

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

Date of Incident:	May 25, 2018
Time of Incident:	2:46 p.m.
Location of Incident:	7826 S. Evans Avenue
Date of COPA Notification:	May 25, 2018
Time of COPA Notification:	3:40 p.m.

On May 25, 2018, Officer Anthony Vincent, #15162, Officer Ceaser Astorga, #15757, along with other officers from the Saturation Team and Gang Enforcement Unit, were patrolling the vicinity of 7826 S. Evans Avenue when several gunshots were heard. The officers observed a black SUV (KIA Sorrento) traveling at a high rate of speed out of the east alley of Langley Avenue and pursued the vehicle. The pursuit ended on the north side of 67<sup>th</sup> Street between Ingleside and Ellis Avenue, when the KIA Sorrento crashed. The KIA Sorrento struck at least one parked car and multiple moving vehicles as it continued east on 67<sup>th</sup> Street and came to a rest wedged against another car parked facing eastbound on the north side of 67<sup>th</sup> Street.

During this time, three to five men exited the KIA Sorrento and fled on foot. Two to three of the fleeing men ran westbound on 67<sup>th</sup> Street. One of them, identified as [REDACTED], fled westbound on 67<sup>th</sup> Street, then northbound through the east alley of Ingleside Avenue, directly behind Wadsworth Elementary School. As Officer Vincent pursued [REDACTED] on foot, a witness yelled that [REDACTED] had a gun. [REDACTED] jumped over a fence and turned in Officer Vincent's direction with a gun in his right hand, at which point Officer Vincent discharged his firearm at [REDACTED] twice but did not strike him. [REDACTED] continued to flee from the officers, at which time Officer Vincent saw [REDACTED] throw the gun into the backyard of 6639 S. Ingleside Avenue. Officer Vincent secured the weapon as [REDACTED] continued to flee. [REDACTED] and the other men were located and arrested with no further incident. [REDACTED] did not sustain any reported injuries.

**II. INVOLVED PARTIES**

Involved Officer #1:	Police Officer Anthony Vincent, Star #15162, Emp. # [REDACTED], DOA: October 12, 2012, Unit #189, DOB: [REDACTED], 1980, Male, White.
Involved Individual #1:	[REDACTED] DOB [REDACTED], 1999, Male, Black.

**III. ALLEGATIONS**

<sup>1</sup> [REDACTED] is now deceased due to an unrelated incident, Att. 197.

Officer	Allegation	Finding / Recommendation
Officer Anthony Vincent	<p>It is alleged that on May 25, 2018, at approximately 2:46p.m., at or near 6620 S. Ingleside Ave., you:</p> <p>1. Discharged your firearm at or in the direction of [REDACTED] in violation of Chicago Police Department policy.</p>	Not Sustained

#### IV. APPLICABLE RULES AND LAWS

##### Rules<sup>2</sup>

- 1) Rule 2 - Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- 2) Rule 6 – Disobedience of an order or directive, whether written or oral.

##### General Orders<sup>3</sup>

- 1) General Order G03-02: Use of Force (Eff. Oct. 16, 2017 – Feb. 28, 2020)
- 2) General Order G03-02-01: Force Options (Eff. Oct. 16, 2017 – Feb. 28, 2020)
- 3) General Order G03-02-03: Firearms Discharge Incidents Involving Sworn Members (Eff. Oct. 16, 2017 – Feb. 28, 2020)

##### State Laws

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

<sup>2</sup> Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010) <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>

<sup>3</sup> Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.” Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/#directive> (last accessed Sept. 13, 2022).

