

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

Date of Incident:	April 30, 2012
Time of Incident:	Approximately 2:43 A.M.
Location of Incident:	XXX South Western, Store M
Date of COPA Notification:	April 30, 2012
Time of COPA Notification:	Approximately 3:08 A.M.

On the morning of April 30, 2012, an emergency call was made to the City of Chicago Office of Emergency Management Communications (OEMC) regarding a burglary in progress at “Store M,” located at XXX South Western Avenue. This store is located at the northeast corner of XXX Street and Western Avenue, with entrances on both streets. On Western Avenue, the Store M front is accessible through two glass doors; six glass windows also make up this side of the store. On XXX Street, the store bay area is accessible through an overhead garage door, as well as a side service door; three storefront windows also face onto XXX Street. In response to the call of a burglary in progress, OEMC Dispatch reported the incident over Zone 10 frequency. Over a five minute period subsequent to this report, several Chicago Police Department (CPD) units from the 10th District traveled to the scene, resulting in nearly 20 CPD officers responding to the call of burglary in progress. As the officers examined the building, it became apparent that two or more individuals were inside the building. Multiple officers observed these individuals moving back and forth within the store, apparently placing items into a vehicle parked within the garage bay. Upon observing these individuals, officers announced their office and instructed the individuals to surrender.

During this time, the original 911 caller—a tenant living within the building—walked downstairs to direct officers toward the offenders. As the offenders were within the garage bay, behind a locked access door, officers began to force entry into the garage bay. While attempting to make entry, part of the service door broke away, allowing officers an opportunity to see inside of the garage bay. From this opening, the red taillights of the offenders’ vehicle could be seen, which suddenly changed to the white reverse lights. At the same time, officers on the Western Avenue side of the building saw the offenders enter the vehicle, followed by the illumination of white reverse lights. Upon observing these developments, officers at the service door and at the Western windows shouted out, so as to alert officers near the garage bay that the offenders’ vehicle was backing out. Simultaneously, the driver drove the offenders’ vehicle in reverse, through the closed garage bay door and into a crowd of approximately ten officers. In bursting from the closed bay door, the offenders’ vehicle struck one officer, while other officers fled from the vehicle’s apparent path.

Concerned that the struck officer was dragged under the vehicle, and that the vehicle was moving toward other officers, eight of the responding officers fired their handguns at the vehicle. The number of shots fired by each officer ranged from one to eighteen, with a total of 75 rounds discharged. During the firing, the offenders’ vehicle crashed into two vehicles parked on XXX

Street, lurched forward, then came to a rest. Once the vehicle was no longer moving, the officers ceased firing and walked toward the vehicle, so as to place the individuals under arrest. One of the individuals, Subject 1, was killed during the incident; the other two occupants of the vehicle, Subject 2 and Subject 3, were hospitalized as a result of injuries they suffered during the incident. Both Subject 2 and Subject 3 were subsequently convicted of felony murder, for the death of Subject 1. Due to CPD officers' use of deadly force during the April 30, 2012 incident, this investigation was commenced. The results of this investigation are as follows.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A; Star #XXX; Employee #XXX; DOA: XXX, 2007; Police Officer; Assigned to Unit XXX; DOB: XXX, 1982; Male Hispanic
Involved Officer #2:	Officer B; Star #XXX; Employee # XXX; DOA: XXX, 2008; Sergeant; Assigned to District XXX; DOB: XXX, 1984; Male White
Involved Officer #3:	Officer C; Star # XXX; Employee # XXX; DOA: XXX, 2003; Police Officer; Assigned to District XXX; DOB: XXX, 1976; Male Hispanic
Involved Officer #4:	Officer D; Star # XXX; Employee # XXX; DOA: XXX, 2010; Police Officer; Assigned to District XXX; DOB: XXX, 1982; Male Hispanic
Involved Officer #5:	Officer E; Star # XXX; Employee # XXX; DOA: XXX, 2009; Police Officer; Assigned to District XXX; DOB: XXX, 1981; Male Hispanic
Involved Officer #6:	Officer F; Star # XXX; Employee # XXX; DOA: XXX, 2007; Field Training Officer; Assigned to District XXX, Detailed to District XXX; DOB: XXX, 1981; Female Hispanic
Involved Officer #7:	Officer G; Star #XXX, Employee # XXX; DOA: XXX, 2010; Field Training Officer; Assigned to District XXX, Detailed to District XXX; DOB: XXX, 1977; Male White
Involved Officer #8:	Officer H; Start # XXX; Employee # XXX; DOA: XXX, 2009; Police Officer; Assigned to District XXX, Detailed to Unit XXX; DOB: XXX, 1981; Male White
Involved Civilian #1:	Subject 3; DOB: XX XX, 1979; Male Black
Involved Civilain#2:	Subject 2; DOB: XX XX, 1979; Male Black
Involved Civilian #3:	Subject 1; DOB: XX XX, 1984; Male Black, Deceased

