

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 16, 2018
Time of Incident:	Approximately 2:15 a.m.
Location of Incident:	9441 S. Commercial Avenue
Date of COPA Notification:	June 16, 2018
Time of COPA Notification:	Approximately 3:05 a.m.

On June 14, 2018, ██████████ who lived in Indianapolis, IN, came to the residence of his mother, ██████████ on the second floor at ██████████. He had been gone from that residence for approximately a year. On June 15, after 8 p.m., ██████████ who had been smoking marijuana, accused his family members of “setting him up.” ██████████ came out of a bathroom in his mother’s residence while not wearing a shirt and armed with a handgun. He pointed the gun at the floor, and he and his mother went outside onto the back porch. ██████████ asked ██████████ sisters to call 911. While ██████████ was with his mother on the back porch, he fired the gun several times. He then walked downstairs that led from the porch to ground level and an alley.

At approximately 11:09 p.m., Sergeant Kevin Rake, who was on-duty and driving nearby, heard gunshots, and through his police radio, he heard information about the gunshots from a 911 caller. Additional persons called 911 about the gunshots. SWAT officers were notified because ██████████ and her two daughters were at the residence. Responding 4th District officers observed ██████████ in the alley behind his mother’s residence. He was pointing a handgun to his head. Unidentified neighbors said they heard officers tell ██████████ to put the gun down.

██████████ walked past officers in the alley while he pointed his gun to his head. The officers backed up to allow him room. ██████████ walked to a vacant lot north of his mother’s residence and began to pace back and forth while still holding his gun to his head. The SWAT officers then drove onto the scene with both a BearCat¹ (armored car) and MRAP² (armored truck) vehicles. Officers inside those vehicles used public address systems to speak to ██████████ addressing him by his name. They told him they could help him and to put down his gun. ██████████ continued to pace, holding his gun to his head or to his side and sometimes giving the “finger” to the officers. Officers learned that at some point during the incident, ██████████ had his mother’s cell phone with him. A police negotiator inside the Bearcat tried calling ██████████ mother’s phone, but the negotiator was able only to leave voice messages.

At approximately 2:20 a.m. on June 16, ██████████ ran from the vacant lot east to Commercial Avenue and south on the east sidewalk, through the viaduct between 94th and 95th

¹ Ballistic Engineered Armored Response Counter Attack Truck

² Mine-Resistant Ambush Protected

Streets. The MRAP and the BearCat were driven south on Commercial Avenue in the northbound lanes, paralleling [REDACTED] until he cleared the viaduct. After the MRAP vehicle passed [REDACTED] a SWAT officer deployed a “flash-bang” device, and [REDACTED] stopped while still on the east sidewalk of Commercial Avenue. For 10-15 minutes, [REDACTED] paced back and forth on the sidewalk, still holding his gun to his head. The negotiator in the BearCat continued to talk to [REDACTED] and attempt to have him drop his gun. The BearCat was north of the MRAP. The MRAP backed up northbound, and the involved SWAT Officer, Luis Molina, was positioned in the “turret” (hatch) on the MRAP’s roof. He was armed with his semi-automatic rifle. [REDACTED] pointed his handgun at Officer Molina, who fired once at [REDACTED] hitting him in the chest. [REDACTED] fell back onto the sidewalk and then used his right hand to fire his own handgun toward his right temple. Following that gunshot, [REDACTED] handgun was still near him on the sidewalk. Officer Molina wanted to determine if he was still a threat. Officer Molina fired a less-than-lethal “beanbag” round from a shotgun,³ hitting [REDACTED] but not prompting any movement by him.

SWAT officers approached [REDACTED] One officer kicked the gun out of [REDACTED] reach. A SWAT medic administered first aid to [REDACTED] including using a plastic facial bag to promote breathing, but brain matter came out of his head. A Fire Department ambulance had been pre-positioned in the area, and after it arrived on-scene, paramedics tried to treat [REDACTED] but he was dead on the scene. When officers patted down [REDACTED] they found a pocketknife, which was on his left side. No suspected illegal drugs were found on him.

II. INVOLVED PARTIES

Involved Officer #1:	Luis Molina, ⁴ #7996, Employee # [REDACTED] Date of Appointment: Dec. 13, 1993, Police Officer assigned to Unit 353 (SWAT), Date of Birth: [REDACTED], 1967, male, Hispanic
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED], 1993, male, Hispanic

³ Department Notice D18-02 from the Bureau of Patrol includes the following: “The bean bag shotgun is a less-lethal force option which utilizes a less-lethal bean bag round as an impact munition. ... (It) is used as a dynamic, high-energy, single threat round for incapacitation or distraction of an assailant.”

⁴ In some Chicago Police Department reports about the incident, Officer Molina’s name is spelled, “Louis,” but his CPD personnel information spells his name, “Luis.”

III. ALLEGATIONS

Any discharge of an officer's firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. During this full and comprehensive investigation, COPA did not uncover evidence that would require the proffer of allegations of excessive force or any other allegation.

IV. APPLICABLE RULES AND LAWS

Rules

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 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
3. 3. Rule 6: Disobedience of an order or directive, whether written or oral.
4. 4. Rule 38: Unlawful or unnecessary use or display a weapon.

General Orders

1. Chicago Police Department, General Order 03-02 Use of Force (effective October 16, 2017-February 28, 2020)⁵
2. Chicago Police Department, General Order 03-02-01 Force Options (effective October 16, 2017-February 28, 2020).

Special Orders

1. Chicago Police Department, Special Order S05-05 Special Weapons and Tactics (SWAT) Incidents (effective date November 22, 2017)⁶

Federal Laws

1. The Fourth Amendment to the United States Constitution

V. INVESTIGATION⁷

a. Interviews

In her interview with COPA on June 20, 2018, ██████████⁸ the mother of ██████████ ██████████ said he had lived in Indianapolis for five years prior to the incident and did not visit her often. She said that on the night of June 14, 2018, ██████████ arrived by surprise at her residence on the second floor of ██████████. He looked nervous and said he was afraid "they" were going to kill him, although he did not tell his mother to whom he was referring. He

⁵ Att. #251, Use of Force

⁶ Att. #263, Special Weapons and Tactics (SWAT) Incidents

⁷ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁸ Atts. #89, 231. This interview was conducted in Spanish by COPA Inv. Oscar Nufio, #74, and translated for the transcription into English.

had not acted abnormally in the past, although he did get depressed. The next day, June 15, ██████ acted normally and told his mother about plans to stay at her residence. At approximately 6:00 p.m. that day, ██████ left his mother's residence because he had plans to be out with a friend. ██████ left to pick up one of her daughters, and when she returned home, ██████ had already returned there. It was approximately 8:00 p.m. He smoked a marijuana cigarette and sat on his mother's back porch. She joined him there to talk and drink beer. ██████ had two beers.

████████ continued that suddenly, ██████ started to turn around as if he were paranoid. He said family members were against him; that they wanted to set him up. ██████ told him she wanted him there and she was going to support him and try to help him find a rehabilitation center. ██████ said he did not want to live any more, and that he would not make it to his 25th birthday in August. He said he would be like "Tupac" and not make it to his 25th birthday. He added he loved his mother and asked her to forgive him for everything.

████████ said ██████ calmed down and told her he would be right back, that he was going to the bathroom. When he came back out, he sat down on a chair. He suddenly stood up and asked where his uncle, ██████ was. His mother said ██████ was downstairs. ██████ turned, and his mother noticed he was taking a handgun out of a pocket. ██████ told her son to put the gun away and asked why he was carrying it. He answered that he was being followed and "they" were going to kill him. He took out the weapon and said everybody was against him. His mother said no one was against him. She was scared and went inside the apartment, telling ██████ she was going to the bathroom. She told her twenty-year-old daughter, ██████ that ██████ was carrying a weapon.

████████ said she was afraid to call the police because of fears they would kill her son. ██████ talked with ██████ to see if he would calm down and drop the weapon, but he became angrier. ██████ came back inside the apartment. ██████ fired his handgun, and after the first or second shot, ██████ told ██████ to call the police. ██████ fired his handgun possibly four times. ██████ sixteen-year-old daughter, ██████ had already called the police, but became nervous and hung up. The 911 call-taker called back, and ██████ answered the phone. ██████ told the call-taker her brother was outside firing a gun. While ██████ waited to hear what the 911 call-taker would say, she heard ██████ breaking a window at the rear of the apartment.

████████ stated she was scared and told her daughters they should leave through the front because if ██████ entered the apartment, he would not recognize them. ██████ and her daughters left the apartment and went north of her residence. Officers and detectives stayed with them behind a police car under a bridge. After ██████ came down from the back porch, ██████ saw him as she waited with her daughters. ██████ walked around, holding his gun in one hand while holding her phone in the other. She said a detective later told her he called the "suicide hotline." ██████ also said her son lowered his gun. She said she and her daughters screamed for the police not to shoot her son. She did not see her son point his gun at anybody during the "many hours" of the incident. After her son, with his weapon down and while talking, walked toward Commercial Avenue, the detectives took her and her daughters to 95th Street, where they remained for a long time. She did not see her son point his gun at himself

or at the police. She could not hear what her son was saying, but a detective said her son mentioned that “they” took his son away from him, and she confirmed that her son had a child. ██████████ said she imagined that the officers were trying to help her son.

During the incident, ██████████ could hear officers talking to her son, using his first name. She could not hear everything, but heard, ██████████ drop the ...” She added, “I guess the weapon and – or something.”⁹ While on 95th Street, inside a police car, she suddenly heard a “boom.” Officers inside the car would not tell her what was happening. Eventually, a detective came to the police car and said her son had died and that he had shot himself. She did not believe that. Police told her SWAT had shot him in the chest, and he fell and then kneeled and shot himself. She felt that SWAT should have shot his hand to knock down his gun.

██████████ also provided information¹⁰ to COPA while investigators were on the scene following the incident. Part of that information was that when ██████████ left the residence back porch, he carried ██████████ cell phone.

In a video interview with detectives¹¹ from the Investigative Response Team on June 16, 2018, ██████████ provided information consistent with her COPA interview. She also confirmed that ██████████ had a son, who lived with the mother in Indianapolis. She said ██████████ and the mother of his son did not have a good relationship, and he had been arrested once in Indianapolis in a domestic incident.