## V. INVESTIGATION<sup>4</sup>

### a. Interviews

COPA interviewed **Officer Anthony Vincent**<sup>5</sup> on April 18, 2019. On the date of the incident Officer Vincent was in uniform and assigned to Gang Suppression<sup>6</sup> in the 006<sup>th</sup> District. Officer Vincent and his partner, Officer Cesar Astorga, were driving<sup>7</sup> an unmarked Ford Explorer northbound on 7900 S. Cottage Grove Avenue toward 78<sup>th</sup> Street when he heard gunshots west of their location. They made a left turn on 78<sup>th</sup> Street toward the area where the gunshots were heard. As they proceeded to make the turn, they observed a dark-colored SUV make a quick turn through an alley. Officer Vincent observed a group of men pointing toward the same alley they observed the vehicle turn into. Officers Vincent and Astorga pursued the vehicle through the alley. Officer Vincent and his partner reported the fired shots, the vehicle's description, and the license plate over the radio.

They continued to pursue the vehicle until it was involved in a traffic crash in the vicinity of 6700 S. Ingleside/Ellis. The occupants of the SUV exited the vehicle and fled on foot. Officer Vincent exited his vehicle and pursued the occupants. Two of the occupants ran westbound on 67<sup>th</sup> Street, at which time a female bystander<sup>8</sup> stated, "he's got a gun."<sup>9</sup> The bystander was pointing at [REDACTED] Officer Vincent pursued [REDACTED] on foot, but he initially did not see a weapon. According to Officer Vincent, "[REDACTED] Jumps over the fence, a weapon comes up over his right shoulder, within his right hand..., and at that point I believe he's going to next turn that gun on me."<sup>10</sup> Officer Vincent saw [REDACTED] turn his head towards Officer Vincent, with the gun "pointing almost towards the sky but moving in [Officer Vincent's] direction."<sup>11</sup> Officer Vincent indicated that he had his weapon in his hand and discharged it twice at [REDACTED] However, Officer Vincent did not believe the barrel of the gun was ever pointed in his direction.<sup>12</sup> Officer Vincent believed [REDACTED] was hit, but [REDACTED] continued running. Officer Vincent told [REDACTED] to "drop the fucking gun, drop the fucking gun"<sup>13</sup> as he fled. Officer Vincent stopped firing his weapon once he observed [REDACTED] gun fall to the ground. Officer Vincent advanced toward [REDACTED] but stopped once he observed [REDACTED] weapon on the ground. Officer Vincent gave [REDACTED] direction of flight over the radio and stayed with the gun until additional officers arrived on the scene.

COPA interviewed **Officer Cesar Astorga**<sup>14</sup> on September 5, 2018. Officer Astorga provided a similar account as Officer Vincent. Officer Astorga stated that he and Officer Vincent were patrolling the vicinity of 7800 S. Evans Avenue when they heard gunshots.<sup>15</sup> During that

---

<sup>4</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>5</sup> Att. 179 & 180 – Audio Interview of Officer Vincent; Att. 186 – Transcript of Officer Vincent's Audio Interview.

<sup>6</sup> At the time of the incident, officers assigned to Gang Suppression were not assigned Body Worn Cameras (BWC).

<sup>7</sup> Officer Astorga was driving.

<sup>8</sup> Officer Vincent described the bystander as light-skinned, either black or Hispanic.

<sup>9</sup> Att. 186, Page 15, Lines 17 – 21.

<sup>10</sup> Att. 186, Page 16, Lines 6-9.

<sup>11</sup> Att. 186, Page 43, lines 9-2.

<sup>12</sup> Att. 186, Page 44, lines 12-17.

<sup>13</sup> Att. 186, Page 17, Lines 4-5.

<sup>14</sup> Att. 124 & 125 – Audio Interview of Officer Astorga; Att. 185 – Transcript of Officer Astorga's Audio Interview.

<sup>15</sup> Officer Astorga did not recall how many gunshots he heard.

time, he observed a black KIA SUV driving at a high rate of speed down the west alley of Langley Avenue between 78<sup>th</sup> and 79<sup>th</sup> Street. Officer Astorga drove down 6700 S. Ellis Avenue and observed that the black KIA SUV had crashed. Officer Astorga saw the driver of the vehicle escape the car through the driver's side window. Officer Astorga pursued the driver of the vehicle on foot while Officer Vincent went in a different direction. As Officer Astorga got to the vicinity of 66<sup>th</sup> Street, he heard two rapid gunshots. Officer Astorga stated, "Shortly after I hear my partner over the radio saying shots fired by the police."<sup>16</sup> Officer Astorga stopped his foot pursuit and returned to Officer Vincent to assist him. Officer Astorga was not a witness to the officer-involved shooting.