III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer A discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer A discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer B (Now Sgt. B)	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer B discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer B discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer C	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer C discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer C discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer D	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated

	<p>XXX South Western, Officer D discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,</p> <p>2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer D discharged his firearm into a moving vehicle without justification, in violation of Rule 6.</p>	
Officer E	<p>1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer E discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,</p> <p>2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer E discharged his firearm into a moving vehicle without justification, in violation of Rule 6.</p>	<p>1. Exonerated</p> <p>2. Exonerated</p>
Officer F	<p>1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer F discharged her firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,</p> <p>2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer F discharged her firearm into a moving vehicle without justification, in violation of Rule 6.</p> <p>3. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer F picked up shell casings after a police involved shooting, in violation of Rule 6.</p>	<p>1. Unfounded</p> <p>2. Exonerated</p> <p>3. Unfounded</p>

Officer G	<ol style="list-style-type: none">1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer G discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer G discharged his firearm into a moving vehicle without justification, in violation of Rule 6.	<ol style="list-style-type: none">1. Exonerated2. Exonerated
Officer H	<ol style="list-style-type: none">1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer H discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer H discharged his firearm into a moving vehicle without justification, in violation of Rule 6.	<ol style="list-style-type: none">1. Exonerated2. Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

Rule 6: Disobedience of an order or directive, whether written or oral.¹

General Orders

1. **G03-02 “Use of Force Guidelines,” Effective 01 October 2002 through 15 October 2017**

II. General Information

Chapter 720, Article 5, Section 7-5, of the Illinois Compiled Statutes provides in part:

‘A peace officer...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest.’

III. Department Policy [...]

B. Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.

C. As set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer.

¹ Directive Comment: This Rule prohibits disobedience by a member of any lawful written or oral order or directive of a superior officer or another member of any rank who is relaying the order of a superior.

2. G03-02-03 “Deadly Force,” Effective 01 October 2002 through 10 February 2015

A. A sworn member is justified in using force likely to cause death or great bodily harm² only when he or she reasonably believes that such force is necessary:

1. To prevent death or great bodily harm to the sworn member or to another person; or,
To prevent an arrest from being defeated by resistance or escape³ and the sworn member reasonably believes that the person to be arrested:
 - a. Has committed or has attempted to commit a forcible felony⁴ which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. Is attempting to escape by use of a deadly weapon or;
 - c. Otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

B. Firing at or into a moving vehicle is only authorized to prevent death or great bodily harm to the sworn member or another person. When confronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle’s path.

3. G04-02 “Crime Scene Protection and Processing,” Effective 15 June 2002 through 06 November 2014:**III. General Information**

D. In the absence of exigent circumstances, a crime scene will be protected until it is completely processed for physical evidence. Evidence will NOT be disturbed prior to processing, unless it is absolutely necessary to preserve life or to protect the evidence from loss or damage.

² A. Deadly force is force which is likely to cause death or great bodily harm and includes

1. The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and
2. The firing of a firearm at a vehicle in which the person to be arrested is riding.

B. A peace officer’s discharge of a firearm using ammunition designed to disable or control an individual without creating the likelihood of death or great bodily harm (i.e., impact munitions) shall not be considered force likely to cause death or bodily harm. (720 ILCS 5/7-8)

³ A peace officer or other person who has an arrested person in custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting the person. (720 ILCS 5/7-9)

⁴ A forcible felony means any treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, and any other felony which involves the use of threat of physical force or violence against any individual. (Forcible Felony, 720 ILCS 5/2-8)

V. INVESTIGATION

In order to fully investigate the allegations, which form the basis of this log number, a series of evidentiary steps were taken by Independent Police Review Authority (IPRA)—now Civilian Office of Police Accountability (COPA)—investigators.⁵ These evidentiary steps are detailed as follows.

On April 30, 2012, IPRA **was notified by the Chicago Police Department of a shooting incident** that took place earlier in the day. To obtain preliminary information on the relevant event and involved parties, IPRA investigators traveled to the scene of the shooting incident, Store M. Upon arrival at the store, located at XXX South Western, investigators spoke with On Call Incident Commander (OCIC) OCIC I, now XXX of the Chicago Police Department; OCIC I provided investigators with the following synopsis of the incident. On the evening of the incident, officers responded to a call of a burglary in progress at Store M. Once at the store, officers encountered a window at the rear of the store that appeared to be pried open. After further investigation, it appeared that individuals were still inside the store; a witness on scene identified these individuals as the burglars.