In her interview with COPA on June 20, 2018, ██████████¹² one of ██████████ daughters, provided an account that was consistent with her mother’s account. ██████████ said that ██████████ came to their apartment on June 14, 2018, and said someone was after him. ██████████ asked his family members to close their residence windows, even though they usually kept them open, and to turn off the lights. After ██████████ told him he could sleep in her room because he did not want to sleep alone, he chose to sleep in her closet that night instead of on a makeshift bed on her bedroom floor. On June 15, ██████████ left the apartment to go out with a friend. ██████████ returned at approximately 8:00 p.m., and after visiting with family members, asked if the family members were setting him up. He accused them of being “after” him. ██████████ accused ██████████ and their mother of sending signs in that they moved their hands a lot when they talked. ██████████ suspected ██████████ might be on a drug, and she looked up rehab centers for him. She did not know he was suicidal. She became scared when her mother came to her and said ██████████ had a gun. ██████████ smelled of marijuana.

██████████ continued that she went out to the rear porch, where ██████████ was, and he told her to go inside the apartment. She and her mother heard a shot, and her mother told her to call the police. Her sister called 911 but hung up the phone. The 911 call-taker called back, and then ██████████ heard more shots. ██████████ told the 911 call-taker that her brother had a gun. Her mother told her ██████████ had told her he wanted to kill himself. ██████████

⁹ Att. #231, page 27, lines 1198, 1199

¹⁰ Att. #11

¹¹ Atts. #176, #177

¹² Atts. #93, # 232

tried to explain to the 911 call-taker about the situation and provided her address. [REDACTED] was not sure if the 911 call-taker heard her because the call-taker asked questions she already answered. At one point, she told the 911 call-taker her brother was suicidal. During the 911 call, the call-taker told her that the police were on their way and to go outside to the front to check. [REDACTED] did not see officers in the front. She went to the back of the apartment and saw her brother fire his gun toward the south. She went downstairs to the front and waved to detectives across the street, but they ignored her. An officer arrived a few minutes later and asked where her brother was. She said he was “up there” and to not shoot him. Her mother and sister came out after [REDACTED] heard a window break. The detectives called to the three females, and they went to the east side of Commercial Avenue to the detectives, who did not answer questions from them.

[REDACTED] later saw [REDACTED] west and north of the rear of her residence. He was on a phone. He took off his sweater and shirt, leaving him bare-chested, but wearing sweatpants. He walked around holding his gun, possibly in his left hand. [REDACTED] said her brother was a “lefty.” Some detectives left the scene, while others arrived. Detectives eventually had the three females get in a police car, and they were driven to a location under a bridge. [REDACTED] was concerned the police were moving them farther away and were not “using” them to help the situation. The police also placed her uncle, [REDACTED] (no last name known) with the three [REDACTED] females. [REDACTED] lived on the first floor at the [REDACTED] residence. [REDACTED] said she believed [REDACTED] told [REDACTED] not to go with the police. At some point, [REDACTED] screamed to [REDACTED] to put his gun down. Before [REDACTED] was moved by the police, she saw [REDACTED] walking east in the vacant lot, with one hand holding their mother’s phone and one hand holding his gun. Some officers took cover behind cars, and two or three officers were behind a big tree. Other officers did not take cover. She did not see [REDACTED] pay attention to the officers. [REDACTED] said she did not see how [REDACTED] moved from the west side of Commercial Avenue to north of the [REDACTED] residence and then to the south side of the viaduct.

After the [REDACTED] family members were on Commercial Avenue for approximately two hours, the police drove them to 95th Street, west of Commercial Avenue, where they exited the police vehicle. [REDACTED] eventually heard a “bomb” and she tried to run, but her relatives stopped her. She did not see a “flash” while on 95th Street. She also heard a possible gunshot after the “bomb.” The police put her and her relatives in a squad car and then [REDACTED] heard two gunshots. She said she and her relatives did not see the final incident involving her brother. The officers eventually told the family members that [REDACTED] had died. Officers informed [REDACTED] of the death. [REDACTED] said the officers told her mother that the police shot [REDACTED] and then he killed himself. She said [REDACTED] had not been treated for mental illness.

COPA conducted a **canvass**¹³ on June 20, 2018, which revealed witnesses to parts of the incident. An unidentified Hispanic male living at [REDACTED], who refused to provide his name or an official statement, said that during the incident, he observed a subject ([REDACTED]) standing near the viaduct on Commercial Avenue. [REDACTED] was holding a handgun in his right hand and to the right side of his head. He paced back and forth. A police “commander” spoke to [REDACTED] over an “intercom.” [REDACTED] did not speak and pushed his hair back with his left

¹³ Atts. #67-69

¹⁴ From this point forward, unless otherwise indicated, [REDACTED] will refer to [REDACTED]

hand. ██████ shot himself on the right side of his head and fell to the ground. The unidentified Hispanic male said he heard only one shot. He did not see police shoot toward ██████ and did not observe any injury or blood near his abdomen area.

██████████ who said she lived at ████████████████████, stated during the canvass that she knew ██████ while growing up. ██████ said she is bipolar and thought ██████ was “strange.”¹⁵ She added that she heard gunfire at the time of the incident but did not see the shooting. Detectives also interviewed her.

In her video interview with detectives on the morning of June 16, 2018, ██████ ██████ said that she was home when she heard what sounded like fireworks. She went outside and encountered a woman who lived next door at ████████████████████¹⁷ The woman told ██████ to go back inside because the woman’s son was walking around shooting a gun. ██████ went back into her residence, called 911 and looked outside through a window. She saw the woman’s son¹⁸ point his gun to his temple when he was in the middle of a street. Officers repeatedly told him to put down the gun. The woman’s son swung the gun around and pointed it toward officers. The woman’s son walked into the viaduct, and an officer using a loudspeaker told him to stop and talk. An armored vehicle followed the woman’s son into the viaduct. The woman’s son suddenly pointed his gun at what ██████ referred to as the car, and she saw two bright lights from the muzzle of the woman’s son’s gun, and she heard the boom. Officers said again to put it down. The woman’s son refused to put down his gun. ██████ heard a big boom. After a few minutes, the woman’s son fired his gun two more times directly at the officers, who kept asking him to talk. ██████ heard one more gunshot. She estimated three seconds elapsed between the second-from-the-last shot and the final shot. She did not see the woman’s son fall because he was out of her view, past the viaduct. ██████ said she did not leave her house during the incident.

In his interview with COPA on June 20, 2018, witness ████████████████████¹⁹ ██████. ██████ ██████ said at the time of the incident, he was in his residence, heard loud bangs and thought they were from fireworks. After his wife commented there was police activity, he looked out windows and saw police cars and officers with guns displayed. ██████ eventually saw a SWAT vehicle, or a police van pull up. He saw a male pacing back and forth in the vacant lot south of 94th Street and west of Commercial Avenue. He also looked at security camera video from his residence during the incident. ██████ could not tell if the male pacing had anything in his hands. He thought he heard someone, every couple of minutes, apparently talk to the male, calling him Louis, telling him to put down the gun and offering help. The person talking said: “We’re here to help you. Why don’t you come over here?”²⁰ ██████ later heard a male (negotiator) making more detailed requests, stating the subject’s sister and mother were on the scene and requesting the individual talk to them.

¹⁵ Att. #67, page 2 of canvass report

¹⁶ Atts. #212, #213

¹⁷ Residence of ██████ family.

¹⁸ ██████

¹⁹ Atts. #85, #230

²⁰ Att. #230, page 12

██████████ said a police tactical vehicle started to move, and he heard a voice on a loudspeaker tell the individual to stop moving and come to the white van. The individual started to walk east. Two of the police vehicles drove south on Commercial with officers following them on foot. ██████████ heard a shot and saw a flash.²¹ By this time, the individual had moved south out of sight. ██████████ said he thought the incident had ended when officers began to rush down Commercial Avenue. ██████████ heard a person speak on the loudspeaker again. About a half hour later, he heard a second shot, and he stopped hearing a person on the loudspeaker. ██████████ did not hear another shot after the second one. He said he went to sleep because he believed the incident was over. His wife had not been with him looking out the window. He said she paid attention more to the security camera video that was being recorded. ██████████ did not see anyone fire a weapon during the incident. He did not hear the individual (██████████ say anything to the police. ██████████ heard the negotiator's voice on a loudspeaker saying that the sister and mother of the individual were behind police vehicles and the police wanted the subject to talk to those women. The negotiator also offered the subject water.

In his interview with COPA on July 23, 2018, Sergeant Kevin Rake²² of the 4th District, in which the incident occurred, said he was working as the sergeant for a tactical team. He went to the vicinity of ██████████ in response to what he recalled as an OEMC²³ radio call involving a person with a gun. The call might have come from the person's mother. The person was later identified as ██████████

Sgt. Rake said he was not sure of the incident address. When he arrived on the scene, he heard a gunshot that came from around ██████████. Shortly thereafter, he heard several more gunshots from the same vicinity. He did not see anyone firing a weapon and was unsure if the shots were coming from the house or nearby railroad tracks. Sgt. Rake saw ██████████ mother and two sisters in front of and a little south of the Commercial Avenue address, where they lived. Sgt. Rake, who was on the east side of Commercial Avenue across from the three females, called them over to him to get them away from their residence. He radioed a request for responding officers to set up a perimeter and not go by the residence because he was not sure where ██████████ was.

When the three females came over to Sgt. Rake, they said ██████████ had come home smelling like weed and acting crazy. ██████████ had pulled out a gun. Sgt. Rake said he observed some squad cars that had pulled into a big open lot north of the ██████████ residence. He heard officers saying on their radio that ██████████ was on possibly a rear balcony and was holding a gun. Sgt. Rake went to those officers on the west side of Commercial Avenue. After two or three minutes, ██████████ came out from an alley behind the ██████████ residence that goes out to the open lot. He was holding a semi-automatic handgun in his right hand and a phone in his left hand, which he eventually dropped. Artificial lighting allowed ██████████ to be seen clearly. Sgt. Rake drew his firearm, as did other officers. ██████████ had his gun to his head and was walking back and forth, kind of talking to himself. ██████████ did not point his gun in Sgt. Rake's direction. He pointed the gun to his head, around and

²¹ Later, after viewing his video, he said it appeared the flash came from under the viaduct.