COPA interviewed **Officer Tasha Flippin<sup>17</sup>** and **Officer Esmeralda Melendez<sup>18</sup>**. The officers related in essence the same information as Officers Vincent and Astorga. The officers observed a group of individuals riding in a black KIA at a high rate of speed and get into a car accident. The occupants exited the KIA and ran. Officer Flippin stated she observed a Black male, wearing a white T-Shirt, with a dreadlock hairstyle, with a handgun and yelled, "Gun, gun, gun."<sup>19</sup> Officer Melendez also indicated that she observed that same individual with a gun. Officers Flippin and Melendez attempted to pursue the subject with the weapon on foot, but they lost sight of him. As they approached 6700 S. Ingleside Avenue, they heard several gunshots. The officers never observed who discharged their weapons. The officers then canvassed the area for the person with the gun, but they never located him.

COPA spoke with [REDACTED] via telephone<sup>20</sup> on November 6, 2018. [REDACTED] stated that he was seated inside his work truck when he heard a commotion that sounded like cars crashing. [REDACTED] observed a man<sup>21</sup> running north down Ingleside Avenue. The man was holding a silver, semi-automatic handgun as he ran. [REDACTED] lost sight of the man after running north of [REDACTED] truck. [REDACTED] then saw two female officers chase the man on foot. [REDACTED] did not observe the man fire or point the weapon while he was within his view.

During that time, [REDACTED] saw a second man running through the schoolyard to his left, on the east side of Ingleside Avenue. [REDACTED] could not describe the second man or see whether he held a weapon. The second man ran out of [REDACTED] view and into the east alley of Ingleside Avenue. A couple of police officers chased the second man. Shortly thereafter, [REDACTED] heard approximately three to four gunshots that sounded like they came from the east alley of Ingleside Avenue. [REDACTED] did not observe who fired their weapon.

COPA spoke with [REDACTED] via telephone<sup>22</sup> on October 19, 2018. [REDACTED] stated that she was driving westbound on 67<sup>th</sup> Street when she observed a KIA SUV driving straight toward her car. The KIA SUV was driving eastbound in the westbound lane of 67<sup>th</sup> Street. [REDACTED] tried to take evasive action by driving into the eastbound lane, but the KIA SUV struck her car and caused extensive damage.

---

<sup>16</sup> Att. 185, Page 9, Lines 17 – 19.

<sup>17</sup> Att. 115 – Audio Interview Officer Flippin; Att. 183 - Transcript of Officer Flippin's Audio Interview.

<sup>18</sup> Att. 114 – Audio Interview Officer Melendez; Att. 184 - Transcript of Officer Melendez's Audio Interview.

<sup>19</sup> Att. 183, Page 10, Line 1.

<sup>20</sup> Att. 170.

<sup>21</sup> [REDACTED] described the man as light-skinned, 170 lbs., 5'8" to 6" in height, and wearing a dark-colored top.

<sup>22</sup> Att. 155.

Once [REDACTED] vehicle stopped, she observed approximately four men exit the KIA SUV. [REDACTED] observed one of the men with a silver-colored gun.<sup>23</sup> [REDACTED] said the man was running from the police, and he fired the gun behind him. [REDACTED] was ducking inside her car, but she saw that about four officers were chasing him. [REDACTED] was not sure who the man fired at. [REDACTED] heard approximately one or two more gunshots fired, but she did not witness who fired their weapon at that time.