As officers attempted to make entry into the building, the individuals entered a silver minivan, then used the van to crash through a closed garage door. While the vehicle emerged from the garage bay, it struck one or two of the officers standing outside. Several officers discharged their weapons at the vehicle in response to this development; according to OCIC I, these officers believed an officer was pulled beneath the van. The van continued along the sidewalk, crashing into a red van parked in front of the driveway port. At the time of the IPRA response, OCIC I was unable to provide investigators with further information regarding the incident.⁶

a. Interviews

INVOLVED OFFICER INTERVIEWS AND DEPOSITIONS

On May 8, 2012, an **interview of Police Officer (PO) Officer F** was taken at IPRA headquarters. In her statement, Officer F indicated that on April 30, 2012, she was assigned to Beat XXX with her partner, Officer D. While conducting patrol, Officer F heard a call come over the radio of a burglary in progress at XXX South Ashland. Officer F acknowledged the call via radio, and Officer D drove Beat XXX⁷ to Store M. Upon arrival at the store, Officer D parked Beat XXX on Western Avenue and the responding officers exited the vehicle. Officer F observed another officer, “Officer J,” looking through the store windows with his flashlight, so she decided

⁵ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendations set forth herein are the recommendations of COPA.

⁶ Attachment 6

⁷ During the course of the officer interviews, officers consistently referenced their police vehicles by the Beat Number they had been assigned for the evening. In order to distinguish the numerous responding vehicles, these vehicle Beat Numbers have been included in officer interview summaries.

to join him.⁸ As Officer F walked up to the windows, “PO J” indicated that he could see a black male inside the store.

In response to this information, Officer F decided to use her flashlight to look through the windows. Officer F was unable to see any activity inside of the store, so she walked to the alleyway behind Store M. Once in the alleyway, Officer F saw several other officers looking through a pried open window. Realizing that it would be unsafe to enter the building through this window, Officer F moved to the XXX Street side of the building to find a different entry point. At this time, Officer F knocked on the garage door of Store M, announced her office and requested the occupants to exit the building. As she stood in front of the garage door, Officer F could hear footsteps inside the store. Suddenly, someone opened the service door adjacent to the garage door; not knowing who this person was, Officer F drew her gun from its holster.

The unknown individual—a Hispanic male—began to talk with another officer, at which point it became evident that this was the individual who called 911 regarding a break in at Store M’s. The man then indicated to the officers that the intruders entered the garage bay, through a side door of the service door vestibule. In an effort to gain entry to the garage bay, Officers C and E began to bang on the side door, while Officer F stood just outside the service door vestibule. Suddenly, someone shouted “they’re coming,” and simultaneously a vehicle erupted through the garage door.⁹

When the vehicle emerged from the garage bay, Officer F was facing toward the garage door. As the vehicle continued to exit from the garage bay, Officer F moved to the side, then observed the vehicle travel toward a group of officers. Based on her recollection, Officer F saw the vehicle strike one of the officers, at which point the officer fell down and out of Officer F’s sight. Concerned that the officer had been pulled under the vehicle, as well as for the welfare of other officers near the vehicle, Officer F fired once at the driver of the vehicle. Officer F did not fire again, as another officer moved into her line of sight. Given that other officers were firing their weapons, Officer F took cover in the alleyway next to Store M. Only after the gunfire ended did Officer F reemerge and assist her fellow officers.¹⁰

A **second interview of Officer F** was taken at IPRA headquarters on June 7, 2016, at which point she was presented with the aforestated allegations. In her second statement to IPRA, Officer F acknowledged that she viewed video footage from Store M, which depicted the incident subject to this investigation. Officer F noted that she stood by her previous statement, but did offer a clarification as to her actions in the footage. From the footage, Officer F can be seen picking up what appear to be shell casings; Officer F indicated that she picked up live rounds, which fell to the ground, when she counted the number of bullets in her magazine. When asked, Officer F stated that she did not pick up spent casings on the day of the incident.¹¹

⁸ Officer’s name is spelled phonetically in interview transcript. Further information regarding this officer’s identity was not elicited during Officer F’s interview. (Attachment 78, Page 7, Line 17)

⁹ Attachment 78, Page 15, Line 4.

¹⁰ Attachment 78

¹¹ Attachment 224

On May 8, 2012, an **interview of PO C** was taken at IPRA headquarters. In his statement, Officer C indicated that on April 30, 2012, he was assigned to Beat XXX with his partner, PO K. While on patrol in Beat XXX, Officer C heard a call over the radio of a burglary in progress at XXX South Western. Based on his recollection, Officer C acknowledged the call and drove Beat XXX to Store M. Upon arrival at the scene, Officer C parked at the southeast corner of XXX and Western; at that time, four or five units were already on scene. Exiting the vehicle, Officer C asked a group of officers where the burglars made entry into the store. In response, Officer C was directed to the alleyway at the east of Store M.