²² Atts. #112, #236

²³ Office of [Emergency Management & Communications](#).

to the ground while talking to himself. Sgt. Rake did not recall [REDACTED] moving his gun from one hand to the other. Sgt. Rake did not talk to [REDACTED] and did not hear anything understandable from him. Other officers who talked to [REDACTED] tried to calm him, offer him help, and have him put down his gun. [REDACTED] just continued walking back and forth and turning around.

Sgt. Rake was positioned behind a car. He heard that SWAT was coming to the scene, so he had the other officers move back to Commercial Avenue and make the perimeter bigger to de-escalate the situation, giving [REDACTED] more room. The SWAT officers created a perimeter and engaged [REDACTED]. Sgt. Rake had officers enter the [REDACTED] residence to check if anyone inside had been injured. After SWAT arrived, Sgt. Rake went to the northeast corner of 94th and Commercial and stood behind the pillars supporting the Chicago Skyway.

Sgt. Rake did not see the flashbang device go off but heard it. He did not see an officer fire their weapon and did not see [REDACTED] fire his weapon but heard two or three shots at the time of SWAT involvement. Sgt. Rake heard a negotiator from SWAT talking to [REDACTED] but heard no response from [REDACTED]. He did not see [REDACTED] south of the viaduct before the incident ended.

Although Sgt. Rake had a body-worn camera, he said the video from it mostly depicted him being behind cars and going around trying to talk with other officers.

In his interview with COPA on June 28, 2018, SWAT Officer Luis Molina²⁴ said he responded to the scene of the incident after he heard a Citywide radio transmission about a suicidal subject with a handgun. Shots had been fired. There was a request for members of SWAT who were on-duty. Officer Molina was trained in Crisis Intervention.²⁵

Officer Molina drove to the staging point at 95th Street and Commercial Avenue, and he spoke with his acting commanding officer, Sgt. Art Torres. Sometime after midnight on June 15, Officer Molina relieved another SWAT officer on the front porch of a home at approximately 9418 S. Commercial Avenue, the second building to the north of the [REDACTED] residential building at [REDACTED]. [REDACTED] was standing in the middle of an open lot north of where Officer Molina was positioned. Officer Molina, who said he was a team leader and trained in crisis intervention, observed the terrain and where residences, trees and officers were located. The SWAT BearCat, a marked vehicle, was on 94th Street a little west of Commercial Avenue.

Officer Molina continued that he told his teammates that he would have priority of fire in case [REDACTED] fired in order to avoid crossfire injuries to SWAT or 4th District officers. He told SWAT officers to stay behind the BearCat. A negotiator was inside the BearCat with a public address system, and he was trying to talk with [REDACTED]. Although [REDACTED] had his mother's cell phone, he was not answering it when officers called. Officer Molina observed [REDACTED] holding his handgun, transferring it between both hands every few minutes as he paced. At times, [REDACTED] would put the gun up to his head. Officer Molina said he gave him distance and time because [REDACTED] was armed, and the officers wanted to de-escalate. He also indicated that they did not shine any spotlights on him because he and his partners agreed that doing so may irritate or provoke him.

²⁴ Atts. #95, 170

²⁵ The Department's Crisis Intervention program is charged with improving the Department's response to mental health related incidents. See Special Order S05-14.

Officer Molina said when the MRAP vehicle arrived at the scene, he had it drive on Commercial Avenue and pick him up. SWAT Officer Peter Moore took Officer Molina's spot on the front porch of 9418 S. Commercial Avenue. Officer George Moussa was the MRAP driver, and, at Officer Molina's direction, he positioned the MRAP between [REDACTED] and a marked squad car. Officer Molina exited the MRAP and spoke with a supervisor and at least one officer, telling them to move the squad car to a safer area on a nearby street. Officer Molina re-entered the MRAP and had it positioned at 94th Street and Commercial Avenue to block that avenue of escape. [REDACTED] was still pacing, switching the gun from hand to hand and putting it up to his head. [REDACTED] who was bare-chested at this point, did not point his gun at the MRAP. [REDACTED] appeared to be talking to himself. Officer Molina again had the MRAP positioned so it was between [REDACTED] and several officers who were standing behind Officer Molina. He also had his commanding officer redeploy other officers to move them out of the line of sight of [REDACTED] out of danger. The negotiator asked [REDACTED] to answer his mother's phone, but he did not. At one point, Officer Molina saw [REDACTED] kick what apparently was his mother's cell phone while it was on the ground.

Officer Molina said he spoke with his teammates over the radio about contingencies depending on what [REDACTED] did, such as if he started shooting, or if he ran. He said he would move the MRAP to prevent [REDACTED] from going in a certain direction. A sniper, Officer Matt Koegler, got into a position on a roof east of [REDACTED] [REDACTED] was pacing closer toward Commercial Avenue between the SWAT officers at 9418 S. Commercial Avenue and the MRAP. [REDACTED] then started running with the gun to his head east across the vacant lot and then south. Officer Lockitski, who was also in the MRAP, yelled for Officer Moussa to back up the MRAP, which made a three-point-turn and then drove south on Commercial Avenue. Officer Molina, who was on the vehicle's roof and braced against the edge of the roof hatch opening, said he fell backwards during the MRAP's maneuvering. His rifle's magazine landed on the roof of the MRAP; he inserted a spare magazine he had on him. Officer Molina got back up as he realized the MRAP was going to go under the viaduct. Officer Molina remained in the hatch opening.

Officer Molina said [REDACTED] ran south on the east sidewalk of Commercial Avenue, toward 95th Street, where more residents and officers, including the command post, were located. The MRAP had to drive at a high speed for its size, approximately 30 miles per hour, in order to catch up with [REDACTED] Officer Molina got his body down as the MRAP approached the viaduct. The MRAP cleared the viaduct and then passed [REDACTED] Officer Molina gave [REDACTED] commands to stop and to put the gun down. He called [REDACTED] by his first name, [REDACTED] ([REDACTED]) He flashed his weapon light on [REDACTED] After the MRAP drove past [REDACTED] and stopped, Officer Lockitski deployed the flash-bang device, which is supposed to disorient or distract a person. [REDACTED] stopped. The BearCat drove south on Commercial Avenue from its position near 94th Street. The BearCat drove into the viaduct and was positioned north of [REDACTED] Officer Lockitski jumped off the MRAP and positioned himself on the west side of Commercial Avenue behind a patrol car. [REDACTED] continued pacing, switching the gun between his hands and putting it up to his head. [REDACTED] was looking everywhere, acting erratically. Officer Molina said he heard [REDACTED] say, "You're trying to shoot me, those guys are coming after me."²⁶ Officer Molina tried to talk to [REDACTED] to get him to put down his gun. Officer Molina told [REDACTED] that no one was trying to shoot him, that the officers were trying to help him.

²⁶ Att. #170, Page 32, lines 19 and 20

The negotiator in the BearCat spoke to ██████ so Officer Molina stopped speaking to him. Other SWAT officers, including snipers, had to move because ██████ had moved. Some SWAT officers were on the top of the viaduct and were able to look over to see ██████ below them. The MRAP was moved to approximately 15 to 20 yards south of ██████

Officer Molina estimated that about half his body was exposed as he continued in his position in the hatch on top of the MRAP. He said he noticed ██████ was kind of creeping south, looking around as if he was looking to escape again. ██████ was pacing at the south end of the viaduct, at the viaduct's edge. The negotiator continued to try to talk with ██████

About fifteen minutes after they had moved south of the viaduct, Officer Molina said, ██████ brought up his gun using both hands and pointed it at him. Officer Molina thought ██████ was going to shoot him in the face and kill him. Officer Molina said it was the first time that ██████ had used a two-handed grip and the first time he had pointed at the officers in the MRAP. Officer Molina told ██████ to drop his gun and then fired his rifle once at him. ██████ took a couple of steps back and then fell onto his back while still holding his gun with both hands. The gun then fell a few inches from his right hand. Within two to five seconds, ██████ raised his head and his shoulders, looked to his right, grabbed his gun and shot himself on the right side of his head. ██████ collapsed again. His gun ended up on the ground on his right side, next to his thigh.

Officer Molina announced on his radio that ██████ had shot himself and that he, Molina, had fired once. Officer Molina said he called ██████ name and for him to push his gun away, but there was no response. Officer Molina then had the MRAP move north, and he fired the less-lethal shotgun round against ██████ leg to see if he would react and indicate he was still alive. ██████ did not respond. Other SWAT officers, including a paramedic, moved up using a shield for protection, to treat ██████ The MRAP moved north to provide cover in case ██████ tried to pick up the gun. The other SWAT officers moved the handgun away from ██████ and began treating him. A pre-positioned ambulance also drove onto the scene.

Officer Molina said when he fired at ██████ he was not using the infrared lighting system on the rifle because there was enough streetlight. Before raising his rifle to fire, Officer Molina had kept it down at a 45-degree angle to avoid blocking his view. When Officer Molina raised his rifle, he tried making himself small, but he could not because he was exposed in the hatch opening. He was not affected by having fallen back in the MRAP when it moved into the viaduct. His teammates who had been on the viaduct had moved away before he fired. Officer Molina was not equipped with a body-worn camera, and neither the MRAP nor the Bearcat was equipped with an in-car camera.

In addition, Officer Molina said when ██████ brought up his gun using both hands, it was the first time he had taken a two-handed grip and the first time ██████ pointed his gun at the officers.

After the incident, Officer Molina was treated at Northwestern Memorial Hospital, but he said no injury was found on him.