### **b. Digital Evidence**

The **Video Footage from Alexander Dumas School (1-Main – W Roof)**<sup>24</sup> depicts [REDACTED] wearing a white T-shirt, at the 2:45:56 mark. [REDACTED] scales a fence and continues to run. Officer Vincent runs to the fence, but then changes directions, and runs around the fence through the alley behind [REDACTED]. At the 2:46:02 mark, [REDACTED] appears to throw an object into a yard located east of the alley.<sup>25</sup> The other videos from Alexander Dumas only show [REDACTED] and Officer Vincent running through the alley.

**Body Worn Camera (BWC)**<sup>26</sup> and **In-Car Camera (ICC)**<sup>27</sup> did not provide any video footage of the officer-involved shooting. Officers Vincent and Astorga were not equipped or assigned BWCs on the date of the incident. ICC from Beat #314<sup>28</sup>, Officers Flippin and Melendez, captures the individuals, including [REDACTED] fleeing from the car after it crashes, and one of the officer's states that the male subject, who exits on the driver side wearing a white T shirt with shoulder length hair, has a gun.<sup>29</sup>

The **OEMC Event Query and Audio**<sup>30</sup> documented several callers reported hearing multiple gunshots in the vicinity of 7825 S. Evans Avenue. A caller also called 911 and reported that there was a shooting on her block on 65<sup>th</sup> and Ingleside Avenue<sup>31</sup> and a male subject was running in her backyard.

### **c. Physical Evidence**

**CPD Crime Scene Processing Report**<sup>32</sup> 368857 documented the evidence identified, collected, and inventoried in connection with this incident. The following is a list of some of the items inventoried:

- Inventory # [REDACTED] – Glock, model 22, .40 caliber, 15 shot semi-automatic pistol, Serial # [REDACTED]. Crime Scene Marker (CSM) 1, Recovered from the street at 950 E. 67<sup>th</sup> Street.

---

<sup>23</sup> [REDACTED] described the man with the gun as 16 to 20 years old, about 5'10", a small build, short hair, and medium-brown complexion – possibly African American or Hispanic.

<sup>24</sup> Att. 34.

<sup>25</sup> Att. 34, Camera labeled Dumas – 5 – Main – W Side (EXT)-C1. At the 2:46:04 mark, [REDACTED] throws an object into a yard on the westside of the alley.

<sup>26</sup> Atts. 92, 98, 129, 131, 132, 137, 138, 139, 140, 141, 142.

<sup>27</sup> Atts. 33, 91, 116, 118, 126, 123, 134, 135, 136.

<sup>28</sup> Officers Flippin and Melendez were working Beat #314, Att. 33 & 123.

<sup>29</sup> Att. 33, timestamped starting at 02:44:04 on the ICC.

<sup>30</sup> Atts. 15, 17-28, 80-87.

<sup>31</sup> Att. 85.

<sup>32</sup> Att. 189.

- Inventory # [REDACTED] – Ruger, model P89, 9mm, semi-automatic handgun, Serial # [REDACTED]. CSM 10, Recovered from rear yard at 6639 S. Ingleside Avenue.<sup>33</sup>
- Inventory # [REDACTED] – SCCY, model CPX-2, 9mm, semi-automatic handgun, Serial # [REDACTED]. CSM 12, Recovered from the roof at 6622 S. Ingleside Avenue.
- Inventory # [REDACTED] – Officer Vincent’s firearm, a Glock, model 19, 9mm, semi-automatic pistol, Serial # [REDACTED]. There was one (1) 9mm Luger cartridge recovered from the chamber and thirteen (13) 9mm Luger cartridges recovered from the gun magazine. Officer Vincent’s firearm had a capacity of sixteen (16).<sup>34</sup>
- Inventory # [REDACTED] – A buccal swab collection kit was administered to [REDACTED].<sup>35</sup>
- Inventory # [REDACTED] – Biological sealed swab kit containing wet/dry swabs recovered from the slide/grip/trigger of the gun reportedly belonging to [REDACTED].