In the alleyway, Officer C saw a pried away air-conditioning box, with space to enter the store. Officer C then learned that there were windows on the Western side of the building, so he and PO K walked over to look through those windows. While standing in front of the windows on the corner of Western and XXX Street, Officer C shined his flashlight through the pane, but he was unable to see any activity inside. From this position, Officer C walked eastward, ending up in the space between Store M's garage door and the adjacent service door.

As he stood in this spot, Officer C heard noises coming from the garage bay. From Officer C's perspective, these noises appeared to come from someone inside the store attempting to open the garage door. In response to this development, the officers around Officer C began shouting, "Chicago Police," and "building surrounded, Chicago Police, just come on out."¹² Officer C's next memory is seeing a man open the service door adjacent to the garage door. In response to this development, Officer C drew his firearm from its holster and announced his office. The man stood in the service door vestibule, raised his hands, then indicated to Officer C that the offenders were in the garage bay at which point he reholstered his weapon. Based on the man's verbal and physical indications, a door immediately within the vestibule lead to the garage bay.

In order to allow officers access to the building, the man moved backward into the vestibule, while Officer C and Officer E entered the service door. After entering the vestibule, Officer E attempted to kick the garage bay access door open, but he was only able to create a hole in the bottom of the door. Officer C then attempted to kick the door in, but he only managed to make the hole bigger. At this time, Officer C heard a car door slam and a car engine ignite. Looking through the hole he had created in the access door, Officer C saw a vehicle inside the garage bay; suddenly, the white "reverse" lights on the vehicle became illuminated. In response to this observation, Officer C shouted, "They are going to come out!"¹³

As Officer C moved to exit the vestibule and warn his fellow officers, the vehicle erupted from the closed garage door. Looking out from the entrance to the vestibule, Officer C saw the vehicle hit an officer, after which point the officer disappeared from view. At this point, Officer C became concerned that the officer had been pulled beneath the vehicle. Officer C removed his gun from its holster, but due to the number of officers in his field of view, Officer C did not fire his weapon. The vehicle then hit a parked car, at which point the vehicle stopped traveling in reverse. Looking through the windshield toward the driver, Officer C observed the driver motion as though he was shifting gears. At the same time, Officer C concluded that the vehicle moving forward, towards himself and several other officers.

¹² Attachment 85, Page 12, Lines 20-24.

¹³ Attachment 85, Page 17, Line 7.

Having just observed the vehicle run over an officer, Officer C feared that the driver of the vehicle was about to drive forward into another crowd of officers. In response to this development, Officer C fired his weapon at the driver six times. He ceased firing when the vehicle appeared to stop moving forward. When all the gunfire subsided, several CPD officers approached the vehicle; Officer C decided to enter the store and determine whether anyone else was still inside.¹⁴

On May 8, 2012, an **interview of Officer A** was taken at IPRA headquarters. In his statement, Officer A indicated that on April 30, 2012, he was assigned Beat XXX with two other officers, Officer H and PO B. All three officers were in a marked vehicle, wearing plain clothes. During their patrol, a call came over the radio of a burglary in progress at XXX South Western. Although Officer A could not recall acknowledging the message, he recalled driving to Store M. Beat XXX parked at XXX West XXX Street, at which point Officer A observed approximately four other CPD vehicles already on scene. Upon exiting the vehicle, officers on the scene informed Officer A that the offenders were still inside the store.

At this point, Officer A walked over to Store M's garage door on XXX Street, joined Officers C and E. While standing outside the store, Officer A knocked on the garage door and announced his office. As Officer A made these announcements, an individual opened the service door adjacent to the garage door. Based on Officer A's memory, Officers C and E were the closest officers to the service door, with Officer A just behind them. From what Officer A could see, the individual who opened the door gestured inside the building, indicating that the burglars were just inside. Officers C and E then walked through the service door and into a vestibule, while Officer A stood in the doorway. Once inside the doorway, Officer A saw a doorway on the left side of the vestibule, leading directly to the garage bay.

Upon encountering this inner door, Officers C and E began kicking the door in. During this time, Officer A saw Officer E crouch down and say, "come out."¹⁵ Two seconds later, Officer E shouted, "it's reversing," which Officer A tried to convey to the other officers.¹⁶ This effort was interrupted when a vehicle exited the garage bay and erupted from the garage door. As the vehicle traveled in reverse out of the garage bay, it passed in front of Officer A, who was facing west. Officer A then saw the vehicle hit PO L, who was on the opposite side of the vehicle. From Officer A's standpoint, the rear left side of the vehicle struck PO L, causing PO L to disappear from view. The vehicle then kept moving in reverse, into a crowd of officers.