In his interview with COPA on July 2, 2018, Detective Jerry Pentimone,²⁷ the negotiator on the scene, said he arrived at approximately midnight on June 15, 2018, after SWAT contacted him. Det. Pentimone, who had training in crisis intervention, attempted to call ██████ multiple times on the phone that ██████ had, but he did not answer. Det. Pentimone left voice messages. He spoke with ██████ mother and sisters and was told ██████ had a gun. The older sister (██████) said ██████ had pointed the gun at their mother and at the floor in front of their mother. ██████ then let the females leave their residence. Det. Pentimone said he spoke with CPD supervisors and agreed to enter the BearCat and speak with ██████ through the vehicle's public address (PA) system. From his position in the front passenger seat of the BearCat, Det. Pentimone had a view of ██████ standing in a field, holding a weapon to the side of his head. Det. Pentimone estimated he was 75 yards from ██████. There was artificial lighting and vehicle headlights illuminating the scene. Det. Pentimone had a clear view of ██████ who was in a vacant lot but moving around a lot, turning from side to side, waving the hand not holding the weapon and shouting, although Det. Pentimone could not recall what words were shouted.

Det. Pentimone said he spoke with officers who had directed ██████ to put his weapon down several times. ██████ held his gun toward the side of and very close to his head. When Det. Pentimone spoke to ██████ over the PA, he asked him to calm down and assured him that his family was safe and concerned. ██████ seemed to hear those words because he appeared to stop jumping around and waving. After 40 minutes to an hour, ██████ walked toward the viaduct, and the BearCat proceeded there. ██████ did not point his gun in Det. Pentimone's direction, but after he moved from his initial location, he did point it straight out toward other persons.

There were SWAT officers walking behind the BearCat, whose rear doors were open. The MRAP was in front of the BearCat and drove on the other side (the south side) of the viaduct. The BearCat drove into the viaduct and stopped because ██████ had stopped on the sidewalk just outside the viaduct. The MRAP was closer to ██████ than the Bearcat.

There was better and clearer artificial lighting outside the viaduct, and Det. Pentimone saw ██████ holding and pressing his weapon to his head. Det. Pentimone continued to tell ██████ to put the weapon down, to move it away from his head. This went on for possibly 15 minutes. ██████ was positioned so that Det. Pentimone looked to the left to view him.

Det. Pentimone said ██████ went from holding his gun to his head to grasping the gun with both hands and extending his arms and pointing the gun directly at the MRAP and the officers at the MRAP. He was in a triangular stance that Det. Pentimone recognized from police training, where the legs were separated, and ██████ was stabilized. One officer was on top of the MRAP on the turret, and he was partially visible. That officer was armed. At some point during the encounter, a "flash bang" device was set off, although Det. Pentimone said he did not see a flash from it and did not recall if the flash bang device was set off before ██████ pointed his gun at the MRAP. Det. Pentimone shouted at ██████ to put his weapon down, to stop pointing the weapon. ██████ then walked backward out of Det. Pentimone's view. Det. Pentimone heard a loud report, which he assumed was a gunshot, and then, less than five seconds later, he heard a second loud report that he assumed was another gunshot. He did not see anyone fire a weapon when he heard the loud reports. He then heard a confirmation from the SWAT officers that ██████ had been shot.

²⁷ Atts. #108, #171

The SWAT officers at the rear of the BearCat walked to where [REDACTED] was located. Det. Pentimone did not see [REDACTED] get hit by any object, such as a beanbag round. Det. Pentimone exited the BearCat after he was told it was safe to do so, which was before an ambulance arrived. Det. Pentimone went to where [REDACTED] was located, and he saw what appeared to be a semi-automatic handgun on the ground. [REDACTED] who was on his back, was bleeding from his head and appeared to be dead. The SWAT medic was tending to him.

Det. Pentimone was not equipped with a body-worn camera.

In his interview with COPA on July 2, 2018, SWAT Officer Matthew Lockitski²⁸ said when he arrived at the scene at approximately 11:45 p.m. on June 15, 2018, he was told to put on his gear and get in the MRAP, which was in the northbound lanes of Commercial Avenue and just south of the viaduct. The information he had was that there was a subject, who was suicidal, in an open area, with a gun to his head.

Officer Lockitski said he was armed with his M-4 rifle and a handgun. He also equipped himself with a “flash bang” device and a ballistic shield. Officer Molina and the MRAP driver, Officer Moussa, were the other officers in the MRAP. Officer Moussa drove the MRAP north. Officer Lockitski observed [REDACTED] standing in the open field or lot. He had his gun to his head. The MRAP parked on Commercial Avenue at approximately 94th Street. The BearCat was parked on 94th Street west of Commercial Avenue. It was approximately just after midnight on June 15.

While in the MRAP at 94th Street, Officer Lockitski observed [REDACTED] point a gun to his own head and hold the gun to his side. [REDACTED] also switched hands to hold the gun and paced back and forth and looked around. [REDACTED] eventually walked toward Commercial Avenue and began trotting south along that street. Officer Moussa turned the MRAP southbound and began driving it quickly to bypass [REDACTED] to stop him from reaching 95th Street. Officer Lockitski was in the rear of the MRAP. When the MRAP reached just south of the viaduct, [REDACTED] reappeared in his field of vision on the east sidewalk of Commercial Avenue, and he was also just south of the viaduct. The MRAP was south of [REDACTED] but began backing up northbound. As the MRAP got closer to [REDACTED] who still had his gun to his head, Officer Lockitski said he deployed his “flash bang”²⁹ device onto the roadway in order to stop any movement of [REDACTED] farther south, where there were civilians and the police command center. The “flash bang” seemed to catch [REDACTED] off-guard, as intended, and he stopped moving south and looked around. [REDACTED] was talking. Officer Lockitski could not make out what he was saying, but his impression was that [REDACTED] wanted the officers to move themselves or the MRAP.

Officer Lockitski said after he deployed the “flash bang” device, he realized he had poor cover, so he told Officer Molina that he was going to move from the back of the MRAP to a patrol vehicle. Officer Lockitski ran to a marked SUV that was parked facing north just west of the MRAP. Officer Lockitski took a position behind the driver’s door of the marked SUV. The BearCat had moved into the north end of the viaduct, so [REDACTED] was contained on three sides. Officer Lockitski said Officer Molina decided to give [REDACTED] more space, so he had the MRAP

²⁸ Atts. #110, #172

²⁹ SWAT Officer Lockitski refers to this device as a NFDD; Noise and Flash Diversionary Device.

move south. Officer Lockitski did the same, running from his position to another marked SUV parked on the west side of Commercial Avenue.

████████ continued pacing for another minute and then he pointed his gun at Officer Molina, in the direction of the MRAP. ██████████ had a two-handed grip on his gun, which was different from earlier in the incident, when he had always used a one-hand grip. One round was fired at ██████████ who stumbled backwards and fell toward the ground. He dropped his gun. ██████████ very quickly grabbed his gun and fired it at the right side of his head, after which his body went limp. Officer Lockitski did not see who fired the round at ██████████ because he was looking at ██████████. Based on the sound and where it came from, it was obvious to him that Officer Molina had fired. ██████████ had not fired before Officer Molina fired. Officer Lockitski and other officers had told ██████████ to drop his gun starting when they had first observed him and before and after the “flash bang” device was deployed. He estimated that five to ten minutes elapsed between when the “flash bang” device was deployed and when ██████████ pointed his weapon toward the MRAP. Approximately five seconds elapsed between when ██████████ pointed his weapon at the MRAP and when Officer Molina fired. Up to five seconds elapsed between when Officer Molina fired and when ██████████ fired at his own head.

Officer Lockitski said he almost fired at ██████████ when he pointed his weapon at Officer Molina and potentially any civilians and officers on 95th Street.

After ██████████ shot himself, Officer Lockitski went to the front driver’s side of the MRAP and observed ██████████ right hand was on the ground, and his gun was an inch away from his hand. Officer Lockitski was about 20 to 30 feet from him. Officer Molina radioed that he was going to fire the less-than-lethal round at ██████████ to check for movement. After the beanbag round was fired, a team from the BearCat moved toward ██████████. The MRAP was moved north to be beside ██████████. Officer Lockitski moved to the rear of the MRAP to be able to cover ██████████ as the BearCat team moved up. Officer Lockitski eventually saw ██████████ on the ground after his gun was moved away from him. The SWAT medic worked on ██████████. An ambulance came quickly onto the scene, but Officer Lockitski did not observe paramedics treat ██████████. After ██████████ was shot by Officer Molina, Officer Lockitski did not hear him say anything. Officer Lockitski did not have a body-worn camera.

In his interview with COPA on July 10, 2018, SWAT Officer Eric Cronin³⁰ said he was the BearCat driver and arrived at 95th Street and Commercial Avenue at approximately 11 p.m. on June 15, 2018. He was directed to go to the north side of the field located at 94th Street and Commercial Avenue. As Officer Cronin drove north on Commercial Avenue, he saw ██████████ in the grassy area of a vacant lot. ██████████ was pacing back and forth and holding a handgun to his side with his right hand. Officer Cronin turned west onto 94th Street and then onto the field so that the front of the BearCat was facing ██████████. Officer Cronin wanted to maintain a visual of him from 20 to 30 yards. ██████████ continued pacing back and forth, and he was putting his gun up.

After the flash-bang device was deployed, the negotiator was still using the loudspeaker to ask him to put down his gun. The negotiator offered ██████████ water, saying he looked tired. ██████████ continued putting the gun to his head.

³⁰ Atts. #111, #228

Officer Cronin said [REDACTED] then faced the MRAP and raised his weapon with both hands. He lifted the gun toward the MRAP at the turret. There was an officer on the turret with a rifle. Officer Cronin heard a crack and then saw [REDACTED] fall toward the northeast. Officer Cronin lost sight of [REDACTED] and then simultaneously, he heard another bang. Officer Cronin heard Officer Molina saying over his radio that he discharged once, and that [REDACTED] shot himself. Officer Cronin did not see Officer Molina fire his rifle or [REDACTED] shoot himself. Officer Cronin estimated that approximately two seconds elapsed between when [REDACTED] pointed his weapon at the MRAP and when Officer Molina fired. He estimated that approximately half a second elapsed between when Officer Molina fired and when [REDACTED] shot himself.

