to prevent ██████ from escape and that ██████ posed an imminent threat of death or great bodily harm unless arrested without delay. At the time Officer Crot fired his weapon, an armed ██████ was ascending a staircase to the exterior back door. Officer Crot was aware from OEMC that Mrs. ██████ was hiding in the garage, and it was reasonable for him to believe that ██████ may pose a threat to her as he fled toward that direction. Additionally, because it was the middle of the day on a residential street, it was objectively reasonable to believe ██████ would pose an imminent threat of death or great bodily harm to civilians as he attempted to escape.

The preponderance of the evidence establishes that it was objectively reasonable for Officer Crot to find that ██████ posed a threat of death or great bodily harm, or, alternatively, to believe ██████ may escape, and posed an imminent threat of death or great bodily harm if not arrested and that his use of deadly force was a necessary last resort. Therefore, COPA finds Officer Crot's use of deadly force to be within policy.

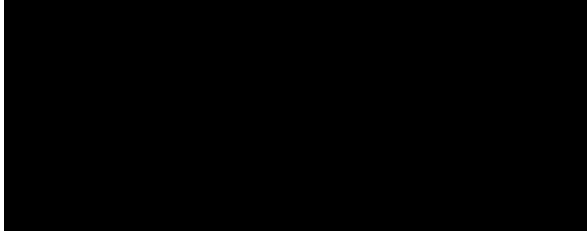
VIII. CONCLUSION

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

⁵⁷ See, *Thompson v. Hubbard*, 257 F.3d 896 (8th Cir. 2001) (holding that there is no requirement that an officer wait until a shot is fired in his or her direction before employing deadly force to protect himself or herself).

COPA has determined by a preponderance of the evidence that the use of force by Officers Crot, Flores, and Deering was objectively reasonable under the Departments General Orders, and is, therefore, within department policy.

Approved:



Andrea Kersten
Chief Administrator

7/26/2022

Date