Although Officer A was unsure if PO L was knocked over or pulled under the vehicle, Officer A believed that the vehicle was being used as a deadly weapon, prompting him to pull his gun from its holster. While the vehicle continued to travel in reverse, Officer A fired his weapon at the driver eight times. During this time, no officers were in Officer A's field of vision. As he fired, Officer A saw the driver make movements, as though he was putting the vehicle in forward

¹⁴ Attachment 85. A second interview of PO C was taken at IPRA headquarters on June 8, 2016, at which point he was presented with the aforesaid allegations. In his second statement to IPRA, PO C acknowledged that he viewed video footage from Store M Store, which depicted the incident subject to this investigation. PO C noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 234.

¹⁵ Attachment 91, Page 16, Line 10.

¹⁶ *Id.* at Lines 12-13.

gear. Officer A ceased firing at eight rounds; his firearm jammed, and to remedy the issue, Officer A removed the magazine and inserted a backup clip. Although Officer A returned the firearm to working order, he did not fire again. All other shooting officers had also ceased firing their weapons at this point.

Once the shooting ceased, Officer A walked toward the vehicle with his weapon drawn. Officer A asked the vehicle occupants to show their hands; in response, a rear passenger indicated that he could not; he was shot. Upon reaching the vehicle, Officer A opened the driver's door, which caused the driver to fall out. From this point, Officer A moved on to the man who indicated that he was shot. This man was handcuffed by Officer A, after which point Officer A requested three ambulances to the scene.¹⁷

On May 8, 2012, an **interview of PO B** was taken at IPRA headquarters. In his statement, PO B indicated that on April 30, 2012, he was assigned to Beat XXX with Officers M and N. While on patrol, PO B heard a call come over the radio of a burglary in progress at XXX South Western. In response to this call, Officer A drove Beat XXX to Store M. Upon arrival at the store, PO B observed that a couple other beats were already on scene. Officer A parked Beat XXX on XXX Street, about 10-20 feet east of the intersection with Western. PO B exited the vehicle and headed to the alleyway at the rear of the building, where he saw a grate on the side of the building, which appeared to have been cut open.

After concluding that it would be unsafe to make entry into the building through this hole, PO B made his way to the front of the building. While at the front of the building, PO B noticed that there were store windows facing out onto Western. At this point, PO B used his flashlight to look through a window, at which time he saw people moving about in the rear of the store. In response to this observation, PO B knocked on the window and said, "police, what are you guys doing?"¹⁸

From the Western side of the building, PO B moved over to the south side of the building and positioned himself in front of the garage door. From his spot, PO B could see an inch gap between the bottom of the garage door and the driveway. Through this gap, PO B observed shadows moving back and forth. In reaction, PO B shouted, "police, come on out."¹⁹ While PO B stood before the garage door, an unknown individual opened the garage service door. PO B moved toward the service door, but other officers blocked his view and interior access.

From his standpoint, PO B saw the individual converse with Officers C and E. Based on PO B's recollection, the individual spoke in Spanish, and was gesturing toward a door within the service door entrance. PO B then observed Officers C and E, as well as a couple other officers, move into the service doorway. Once inside the doorway, Officers C and E began kicking at the inner door in an effort to gain entry to the garage bay. As the kicking went on, PO B stood outside

¹⁷ Attachment 91. A second interview of Officer A was taken at IPRA headquarters on June 14, 2016, whereby he was presented with the aforesaid allegations. In his second statement to IPRA, Officer A acknowledged that he viewed video footage from Store M, which depicted the incident subject to this investigation. Officer A noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 253.

¹⁸ Attachment 98, Page 10, Line 2.

¹⁹ *Id.* at Page 12, Line 21.

the building, in a space between the service door and the garage door. Although PO B was not within the hallway, he positioned himself outside the service doorway, ready to rush inside the garage bay if entry was made. PO B described his positioning as a “stack formation,” with an officer directly in front of him and an officer directly behind; while waiting outside, PO B had his gun drawn and ready.²⁰

Suddenly, a vehicle erupted from the closed garage door, which caused a metal gate to move in the direction of PO B. In reaction to this development, PO B moved from facing north to facing westward, so that he was faced with the emerging vehicle. At this time, PO B observed the rear bumper of the vehicle hit PO L. Once the vehicle struck PO L, PO L disappeared from PO B’s vantage point. In fear that PO L had been pulled beneath the vehicle, and that other officers would be “squished” by the vehicle, PO B fired his firearm at the driver.²¹ During the time that PO B was firing, the vehicle crashed into another car and stopped; PO B then observed the driver motion as though he was shifting gears. Based on PO B’s perception, the vehicle moved forward, so PO B continued firing until the vehicle stopped moving.