Officer Cronin said Officer Molina said he was going to use an impact round on [REDACTED] legs to see if he would move toward his weapon. Officer Molina was attempting to ensure it was safe for the SWAT team to approach [REDACTED]. Officer Cronin heard the beanbag discharge from Officer Molina. Approximately 30 seconds to a minute elapsed between when [REDACTED] shot himself and when Officer Molina fired the beanbag charge. Officer Cronin did not see the beanbag charge hit [REDACTED] and he did not see any reaction by him to the beanbag charge hitting him.

The SWAT officers behind the BearCat moved south on the east sidewalk of Commercial Avenue toward [REDACTED]. When they made sure the scene was safe, they called for the SWAT medic to go to [REDACTED] to render aid. The medic called an ambulance onto the scene, and Officer Cronin saw paramedics approach [REDACTED].

In his interview with COPA on June 28, 2018, SWAT Officer Brian Bardsley Jr.³¹ said he responded to the scene at approximately 12:25 a.m. on June 16, 2018. He understood the incident to be a domestic involving a weapon and a barricade. He said he is the SWAT medical team leader. Once he was on the scene, he established a casualty collection point and checked in on his radio. He added that his mission, as a non-operator, was to stay out of the way of the SWAT operators who conduct aggressive operations. However, Officer Bardsley Jr. was equipped with a rifle.

Officer Bardsley Jr. said he saw [REDACTED] intermittently as [REDACTED] walked around rapidly in the open area north of approximately 9418 S. Commercial Ave., where Officer Bardsley Jr. was positioned behind a large white concrete staircase.

After possibly an hour, Officer Bardsley Jr. heard over the police radio that [REDACTED] was becoming more manic and that he was heading south. Officer Bardsley Jr. saw [REDACTED] after he passed 9418 S. Commercial Ave.

Officer Bardsley Jr. said some time after the flash-bang device was deployed, he looked through the viaduct at [REDACTED] and saw him point his gun with either one or both hands toward the MRAP. Officer Bardsley Jr. heard someone tell [REDACTED] to drop his gun, and then he heard a single gunshot and saw [REDACTED] fall backwards. Officer Bardsley Jr. pulled back to a cover position, and when he looked at [REDACTED] again, he could see only his two feet sticking out. Less than ten seconds elapsed, and then Officer Bardsley Jr. heard a second gunshot. Twenty to thirty seconds later, the team leader in the BearCat had Officer Bardsley Jr. come to the rear of the BearCat because SWAT

³¹ Atts. #104, #229

wanted to render aid to [REDACTED] as soon as possible. Approximately a few minutes later, Officer Bardsley Jr. heard the plan for SWAT to use a beanbag shotgun round to see if [REDACTED] would move because his weapon was at his side, and the officers were not sure what his level of response would be.

Officers brought up shields so that Officer Bardsley Jr. could be moved up to [REDACTED] under protection. Officer Bardsley Jr. heard the beanbag round go off. Officers said there was no movement from [REDACTED]. Approximately a minute later, officers used two shields and moved Officer Bardsley Jr. forward. Officer Bardsley Jr. observed [REDACTED] for about five seconds, and [REDACTED] took a deep breath that is usually associated with someone who has a massive head injury. Officers slid [REDACTED] weapon away from him, and Officer Bardsley Jr. rendered aid to him. He observed an entrance wound on the right side of [REDACTED] head with the exit on the left side, as well as a gunshot wound below his rib cage. Officer Bardsley Jr. did not hear [REDACTED] say anything.

Officer Bardsley Jr. said he placed a chest shield on [REDACTED]. When he and another officer rolled [REDACTED] no exit wound was found. They rolled [REDACTED] onto his back and attempted to assist his breathing using an Ambu-bag. [REDACTED] had a very faint carotid pulse, so Officer Bardsley Jr. did not do CPR. He used the breathing bag for ventilation. Brain matter came out of the entrance wound on his head. The scene was secure, so a Fire Department ambulance was summoned, and CFD personnel determined [REDACTED] was dead. They contacted a hospital and provided the information to have him declared dead. Officer Bardsley Jr. left [REDACTED] and then provided aid to Officer Molina.

In his interview with COPA on June 28, 2018, SWAT Officer Pachara Santisuk³² said that when he was informed about the incident, he was told it was a suicide subject with a gun. He arrived at 94th Street and Commercial Avenue at approximately 1:30 a.m. on June 16, 2018. Officer Santisuk drove the negotiator, Detective Pentimone, to the BearCat, which was on 94th Street west of Anthony Avenue.³³ Officer Santisuk saw [REDACTED] with no shirt on, walking and pacing in an open, grassy area south of 94th Street and north of the viaduct. [REDACTED] sometimes had his pistol pointed at his head.

[REDACTED] eventually took off running south on Commercial Avenue. The MRAP made a U-turn going south on Commercial Avenue. The BearCat also moved as officers, including Officer Santisuk, used it for cover.

Officer Santisuk heard a loud bang, and one of the SWAT team members said it came from a distraction device. The BearCat stopped in the viaduct. Both the BearCat and the MRAP were in the northbound lanes of Commercial Avenue, with the MRAP south of [REDACTED] who was standing on a sidewalk, holding the pistol at his head, and then pacing back and forth.

At one point, Officer Santisuk saw [REDACTED] point his pistol south toward the MRAP and other officers on 95th Street. He appeared to use one hand to point the pistol straight out. A few seconds later, Officer Santisuk heard a bang, followed a few seconds later by another bang.

³² Atts. #105, #233

³³ Anthony Avenue intersects with 94th Street and Commercial Avenue.

As the SWAT officers moved south on foot, Officer Santisuk observed [REDACTED] lying on his back, with his head pointing north or northeast. A black pistol was on the sidewalk on the right side of his body. Officer Santisuk provided cover while other officers provided medical aid to [REDACTED]. Officer Santisuk assisted Officer Bardsley Jr. by rolling [REDACTED] up half-way. Officer Santisuk did not see an exit wound but did see a stomach-area wound. They again rolled [REDACTED] onto his back.

Officer Santisuk observed a gunshot wound on the right side of [REDACTED] head. Officer Bardsley Jr. put a bag over [REDACTED] mouth and squeezed the bag to give him more air. Officer Santisuk made sure the seal around [REDACTED] mouth was tight. Brain matter came out of the right side of [REDACTED] head. Paramedics arrived and relieved the officers from working on [REDACTED].

In his interview with COPA on June 29, 2018, SWAT Officer Jorge Heredia³⁴ said he was informed there was a suicidal subject at the incident scene who had fired his weapon. He and his partner, Officer Steven Gimenez, were a SORT³⁵ unit, and they arrived on Commercial Avenue before midnight on June 15, 2018. They then went to where Commercial and Anthony avenues and 94th Street meet. Officer Heredia's account of the actions of [REDACTED] and the officers was consistent with those of other on-scene officers.

Officer Heredia said after [REDACTED] walked toward Commercial Avenue, the BearCat moved, and Officer Heredia stayed on the side of it opposite [REDACTED] and to the rear. At one point, Officer Heredia heard a loud noise ahead of him, to the south.

Officer Heredia said he glanced up repeatedly to observe [REDACTED] in case he was walking in his direction. Upon glancing up one time, he saw [REDACTED] holding his gun in a two-handed grip with his arms extended, parallel to the ground, toward the MRAP. Moments later, Officer Heredia heard another loud bang, so he fell back, which put [REDACTED] out of his line of sight. [REDACTED] was on the east side of Commercial Avenue. Moments later, Officer Heredia heard another bang, but not as loud. He did not see anyone firing a weapon when he heard the two bangs.

Officer Heredia then heard another bang, which was from a less-lethal shotgun fired by an officer on the MRAP, although he did not see who fired that projectile. Officer Heredia's team then climbed over the railing that was on the sidewalk, with him leading the way behind his shield. He moved around slowly and saw [REDACTED] feet and then his body, which was face-up. His head was toward the north.

Officer Heredia came around to his teammates and said [REDACTED] gun was partly under his right hand. Officer Heredia covered his partner as the partner used his foot to push the gun out of [REDACTED] reach. Officer Heredia stood as security while his teammates patted down [REDACTED]. A switchblade³⁶ came out of one of his pockets. The SWAT medic came around and looked for wounds. He patched the wound on [REDACTED] stomach and rendered other aid until Fire Department personnel arrived. Officer Heredia stood over [REDACTED] weapon and saw the casing that appeared

³⁴ Atts. #107, #234

³⁵ Special Operations Response Team, part of SWAT

³⁶ The inventory record, Att. #265, indicates the knife was a folding knife.

to have been fired from [REDACTED] pistol. He placed a piece of paper near the casing as a marker. He did not hear [REDACTED] say anything while he was on the ground.

In his interview with COPA on June 29, 2018, SWAT Officer Steven Gimenez,³⁷ provided an account that was consistent with Officer Heredia's account.

In his interview with COPA on July 2, 2018, SWAT support Officer George Moussa³⁸ said he was the MRAP driver and arrived on the scene at approximately 12:30 a.m. to 12:45 a.m. on June 16, 2018. He learned that the situation involved a suicidal subject with a handgun. He said he was trained in both adult and youth crisis intervention.

Officer Moussa stated that SWAT equipment vehicles and the BearCat were already on the scene. Officer Moussa was instructed to drive north on Commercial Avenue to where SWAT and non-SWAT officers were gathered. Officers Molina and Lockitski and possibly more officers entered the MRAP. Officer Moussa drove to the house at 9418 S. Commercial Ave., where Officer Molina talked with some SWAT officers. Officer Moussa then drove to a point where he parked so that the MRAP was between [REDACTED] and some officers, who were then able to enter their own vehicle and drive out of the area. While driving north on Commercial Avenue, Officer Moussa observed [REDACTED] on the grassy field, holding a handgun and walking in circles. Street lighting allowed Officer Moussa to clearly see [REDACTED]. There were officers positioned behind the BearCat, which was at 94th Street and Anthony Avenue, and they were also looking at [REDACTED]. Officer Moussa said from inside the MRAP, he could not hear anything occurring outside, including anything [REDACTED] might have said. When Officer Moussa drove the MRAP, [REDACTED] pointed at him with his finger while keeping his gun at his head.