The **Illinois State Police (ISP) Crime Lab Reports**<sup>37</sup> dated August 22, 2018, documented that Officer Vincent’s Glock 19, was test fired, and was deemed operable. Three additional weapons were recovered during the incident, including a SCCY, Ruger, and a Glock. The weapons were all test fired and deemed operable. An ISP Laboratory Report DNA<sup>38</sup> dated July 30, 2020, documented that there were at least three contributors identified from the biological swabs recovered from the slide/grip/trigger of the gun reportedly belonging to [REDACTED]. The buccal swab<sup>40</sup> collected from [REDACTED] was compared and he could not be excluded<sup>41</sup>.

#### d. Documentary Evidence

The **Arrest Report of [REDACTED]** documented that he was arrested for Criminal Trespass to Vehicles, Aggravated Assault to an Officer, and Aggravated Unlawful Use of a Weapon. [REDACTED] was detained after being identified as the offender who pointed a weapon at Officer Vincent and fled from a stolen vehicle. [REDACTED] was also identified in a shooting at 7826 S. Evans.

The **Arrest Reports of [REDACTED], [REDACTED], and [REDACTED]** documented that they were identified as the offenders who fled from a stolen vehicle. [REDACTED] and [REDACTED] were arrested and charged with Criminal Trespass to Vehicles. [REDACTED] was arrested and charged with Aggravated Battery with a Deadly Weapon and Criminal Trespass to Vehicles. [REDACTED] admitted to throwing a firearm recovered on the roof of 6622 S. Ingleside.<sup>46</sup> [REDACTED] and [REDACTED] were also identified in another shooting at 7826 S. Evans.

---

<sup>33</sup> This is the gun reportedly belonging to [REDACTED]

<sup>34</sup> One (1) in the chamber, and fifteen (15) in the gun’s magazine.

<sup>35</sup> Att. 192.

<sup>36</sup> Inventory # [REDACTED], CSM 10.

<sup>37</sup> Att. 122.

<sup>38</sup> Att. 198.

<sup>39</sup> Inventory # [REDACTED], CSM 10.

<sup>40</sup> Inventory # [REDACTED].

<sup>41</sup> Is included.

<sup>42</sup> Att. 5.

<sup>43</sup> Att. 9.

<sup>44</sup> Att. 11.

<sup>45</sup> Att. 12.

<sup>46</sup> Att. 9, Page 3.

The **Tactical Response Report (TRR)** completed by Officer Vincent<sup>47</sup> documented that [REDACTED] did not follow verbal directions, fled, and was an imminent threat with a semi-automatic pistol. Officer Vincent responded with member presence, verbal commands, and discharging his firearm twice.

The **Traffic Pursuit Report**<sup>48</sup> prepared by Officer Astorga documented that he was in the area of 7800 S. Langley Avenue on routine patrol when Officer Astorga heard gunfire. Officer Astorga was provided information from concerned citizens of the vehicle being involved in a shooting. Officer Astorga located the vehicle, activated his emergency equipment, and attempted a traffic stop. The driver refused to stop, and a pursuit ensued. Officer Astorga used the “balancing test” to determine whether to continue the pursuit. The driver fled to 953 E. 67<sup>th</sup> Street where he crashed into multiple parked and moving vehicles, causing property damage and no injuries. Five occupants of the vehicle fled the area, armed with three firearms. A foot chase ensued, and one of the occupants pointed a gun at an officer, resulting in a shooting. Lieutenant James Cascone, #560, determined that Officer Astorga effectively used the “balancing test<sup>49</sup>” guideline to initiate and then continue the pursuit. Lieutenant Cascone added that Officer Astorga was in compliance with the CPD’s vehicle pursuit policy.