When asked why he fired into the vehicle as it continued to move forward, PO B explained that the vehicle was being used as a weapon toward other officers on scene, which caused him to fear for the safety of his fellow officers. In total, PO B fired at the vehicle 11 times; no officers were in his line of fire as he shot. Once the shooting ceased, PO B held his gun to his side and approached the vehicle. When PO B saw other officers control the scene inside the vehicle, he moved his attention to the welfare of Officer L.²²

On May 8, 2012, an **interview of PO D** was taken at IPRA headquarters. In his statement, Officer D indicated that on April 30, 2012, he was assigned to Beat XXX with his partner, Officer F. While on routine patrol, a call came over the radio of an incident at XXX South Western. Officer F acknowledged the call, and Officer D drove Beat XXX to the scene of the incident. Upon arrival, Officer D parked Beat XXX on Western, in front of Store M. The officers exited the vehicle, at which point they observed PO O standing on the Western side of the store, using his flashlight to look through the store windows. PO O indicated that he saw an individual inside the store, at which point Officer D used his flashlight to look through the windows.

While looking through the window, Officer D was unable to see any individuals, but he could see a doorway leading into a garage bay. This inside door was open, through which Officer D saw a vehicle. As Officer D watched, two or three individuals could be seen entering the vehicle. In response to this observation, Officer D announced to the other officers, “look, they’re jumping in the vehicle.”²³ Officer D then moved across the XXX Street side of the store to the rear alleyway, where he saw the Store M’s garage door and service door on XXX Street. Suddenly, an unknown Hispanic male opened the garage service door and spoke to the officers standing outside

²⁰ Attachment 98, Page 17, Lines 9-12.

²¹ *Id.* at Page 24, Line 17.

²² Attachment 98. A second interview of Officer B was taken at IPRA headquarters on June 2, 2016, at which point he was presented with the aforesaid allegations. In his second statement to IPRA, Officer B acknowledged that he viewed video footage from Store M Store, which depicted the incident subject to this investigation. Officer B noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 214.

²³ Attachment 104, Page 11, Line 24-Page 12, Line 1.

the door. From Officer D's memory, the unknown male spoke to the officers in Spanish, but he was too far away to hear the specifics of the conversation.

The man appeared to point to the inside of the service doorway, instructing the officers to break down an inner door. At this point, Officers C and E began breaking down the inner door, which caused part of the bottom of the door to break away. Once this happened, Officer E stuck his head down by the opening, indicated that he saw the vehicle's reverse lights, and yelled, "they're coming out!"²⁴ Simultaneously, Officer D observed the vehicle erupt through the garage door, at which point the left rear part of the vehicle struck PO L. From Officer D's vantage point, he could not tell whether PO L was being dragged by the vehicle; in response to this development, Officer D drew his weapon from its holster and fired at the vehicle driver.

As the vehicle traveled in reverse out of the garage, it collided with a vehicle parked on XXX Street and moved forward. Concerned that the vehicle was about to move forward in his direction, Officer D continued firing his weapon. When the vehicle stopped moving forward, Officer D stopped firing his gun; in total, he fired at the driver nine times. Once the shooting ceased, Officer D approached the vehicle and assisted with detaining the occupants.²⁵

Officer D was deposed on October 23, 2017 in the case XXX, regarding his involvement in the April 30, 2012 incident. During this deposition, Officer D provided some additional detail as to his use of force. As Officer D stood east of the closed garage door, he observed a vehicle crash out of the garage bay and into a group of officers. The rear driver's side of the vehicle then hit PO L, at which time Officer D drew his firearm from its holster. Concerned PO L was dragged by the vehicle, and that other officers were in the path of the vehicle, Officer D fired his gun at the driver of the vehicle. When the vehicle moved forward, Officer D fired at the vehicle driver again, as officers were still in the direct path of the vehicle. Once the vehicle stopped moving toward the officers, Officer D ceased firing.²⁶

On May 8, 2012, an **interview of PO H** was taken at IPRA headquarters. In his statement, Officer H indicated that on April 30, 2012, he was working first shift with two other officers, Officer N and Officer B. While monitoring the radio, a call came across of a burglary in progress at XXX South Western. In response, the officers drove to Store M to assist with the scene. Upon arrival at the scene, Officer H observed approximately two other units already present. After exiting the vehicle Officer H learned from other officers that the offenders were still inside the building. In response to this news, Officer H moved to the rear alleyway, where the offenders had made entry to the store. While in the alleyway, Officer H saw a metal grate had been removed from the store's wall, creating an entrance into the store.

From his position in the alleyway, Officer H heard shuffling noises coming from inside the store. Deciding that it would be unsafe to enter the building through the hole, Officer H and PO

Commented [HS1]: Attachment 73 is the Notification of Charges/Allegations for P.O. Rey. Is this the correct attachment number?

Commented [HS2R1]: This should be Att. 266.

²⁴ *Id.* at Page 17, Line 23.

²⁵ Attachment 104. A second interview of PO D was taken at IPRA headquarters on June 2, 2016, at which point he was presented with the aforesaid allegations. In his second statement to IPRA, PO D acknowledged that he viewed video footage from Store M Store, which depicted the incident subject to this investigation. PO D noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 205.