Officer Moussa said Officer Molina asked him to back the MRAP up so officers who were under the Skyway would be protected while they got into their vehicles and left that area. Officer Moussa then positioned the MRAP, facing northbound, on Commercial Avenue where it joins 94th Street and Anthony Avenue. He remained there for between a half hour and an hour. Officer Moussa observed [REDACTED] through a window of his vehicle. A male negotiator was now on scene in the BearCat,³⁹ and he was trying to talk [REDACTED] down, although Officer Moussa did not remember any specific phrases or words used by that negotiator. The BearCat was located at 94th Street and Anthony Avenue, west of the MRAP by 100 to 125 feet. No one from the MRAP had said anything to [REDACTED] up to that point.

Officer Molina told Officer Moussa that if [REDACTED] took off, the officers would have to cut him off, and that Officer Moussa should try to block him if he could. [REDACTED] was still walking around in the vacant lot, but he was walking east toward Commercial Avenue. [REDACTED] then took off running south on the street and then on the east pedestrian sidewalk of Commercial Avenue.

Officer Moussa said, upon instruction, he turned the MRAP around, drove south in the northbound lane, and approached the south end of the viaduct. Officer Moussa said he saw [REDACTED]

³⁷ Atts. #106, #235

³⁸ Atts. #109, #237

³⁹ Officer Moussa did not know the negotiator's name but based on review of all information related to the incident, COPA believes this negotiator to be Det. Pentimone.

in his side mirror as █████ continued running south through the viaduct. Officer Moussa then heard a flash-bang device, which stopped █████ disorienting him. █████ was looking up and seemed to be trying to figure a way to get out of the area outside the viaduct.

Officer Moussa added that Officer Molina gave █████ verbal direction, telling him to drop the gun, relax, sit down. Officer Molina asked Officer Moussa to move the MRAP up 10 or 15 feet, and Officer Molina told █████ the officers were giving him some room. █████ put his gun back to his head. Then he put the gun down to his side, then back to his head. Officer Moussa thought █████ was using his right hand to hold his gun. █████ walked in a little circle at the end of the viaduct where the sidewalk continues. Officer Moussa made his observations by looking in his side mirror. Street lighting provided a clear view of █████ who was about 20 to 30 feet, or possibly less, from Officer Moussa's position in the MRAP. Officer Moussa left his seat to close an open back door of his vehicle and then returned to his seat. Officer Molina was on top of the MRAP at that point. Officer Moussa did not know where Officer Lockitski was located but thought he had left the vehicle.

Officer Moussa observed █████ in the side mirror, and █████ had the gun in his right hand with the gun put to his head. █████ was pointing to the MRAP, possibly at Officer Molina, with his finger. Officer Moussa could hear verbal directions being given, even though they were muffled for him. █████ looked at the MRAP. █████ had his gun to his head but then, using both hands, he "punches it out"⁴⁰ toward the back of the MRAP, which Officer Moussa interpreted as pointing the gun at Officer Molina. Officer Moussa heard someone say he was pointing a gun. Officer Moussa heard Officer Molina yell to █████ to drop the gun, even though it was muffled from Officer Moussa being in the MRAP. Also, Officer Moussa said someone on the radio said █████ was pointing his weapon. A few seconds later, Officer Moussa heard a round go off, although he did not see anyone fire.

Officer Moussa said that in his side mirror, he saw █████ get hit by the round, and █████ went straight back and landed on his back. █████ raised his head, brought up his right hand holding his gun and fired a round to his right temple. █████ went down, and Officer Molina said he was going to use a non-lethal (weapon) to see what was going on with █████ Officer Moussa saw █████ hit on his lower legs by the non-lethal round. █████ pistol was against his right thigh at that time, close to his right hand. He saw no reaction from █████ The BearCat team then approached using two shields. One of the BearCat team members slid █████ handgun over, and then the medics worked on him.

Officer Moussa said he knew the first round he heard was from a rifle, rather than a handgun, because of its distinctive sound. Officer Moussa said he also is a carbine operator. He estimated that two to five minutes passed between when the flash-bang device went off and when █████ pointed his gun at the MRAP or Officer Molina.

Officer Moussa said that he did not hear or see Officer Molina fall while on the MRAP. He became aware of that incident later. He did not observe an injury on Officer Molina. Officer Moussa did not wear a body-camera, and the MRAP did not have an in-car camera. The MRAP was marked with CPD SWAT stickers.

⁴⁰ Att. #237, page 31, lines 7, 8

b. Digital Evidence

The **Evidence Technician photographs**⁴¹ depict the scenes at the ██████ residence and where ██████ died. The photographs include images of ██████ body and the three firearms involved.

Recordings from the Office of Emergency Management and Communications⁴² (OEMC) include 911 calls from several persons, including ██████. At approximately 11:08 p.m. on June 15, 2018, ██████ calls “911” to report her brother has a gun. She had indicated earlier he was suicidal and had fired his gun but had not injured anyone to her knowledge. She thinks he was on drugs; she said “he” was talking on the phone, apparently referring to her brother. ██████ calls again at approximately 11:12 p.m., identifies her brother as ██████ and provides the address of ██████. She adds that her brother fired his gun four times, and she can see police lights. She says her brother thinks people are out to get him. The call-taker tells ██████ the police need someone to talk with, and ██████ says she will come out front. She eventually waves to a detective across the street and confirms to the call-taker she will talk to the police.

██████ made approximately four calls to 911 between the times of 11:05 p.m. 11:30 p.m. During these 911 calls made by ██████ he references that unidentified people were there from Indianapolis or sent by people from Indianapolis to kill him and he was a dead man. During at least two of the calls, the caller, ██████ identifies loud sounds as gunshots. He says other persons are firing, and he is firing. He claims to have been shot in the leg. During another call, he tells the call-taker to tell his son and family he loves them. He says he does not need an ambulance and is dying either way. In one of ██████ calls, at 11:26 p.m. he asks the call-taker if he can speak to an officer. He yells to someone asking to speak to them, saying, “They’re tryin’ to kill me.”⁴³

OEMC recordings of Zone radio transmissions⁴⁴ include information from units on the scene and a helicopter overhead. Initial information included that a male had a gun at the rear of ██████ and that he fired it four times. He was said to be suicidal. A police dispatcher says when they called ██████ number, it went to voicemail. Police are instructed to block traffic in the area. Helicopter personnel report they observe a guy on a roof, and the dispatcher confirms that person is the subject. The helicopter personnel say the subject came down some stairs and ran toward an alley with a gun in his right hand and a cell phone in his left hand. An officer reports the subject has his gun to his head. A SORT vehicle (part of SWAT) was en route to the scene, and a supervisor on the scene, Beat 400X, tells the dispatcher it is a full-blown SWAT incident. Beat 400X also tells the dispatcher to tell officers to use firearm discipline because the subject has his gun to his own head. ██████ was at the rear of his address, in the alley, where there was a squad car. ██████ was walking back and forth.

⁴¹ Att. #118

⁴² Atts. #131-141, #211

⁴³ Att.#140, 4:42 into the recording; #211, page 6, tenth line from top

⁴⁴ Atts. #142, #211

OEMC recordings of Citywide 6 radio transmissions⁴⁵ indicate that an officer who spoke with ██████ tells Beat 499, a supervisor, that ██████ understood commands, but was just not cooperating. Beat 4215-David says ██████ was upset about his kids being taken away from him apparently by his ex. Some officers on-scene are pulled back to a viaduct along Commercial Avenue and north of 95th Street. An ambulance was on stand-by near the scene. At approximately 1:44:35 a.m. on June 16, Beat 463 says what sounds like the subject threw his cell phone in the alley. The helicopter personnel report that ██████ was in front of his house in the street. A male voice said ██████ was running south and was underneath the (railroad) tracks.

At approximately 1:52:23 a.m., a male voice tells the dispatcher, flash-bang only. At approximately 1:53:28 a.m., a male voice says ██████ was on Commercial Avenue, south of the tracks, on the east side. Shortly after 1:57:01 a.m., the helicopter personnel say the helicopter must drop in elevation because of a rain front approaching. Beat 400X acknowledges that the helicopter will have to land because of the weather. Beat 434 tells the dispatcher to clear the east curb area of Commercial Avenue. At approximately 2:14:52 a.m., a male tells the dispatcher that everyone should stay in place. Approximately 8 seconds later, Beat 400X asks the dispatcher to have the ambulance mobilized to come to 95th Street and Commercial Avenue. The ambulance is held up and then a male says to stand by. Shortly after 2:22:45 a.m., Beat 499 says a crime scene will be established. At approximately 2:24:21 a.m., when the dispatcher asks if the incident is over, a male voice that sounds like Beat 499 says the threat level has diminished.

An in-car video from Beat 433R⁴⁶ depicts the alley at the rear of the ██████ residence, with the camera pointing south. At 16:43 into the video, a person in a white shirt walks into view at the south end of the alley. Officers approach him, and he goes to his knees, and he then moves to the left and out of camera range as ██████ appears in the background. Officers verbally interact with ██████ who has his gun in his right hand and pointed to his head several times, telling him that they will get him whatever help he needs. He has a cell phone in his left hand, which he eventually throws to the ground and kicks away. Officers repeatedly tell him to put the gun down and that they are there to help him and not to hurt him. Officers set up at the left near the corner of a garage. One officer points his handgun at ██████. At 34:53 into the video, ██████ moves to the west (left to right) and out of camera range.

Police helicopter video⁴⁷ depicts ██████ walking around in an open lot, and he appears to be holding an object in his right hand.

A video from third-party cameras⁴⁸ at a multi-family residence at ██████ depicts ██████ pacing in the vacant lot. The video depicts ██████ walking or running south on Commercial Avenue, with the MRAP moving south on Commercial Avenue and the BearCat moving east on 94th Street.⁴⁹ In addition, the video depicts the apparent flash-bang device creating light in the background, where the viaduct is located.⁵⁰

⁴⁵ Atts. #194, #217; officers on-scene switched their radios to Citywide 6 from the Zone.

⁴⁶ Att. #242, video file LN 19999, LHN 20000, Beat 433R—second file labeled Beat 433R.

⁴⁷ Att. #120, from 00:28:51 (a.m.) to 00:32:04 (a.m.) on June 16, 2018

⁴⁸ Att. #116, Channel 0120180616014659, from 0146:55 to 0147:09, and Channel 0120180616015037 from 0150:32 to 0150:53.