The **Detective Supplementary Report**<sup>50</sup> documented similar accounts described by Officer Vincent and witnesses’ interviews. [REDACTED] exercised his right to remain silent.<sup>51</sup> [REDACTED] refused medical attention while in police custody,<sup>52</sup> but was taken to Roseland Hospital as a precaution and diagnosed with an abrasion of back.<sup>53</sup>

CPD’s Bureau of Internal Affairs conducted an **alcohol and drug test**<sup>54</sup> of Officer Vincent on May 25, 2018, beginning at approximately 7:10 p.m., which revealed that there were no drugs or alcohol in his system.

---

<sup>47</sup> Att. 4.

<sup>48</sup> Att. 41.

<sup>49</sup> Officer Astorga reported using the “Balancing Test,” weighing the type of crime: Aggravated Battery with a firearm, time of day, light-med pedestrian, and vehicular traffic conditions in order to determine to continue to pursue.

<sup>50</sup> Atts.145-148.

<sup>51</sup> Att. 145, Page 71, Paragraph 6, Sentences 4-6.

<sup>52</sup> Att. 145, Page 70, Paragraph 1, Sentences 1-3.

<sup>53</sup> Att. 147, Pages 70-72.

<sup>54</sup> Att. 30.

## VI. LEGAL STANDARD

### i. Use of Deadly Force<sup>55</sup>

The Department stated “highest priority is the sanctity of human life.”<sup>56</sup> In all aspects of their conduct, the Department expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.<sup>57</sup> Department members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack, make an arrest, control a subject, or prevent escape.<sup>58</sup> This means Department members may use only the amount of force necessary to serve a lawful purpose.<sup>59</sup> The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.<sup>60</sup>

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 on the scene.<sup>61</sup> 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; (3) the subject’s proximity or access to weapons.<sup>62</sup>

Discharging a firearm in the direction of the person to be arrested is deadly force under Department policy.<sup>63</sup> 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.”<sup>64</sup> Thus, a Department member may use deadly force in only two situations. 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.<sup>65</sup>

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

---

<sup>55</sup> On October 16, 2017, the Department materially modified its Use of Force policy. The Department’s current Use of Force policy prohibits the use of deadly force under circumstances that would be permissible under the Fourth Amendment to the United States Constitution and Illinois state law. COPA’s analysis focuses solely on whether there has been a violation of the Department’s general orders regarding use of force.

<sup>56</sup> General Order G03-02(II)(A).

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at (III)(B).

<sup>59</sup> *Id.* at (III)(B)(2).

<sup>60</sup> *Id.* at (III)(B)(3).

<sup>61</sup> *Id.* at (III)(B)(1).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at (III)(C)(1)(a).

<sup>64</sup> *Id.* at (III)(C)(3).

<sup>65</sup> *Id.*



- c. the subject has the opportunity and ability to cause death or great bodily harm.<sup>66</sup>

Department policy places prohibitions on the use of deadly force in certain situations.<sup>67</sup> In pertinent part, this policy prohibits the use of deadly force “on a fleeing person unless the subject poses an imminent threat.”<sup>68</sup>

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.”<sup>69</sup> 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.”<sup>70</sup>

## ii. Standard of Proof

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence.
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence.
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>71</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense.<sup>72</sup> Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>73</sup>

---

<sup>66</sup> *Id.* at (III)(C)(2).

<sup>67</sup> *Id.* at (III)(B)(5).

<sup>68</sup> *Id.* at (III)(C)(4).

<sup>69</sup> *Id.* at (II)(D).

<sup>70</sup> *Id.*

<sup>71</sup> See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

<sup>72</sup> See e.g., *People v. Coan*, 2016 IL App (2d) 151036.

<sup>73</sup> *Id.* at ¶ 28.

## VII. ANALYSIS

### a. Insufficient evidence exists to sustain the allegation that Officer Vincent discharged his firearm at or in the direction of ██████ in violation of Chicago Police Department policy.

For the reasons set forth below, COPA has determined that there is insufficient evidence to sustain the allegation by a preponderance of the evidence. COPA also cannot conclude by clear and convincing evidence that Officer Vincent's use of deadly force was lawful and proper and should therefore be exonerated. Therefore, COPA concludes that this allegation is **Not Sustained**.