²⁶ Attachment 266

B relocated to the XXX Street side of the store. While Officer H positioned himself near the garage service door, PO B tried to pull open the garage door, but it appeared locked. Again, Officer H heard noise coming from inside the store, so he shouted, "Chicago Police, the building's completely surrounded, come out."²⁷ From his vantage point, Officer H could see shadows moving back and forth beneath the garage door.

Suddenly, the garage service door opened and Officer H saw an individual come out. In response to this development, Officer H pulled his weapon from its holster and kept it by his side. Officer C began to converse with the individual in Spanish, during which time Officer H heard a series of loud noises coming through the garage door. Upon hearing these noises, Officer H turned to face the garage door, whereupon he observed a vehicle erupt from the closed door. As the vehicle emerged from the door, Officer H saw the vehicle hit PO L, and it appeared he was dragged beneath the vehicle. The vehicle continued to travel in reverse, toward a group of officers on XXX Street. Once this occurred, Officer H fired his gun at the vehicle driver. As the vehicle traveled in reverse, Officer H walked toward the vehicle and fired his weapon. During this time, the driver made a movement that Officer H perceived as shifting gears. Immediately thereafter, the vehicle appeared to move forward, in the direction of Officer H and several other officers. Officer H continued firing until the vehicle stopped moving; in total, Officer H fired 18 times.²⁸

On May 8, 2012, an **interview of PO G** was taken at IPRA headquarters. In his statement, Officer G indicated that on April 30, 2012, he was assigned to work Beat XXX with his partner, PO L. While on routine patrol, the officers heard a call come over the radio of a burglary in progress at XXX South Western. In response to this call, PO L drove Beat XXX to the scene of the incident. Upon arrival at Store M, Officer G observed three or four units already on scene. The officers exited their vehicle, walked up to the Western side of the store, and attempted to look into the windows. Given that Officer G was unable to see inside the windows, he moved to the XXX Street side of the store and talked with the officers standing outside. From these officers, Officer G learned that the offenders were still within the store.

After receiving this information, Officer G took position on the west side of the Store M's garage door. While Officer G stood in this position, he observed officers attempt to enter the garage service door. Eventually the door opened, but given the number of officers surrounding the service door area, Officer G was unable to see specifically how the door opened. At this point, officers made entry into the service door, during which time Officer G remained on the west side of the garage door. From this position, Officer G saw a gap at the bottom of the garage door, through which he observed shadows moving about in the garage bay. Suddenly, a vehicle erupted from the closed garage door, then continued to exit the garage in reverse gear. As the vehicle emerged from the garage, the rear of the vehicle struck PO L's left side. Once hit, PO L was pushed out of sight; the vehicle then continued toward other officers on XXX Street. In reaction to this development, Officer G removed his gun from its holster and fired at the vehicle driver.

²⁷ Attachment 111, Page 11, Line 23-Page 12, Line 1.

²⁸ Attachment 111. A second interview of PO M was taken at IPRA headquarters on June 16, 2016, at which point he was presented with the aforesaid allegations. In his second statement to IPRA, PO M acknowledged that he viewed video footage from Store M Store, which depicted the incident subject to this investigation. PO M noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 262.

As Officer G fired, the vehicle slammed into a parked car, at which point Officer G observed the driver's right hand move in an up and down motion. Immediately thereafter, Officer G perceived the vehicle lurch forward. Based on Officer G's viewpoint, the only exit for the vehicle was in a forward direction, through a crowd of officers. In total, Officer G fired his weapons 18 times, until the weapon went into slide lock. No officers were in Officer G's line of fire as he shot at the vehicle. Officer G then reloaded his weapon but did not fire, as the vehicle was no longer moving and no longer posed a threat. At this point, Officer G approached the vehicle with his gun still drawn. Once the vehicle occupants were detained, Officer G placed his weapon in its holster.²⁹

On May 8, 2012, an **interview of PO E** was taken at IPRA headquarters. In his statement, Officer E indicated that on April 30, 2012, he worked Beat XXX with PO Q. While on patrol, a call of burglary in progress at XXX South Western came across the radio, so Officer E drove Beat XXX to the scene. Once outside of Store M, Officer E parked in an alleyway east of the store, at which point the officers exited their vehicle. From Officer E's recollection, Officers O and R were already on scene when Beat XXX arrived. In the back alleyway, Officer E saw an air-conditioning vent that appeared to be pried open.

Officer E then moved to the XXX Street side of the store, at which point he announced his office and banged on the large garage bay door. From this point, Officer E directed his attention to the service door east of the garage bay; while the door was initially locked, an individual inside the building eventually opened this service door. In response to the door opening, Officer E drew his weapon from its holster, pointed it at the individual and instructed the individual to raise his hands. Based on the individual's reaction to the situation, it became evident to Officer E that the individual was not one of the offenders, prompting Officer E to holster his weapon.