⁴⁹ Ibid., Channel 0120180616015225, from 0152:19 to 0152:44.

⁵⁰ Ibid., Channel 0120180616015248, from 0152:45 to 0152:58.

A body-worn camera video from Sgt. Robert Jackson, Beat 430R,⁵¹ does not depict ██████ but does depict officers' activity just before, during and after ██████ entered the viaduct. At approximately 2:42 into the video, at least one officer on the west side of Commercial Avenue draws a weapon and kneels, apparently because ██████ is running east across Commercial Avenue and south on the east side of Commercial Avenue toward the viaduct. Sgt. Jackson turns away from Commercial Avenue to the west. Sgt. Jackson moves east, back toward Commercial Avenue, and the video depicts the MRAP vehicle, which is dark green, driving south on Commercial Avenue. The video records a flash and a loud sound, which is apparently from the flash-bang device deployed by a SWAT officer. The white BearCat drives south on Commercial Avenue. At approximately 25:20 into the video, a loud sound is heard, which is possibly the rifle shot fired by Officer Molina, who is not in view. At approximately 25:28 into the video, another loud report is heard, which is possibly the sound of ██████ shooting himself. He is not in view. At approximately 25:37 into the video, another distinct sound is heard, but it is unclear whether it could have been caused by the discharge by Officer Molina of the beanbag round at the end of the incident.

The in-car camera video, with no audio, from Sgt. Jackson's vehicle⁵² has a view to the north from just south of the south end of the viaduct. The vehicle was parked facing north on Commercial Avenue. At approximately 2:39:41 into the video, a person, who appears to be ██████ walks east in the vacant lot in the background. After a vehicle in the background moves west, the person moves west. The person walks east, and the vehicle moves east. Then, shortly thereafter, ██████ shirtless, runs into the viaduct on the east sidewalk and runs south, toward the camera, and out of camera view. The MRAP drives from the background south, toward the camera, in the northbound lane of Commercial Avenue. At approximately 2:40:33 into the video, sparks and dust are visible on the right side of the video. The sparks and dust apparently come from the deployment of the flash-bang device. The BearCat drives south in the northbound lane and stops at the north end of the viaduct.

At approximately 2:42:07 into the video, a person believed to be ██████ enters camera view from the right. He has his right hand up, holding an object to his head. He goes in and out of camera view for several minutes, staying on the east sidewalk. At approximately 2:55:46 into the video, ██████ left hand appears to be up to his head. He continues moving in and out of camera view. At approximately 3:02:42 into the video, what looks like a shadow appears on the viaduct wall. Then there seems to be movement of an object or person on or onto the ground, on the east sidewalk. Additional movement occurs by someone or something on the ground. At approximately 3:04:01 into the video, the MRAP moves north, and a person who appears to be a SWAT officer moves to the rear of the MRAP. At approximately 3:05:09 into the video, the MRAP moves north, and a SWAT officer at the front of the MRAP walks north. At approximately 3:06:11 into the video, officers who are apparently from the BearCat walk south in the northbound lane and eventually on the east sidewalk toward where ██████ had been seen. An unidentified object is in the background near the viaduct wall where ██████ had been seen. At approximately 3:06:18 into the video, the BearCat moves south, and officers stand in the vicinity of where ██████ had been seen. At approximately 3:12:37 into the video, apparent Fire Department personnel move a

⁵¹ Atts. #258 (video disc), #259 (written summary); timecode in upper-right corner of video is 5 hours ahead of real time.

⁵² Att. #249 (video disc), #250 (written summary)

stretcher or back board into the area where [REDACTED] had been seen. At approximately 3:25:38 into the video, the BearCat drives south closer to the apparent shooting scene.

c. Physical Evidence

The Report of Postmortem Examination⁵³

from Dr. [REDACTED] reflects that the autopsy was performed on June 17, 2018. An entrance gunshot wound was on the right temple area with a semicircular muzzle imprint. Soot was on the wound edges and within the depths of the wound. No stippling was on the skin surrounding the wound. The exit wound was on the left temple area. The trajectory of the projectile was right to left, upward, and front to back. Neither the projectile nor projectile fragments were recovered. Injuries included perforation of the brain, skull fractures and hemorrhaging. The apparent range of fire was that the muzzle was in contact with the head.

The Report continued that an entrance gunshot wound was on the upper abdomen. No soot or stippling was on the skin around the entrance wound. The projectile perforated the stomach and abdominal aorta, grazed vertebrae and lodged in the soft tissues of the back. The trajectory was front to back, downward, and right to left. A small-caliber, copper-jacketed projectile was recovered from the soft tissues of the back. Range of fire was indeterminate.

There were also superficial blunt force injuries to the right arm and right thigh.

The cause of death was multiple gunshot wounds. The manner of death was undetermined. The Postmortem report included a toxicology report, which indicates presence of substances including THC, the active component of marijuana; amphetamine; and methamphetamine.

A report from the **Illinois State Police (ISP) Division of Forensic Services⁵⁴** indicates no latent prints suitable for comparison were detected on the knife or on the pistol recovered from the scene where [REDACTED] died. No latent prints suitable for comparison were detected on the pistol's magazine or on the three live cartridges recovered from the magazine and chamber of the pistol.

ISP Laboratory Report⁵⁵ for firearms/toolmarks indicates the seven .40-caliber casings recovered at the two gunfire scenes had been fired from [REDACTED] pistol, which was found to be operable.

ISP Laboratory Report⁵⁶ for microscopy trace concludes, based on a gunshot residue test, that [REDACTED] discharged a firearm, contacted a primer gunshot residue (PGSR) related item or had his right hand in the environment of a discharged firearm.

A fourth **ISP Laboratory Report⁵⁷** indicates Officer Molina's semi-automatic rifle was operable when tested. The recovered fired 5.56mm cartridge casing was found to have been

⁵³ Att. #168

⁵⁴ Atts. #207, #218

⁵⁵ Att. #238

⁵⁶ Att. #239

⁵⁷ Att. #174

chambered in Officer Molina's rifle, but the casing could not be identified or eliminated as having been fired in the rifle. The bullet recovered during the autopsy was found to have been fired from the rifle.

The CPD Case Supplementary Report from detectives of the Investigative Response Team⁵⁸ indicates Ambulance #9, with paramedics Stanislaw Gacek and Thomas Sullivan, were unable to find a pulse on [REDACTED] or any signs of breathing or level of consciousness. Trinity Hospital was contacted, and [REDACTED], RN, gave a time of death of 2:31 a.m. on June 16, 2018. In addition, the Case Supplementary Report includes summaries of interviews with [REDACTED] mother and sisters. The younger sister, [REDACTED] 16 years old, said when she saw [REDACTED] the evening of June 15, 2018, at the [REDACTED] residence, [REDACTED] was acting paranoid, as if he was on drugs. Her mother came from the rear deck and asked her to call 911, which she did, but then panicked and hung up the phone. When OEMC called back, [REDACTED] took over the phone. [REDACTED] said while she was in the apartment, she heard five gunshots coming from the rear deck. She went to the front door and, before exiting, she heard a loud crash inside. She ran outside. Police officers took her away, after which she did not see anything of the incident. The accounts from [REDACTED] mother and sister, [REDACTED] were consistent with what they told COPA. The Case Supplementary Report also includes the interview of [REDACTED] which was already referenced.

The Case Supplementary Report continues with summaries of interviews of **Sgt. Rake and Det. Pentimone and of Officers Gimenez, Heredia, Bardsley Jr., Cronin, Moussa, Lockitski and Molina**, which are consistent with what they told COPA. However, Officer Heredia told detectives he slid [REDACTED] weapon away from him at the end of the incident, while Officers Heredia and Gimenez told COPA that Officer Gimenez moved it away.

Another detectives' Case Supplementary Report⁵⁹ regarding a canvass included information from [REDACTED] [REDACTED] who lived at [REDACTED]. She said she heard fireworks or gunshots toward the rear of her building. When she went outside, she saw a Hispanic male on the rear porch of [REDACTED] talking on a cell phone. She asked him if he heard anything, but he did not respond. [REDACTED] called OEMC and was on that phone call when she saw uniformed officers outside her window and spoke with them. She said the Hispanic male with whom she had spoken to minutes earlier was now throwing beer bottles. Officers asked that [REDACTED] remain in the rear of her residence. [REDACTED] said she saw the same Hispanic male later behind her building. She said she remained in the back of her residence and did not see the shooting incident on Commercial Avenue.

A detectives' General Progress Report⁶⁰ indicates that an uncle of [REDACTED] [REDACTED] who lived at the [REDACTED] residence, said he and [REDACTED] had been drinking beer earlier in the evening of June 15, 2018. Sanchez said [REDACTED] appeared to be depressed about a child custody issue with his wife or the mother of his children. During the evening, [REDACTED] saw that [REDACTED] had a semi-automatic handgun and while walking around, was pointing it at his head and at

⁵⁸ Att. #209

⁵⁹ Att. #255

⁶⁰ Att. #225, second from last page

officers. After some hours, ██████ heard a gunshot followed by another gunshot, which sounded nearby. ██████ was unsure of what happened but learned later that ██████ had died.

A **SWAT Supplementary Report**⁶¹ describes how Officer Molina sustained a laceration to his left palm and a head contusion prior to the final shooting incident. The report indicates that while Officer Molina was on top of the MRAP vehicle, its driver had to accelerate in reverse and then into Drive. The motion caused Officer Molina to lose his balance and fall onto the MRAP, which caused his injuries. After the incident ended, he was transported to Northwestern Memorial Hospital, where he was treated and released.

d. Documentary Evidence

Officer Molina's Tactical Response Report⁶² for his rifle discharge reflects that he was on-duty and in uniform when the incident occurred. The TRR also noted that ██████ did not follow verbal direction, fled, posed an imminent threat of battery with his weapon and used force likely to cause death or great bodily harm. Officer Molina's rifle discharge resulted in a non-fatal major injury to ██████ who also had a self-inflicted injury. Force mitigation was attempted by Officer Molina through member presence, verbal direction or control techniques, having a zone of safety, movement to avoid attack, having specialized units on scene, tactical positioning and the additional members of his unit who were present. The specific control tactic listed is "crisis negotiations." Under "response without weapons," the noise/flash diversionary device was listed, and the rifle and less-than-lethal shotgun use were listed under "response with weapons." In the portion of the TRR used for supervisor review, ██████ death was attributed to a self-inflicted gunshot wound.