Following a thorough review of the evidence, COPA cannot conclude by a preponderance of the evidence that Officer Vincent violated Department policy when he discharged his firearm at or in the direction of ██████. Specifically, COPA lacks sufficient evidence to conclude that the use of deadly force by Officer Vincent was not objectively reasonable considering the totality of the circumstances he faced.

Officer Vincent indicated that he fired at ██████ after he saw a gun in ██████ right hand over ██████ right shoulder causing Officer Vincent to believe that ██████ would "next turn that gun on [him]." <sup>74</sup> The available evidence appears to support the conclusion that Officer Vincent's belief may have been objectively reasonable. Officer Vincent's attention was drawn to ██████ by a female bystander indicating that ██████ had a gun. Officer Vincent then began pursuing ██████ and, after ██████ jumped the fence, observed the gun in ██████ right hand. Officer Vincent noted that he saw the gun over ██████ right shoulder, saw ██████ turn his head towards Officer Vincent, with the gun "pointing almost towards the sky but moving in [Officer Vincent's] direction." <sup>75</sup> Officer Vincent admitted the weapon's barrel was never pointed in his direction, but COPA cannot conclude based on available evidence that Officer Vincent's fear of harm was not objectively reasonable. COPA notes that Officer Vincent's use of deadly force was more likely than not proportional and necessary. Specifically, Officer Vincent fired only two shots to stop the perceived threat and stopped firing once the threat diminished. Therefore, COPA cannot conclude by a preponderance of the evidence that Officer Vincent's use of deadly force violated Department policy.

Although COPA finds that Officer Vincent's use of deadly force did not violate Department policy, COPA cannot conclude by clear and convincing evidence that his actions were lawful and proper. Specifically, the available video footage of the incident has no audio, making it nearly impossible to determine when Officer Vincent fired his weapon at ██████. It is therefore not possible to corroborate or contradict Officer Vincent's claim that ██████ posed an imminent threat. Moreover, Officer Vincent's version of events is not corroborated by the available video footage in that it does not show ██████ turning towards Officer Vincent and it is not possible to see whether ██████ had a gun in his hand. The video footage shows that after jumping over the fence, ██████ immediately continued running northbound down the east alley of Ingleside Ave. At no point did he appear to turn toward Officer Vincent or point a weapon at the officer, although ██████ was very briefly out of view of the camera. It is possible that ██████ actions in looking at Officer

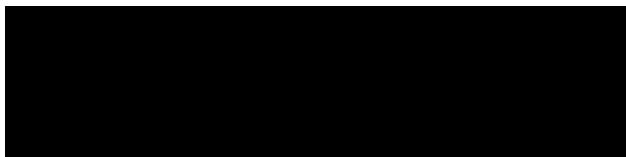
---

<sup>74</sup> Att. 186, Page 16, lines 6-9.

<sup>75</sup> Att. 186, Page 43, lines 9-12.

Vincent and beginning to point his firearm occurred but were not caught on camera. However, without this additional evidence, COPA cannot conclude by clear and convincing evidence that Officer Vincent's use of deadly force was lawful and proper. Therefore, COPA finds **Allegation #1** against Officer Vincent is **Not Sustained**.

Approved:



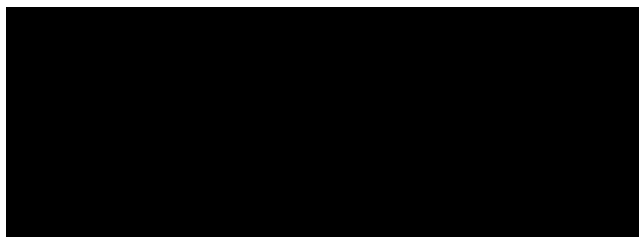
---

Angela Heats-Glass  
Deputy Chief Investigator

12-21-22

---

Date



---

Andrea Kersten  
Chief Administrator

12-21-22

---

Date