Education and Training Division records⁶³ confirmed that Officer Molina had qualified on both the Remington 12-gauge shotgun and the Bushmaster rifle.

A **CPD Crime Scene Processing Report**⁶⁴ indicates that six fired .40-cal. S&W casings were recovered from the rear porch deck at the ██████ residence. A seventh .40-cal. S&W casing was recovered from the sidewalk where ██████ died. Two live .40-cal. S&W cartridges were recovered from the rear porch deck. ██████ Ruger SR40, .40-cal. Semi-Auto pistol was recovered at the final shooting scene. That pistol had a live round in its chamber and two live rounds in its magazine. That pistol was found to be "clear" and not registered.

A fired 5.56mm casing was recovered from the interior rear floor of the MRAP vehicle. A fired bean bag round was recovered from the sidewalk where ██████ died. The flashbang canister and a "spoon" that is part of the canister were recovered from Commercial Avenue south of the viaduct.

Officer Molina's less-than-lethal shotgun was recovered from the rear of the MRAP vehicle. An I-phone was recovered from the rear walkway next to the garage at 9420 S. Commercial Ave.

⁶¹ Att. #179

⁶² Att. #6; Att. #7 is the Tactical Response Report regarding Officer Molina's discharge of the less-than-lethal shotgun and beanbag round.

⁶³ Att. #175

⁶⁴ Att. #8

An opened 12-pack of beer bottles was on the rear deck porch of the [REDACTED] residence, and one of the rear windows of the residence was broken, a beer bottle resting in the mini-blinds of the window.

After [REDACTED] body was removed, Forensic Investigator Ryan used a rake to search the scene where [REDACTED] died but did not discover additional fired evidence.

The Synoptic Report⁶⁵ from the Bureau of Internal Affairs indicates Officer Molina's Breath Analysis Concentration was .000.

The Ambulance Report for Officer Molina⁶⁶ reflected that he complained of neck and back pain from his falling onto the armored vehicle while it was moving at approximately 5 miles per hour. He also sustained a laceration to his left hand. He was treated at Northwestern Memorial Hospital and released. Ambulance #9 arrived at the hospital at 3:13 a.m.

VI. LEGAL STANDARD

a. 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.⁶⁷ 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.”⁶⁸

Department members will use only the **necessary** amount of force required under the circumstances to serve a lawful purpose.⁶⁹ Members will only use the force that is **proportional** to the threat, actions, and level of resistance offered by a subject. This may include using greater force or a different type of force than that used by the subject.⁷⁰

The Department's “highest priority is the sanctity of human life.”⁷¹ Discharging a firearm is deadly force under Department policy.⁷² 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.”⁷³ Thus, a Department

⁶⁵ Att. #65

⁶⁶ Att. #99

⁶⁷ General Order G03-02(III)(B)(1).

⁶⁸ G03-02(II)(D).

⁶⁹ G03-02 (III)(B)(2).

⁷⁰ G03-02 (III)(B)(3).

⁷¹ G03-02 (II)(A).

⁷² G03-02 (III)(C)(1).

⁷³ G03-02 (III)(C)(3).

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.⁷⁴ “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.”⁷⁵

Members will use **de-escalation and force mitigation** techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances.⁷⁶ This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety. Examples include but are not limited to exercising persuasion and advice and providing a warning prior to the use of force; determining whether the member may be able to stabilize the situation through the use of time, distance, or positioning to isolate and contain a subject; and requesting additional personnel to respond or make use of specialized units or equipment including crisis-intervention-team trained officers.⁷⁷

b. Standard of Proof

COPA applies a **preponderance of evidence** standard to determine whether allegations of misconduct are warranted or whether conduct was within CPD policy. A preponderance of evidence is evidence indicating that it is **more likely than not** that a proposition is proved.⁷⁸ 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.

VII. ANALYSIS

COPA finds that Officer Molina’s Use of Deadly Force was Within Policy.

A preponderance of the evidence demonstrates that Officer Molina’s use of deadly force was objectively reasonable in light of the totality of the circumstances he faced in this incident. His use of deadly force was a last resort and was necessary to prevent the imminent threat of death or great bodily harm presented by ██████ to himself as well as the many other officers on the scene.

⁷⁴ G03-02 (III)(C)(3).

⁷⁵ G03-02 (III)(C)(2).

⁷⁶ G03-02-01 (II)(B).

⁷⁷ G03-02-01 (III).

⁷⁸ 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.”).

COPA finds that ██████ posed an imminent threat of death or great bodily harm.

First, it was objectively reasonable for Officer Molina to believe that ██████ actions were immediately likely to cause death or great bodily harm to Officer Molina and his fellow officers. Officer Molina indicated that at this time ██████ raised the firearm with a two-handed grip, which was a more aggressive manner than he had been using. This was corroborated by numerous other officers.⁷⁹ Moreover, Officer Molina indicated that just prior to pointing the gun in this manner, ██████ had been looking around the MRAP as if attempting to find a route to escape, and it could be reasonably interpreted that he was now pointing his gun to shoot at the MRAP to further this escape.⁸⁰ Therefore, COPA finds that at the time Officer Molina shot ██████ it was objectively reasonable for him to believe that ██████ actions now indicated that he was immediately likely to use the firearm.

Second, it was objectively reasonable for Officer Molina to believe that ██████ had the means or instruments to cause death or great bodily harm. Officer Molina personally observed ██████ from a close distance for an extended period of time and was able to identify that he was holding a firearm. This was corroborated by many officers on the scene, who also discussed with Officer Molina prior to the shooting that ██████ had a gun. Officer Molina was also provided information from ██████ family, prior to the shooting, that ██████ was armed and had already shot his firearm multiple times.⁸¹ Third, it was objectively reasonable for Officer Molina to believe that ██████ had the opportunity and ability to cause death or great bodily harm. While Officer Molina was slightly protected by the armored MRAP, he indicated that half of his body was sticking out of the MRAP, and he could have been struck by gunfire had ██████ fired. Moreover, COPA finds that under the totality of the circumstances faced by Officer Molina, it was reasonable for him to believe that deadly force was a necessary last resort. At the time he used deadly force, Officer Molina reasonably believed that he would not have been able to duck back into the turret in time to protect himself, due to the fact that he needed to be partway out of the turret in order to have his carbine ready. Moreover, not only did ██████ pose an imminent threat of death or great bodily harm to Officer Molina, but there were many other officers on the scene, and Officer Molina could not know if all of those officers were in positions of cover, or if ██████ would pose a risk to them if Officer Molina did not take action at that time.

Officer Molina's use of deadly force was also proportional to the threat posed by ██████ since he reasonably believed that ██████ was making actions indicative that he was about to use deadly force.

⁷⁹ Det. Pentimone, who was in the BearCat, said that ██████ also took a "triangular stance" similar to how officers are taught in training to stand when shooting. Officer Moussa described that he "punched" the gun out, as if pointing it towards Officer Molina. Officer Lockitski, who was behind the MRAP, and Officer Cronin both also described that ██████ had used a two-handed grip for the first time.

⁸⁰ Moreover, ██████ actions indicated that he was attempting to flee by running to 95th Street. Since his actions posed an imminent threat of death or great bodily harm while attempting to escape or defeat arrest, this further bolstered Officer Molina's justification to use deadly force.

⁸¹ Ballistic evidence found that the shell casings on the rear porch of the ██████ home were fired from the firearm recovered next to his body.

Additionally, it was objectively reasonable for Officer Molina to believe that further de-escalation would not have been safe and feasible under the totality of the circumstances. For hours multiple officers had been giving verbal commands that █████ continued to ignore. Moreover, the officers indicated that they allowed Det. Pentimone to be the primary communicator, due to his training.

Officer Molina also indicated that they attempted to use positioning to create a zone of safety. He said they both kept the MRAP away from █████ in order to not agitate him, but also used the MRAP to cut him off when he went towards the more congested area of 95th Street. The officers also used the less lethal flashbang to stop █████ from running to 95th Street, where he would have posed a greater risk to officers.

Finally, just before Officer Molina shot, he gave one last command for █████ to drop the firearm, which he did not do, but instead continued to point the firearm at Officer Molina in the more threatening posture. At that moment, it was objectively reasonable for Officer Molina to believe that his de-escalation attempts would no longer be successful.

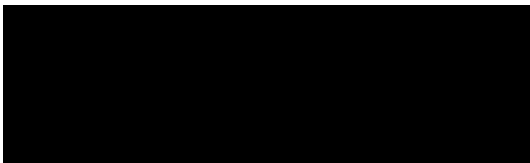
Considering the totality of the circumstances, COPA finds by a preponderance of the evidence that Officer Molina reasonably believed that the use of deadly force was a necessary last resort to prevent the imminent threat of death or great bodily harm to himself and others. Therefore, he was permitted to use deadly force under CPD General Order 03-02.

VIII. CONCLUSION

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

Officer Molina's use for deadly force was objectively reasonable, necessary and proportional, considering that █████ constituted an imminent threat, which are the requirements allowing the use of deadly force.

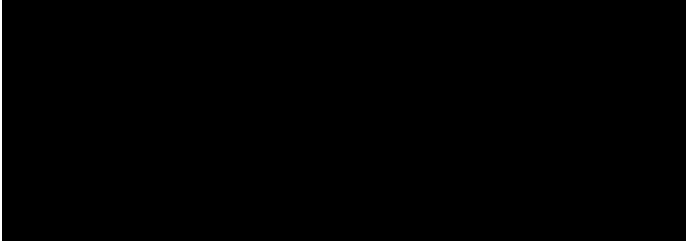
Approved:



Matthew Haynam
Deputy Chief Administrator

11/30/2022

Date



11/30/2022

Andrea Kersten
Chief Administrator

Date

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