The individual, a tenant in the building, directed officers to an interior door immediately to the left of the service door, at which point officers escorted the tenant from the scene. Inside the service door vestibule, Officer E attempted to push open this interior door, but he could not move it. Officer E and Officer C then attempted to kick down the door; at Officer E's first kick, his foot went through but the door would not open. As a consequence of Officer E and Officer C kicking the door, a hole developed at the bottom of the door, allowing Officer E to see inside the garage bay.

Looking through this hole, Officer E saw a gray vehicle with red brake lights illuminated. Officer E proceeded to announce his office, at which point the red brake lights extinguished and the white reverse lights illuminated. In reaction to this development, Officer E shouted "they're coming out, they're coming out."³⁰ The gray vehicle then crashed through the closed garage bay door, slamming into a vehicle parked on XXX Street. While the vehicle exited the garage bay, Officer E exited the service door vestibule. Fearing that officers standing near the garage door had been hit by the gray van, and that the van was traveling toward other officers, Officer E withdrew

²⁹ Attachment 116. A second interview of PO G was taken at IPRA headquarters on June 8, 2016, at which point he was presented with the aforesaid allegations. In his second statement to IPRA, PO G acknowledged that he viewed video footage from Store M Store, which depicted the incident subject to this investigation. PO G noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 243.

³⁰ Attachment 122, Page 22, Line 23.

his weapon from its holster and fired at the van driver three times. Officer E ceased firing and holstered his weapon when the vehicle stopped moving.³¹

WITNESS OFFICER INTERVIEWS

On April 30, 2012, an **interview of PO R**, was taken at Area Central Detective Division. In his statement, PO R indicated that on April 30, 2012 he worked Beat XXX with PO O. At approximately 12:59 AM that day, PO R responded to a call of a burglary in progress at XXX South Western. When PO R arrived at the scene, he parked his vehicle at the corner of XXX and Western, at which point he and his partner exited the vehicle. PO O headed to the front of the store, while PO R headed to the back. While heading to the back of the store, PO R heard his partner announce over the radio that he could see movement inside the store. By the time this was conveyed, PO R had made his way to the back alley, at which point he saw a back window pried open. In response to this observation, PO R called in for support vehicles. In total, about 20 officers arrived on the scene.

As these vehicles began to arrive, PO R moved to the front of the building to identify potential escape routes. PO R was unable to see any exits to the rear alley, so he walked back to the pried open window. PO R then stood in a position where he could see the pried window, as well as the garage door facing XXX Street; at this point, PO R believed he was standing next to PO Q. Although PO R was unable to see what was going on inside of the building, he heard movement inside. From this spot, PO R heard officers shouting, "Police, we have you surrounded, come out."³² After this announcement, PO R heard a loud noise come from inside the building, after which point a vehicle emerged from the building in reverse.

PO R saw the vehicle travel in reverse at a high rate of speed, then strike a parked vehicle. Both vehicles then moved across the street and slammed into a parked squad car. As the vehicle emerged from the building, PO R heard gunshots, but he was unable to see the shooting. PO R's recollection of the incident was that all the shots went off at once, rather than spread out over a period of time. PO R did not fire his weapon during this incident. After the scene settled, PO R entered the building to make sure no one was inside.³³

On April 30, 2012, an **interview of PO S** was taken at Area Central Detective Division. In his statement, PO S indicated that on April 30, 2012, he was assigned to work Beat XXX with his partner, PO T. As PO S and his partner were on patrol, they heard a call come over the radio regarding a burglary in progress at XXX South Western. PO S, who was driving the vehicle, informed dispatch that he and his partner were going to assist the police response. Upon arriving at the address, PO S parked on the east side of Western, in front of the building. An announcement came over the radio that people were inside the building, so PO S and his partner exited the vehicle to look inside the store windows. PO S shined his flashlight inside the window, revealing an

³¹ Attachment 122. A second interview of PO E was taken at IPRA headquarters on June 1, 2016, at which point he was presented with the aforesaid allegations. In his second statement to IPRA, PO E acknowledged that he viewed video footage from Store M Store, which depicted the incident subject to this investigation. PO E noted that he stood by his previous statement, making no additional commentary regarding the incident in question. Attachment 196.

³² Attachment 51, Page 7, Lines 2-3.

³³ Attachment 51

African American male moving about inside the building. While looking through the window, PO S saw vehicle lights turn on inside the building.

In an effort to advise the other responding officers that a vehicle was inside the building, PO S got on his radio to report the situation. PO S recalled reporting over the radio that a vehicle was inside the building, and that anyone nearby the bay door should be careful. After making this report, PO S heard a loud noise come from around the corner of the building. PO S then ran around the corner to investigate; as soon as he rounded the corner, PO S saw muzzle flare coming from the officers' guns. As soon as he saw the muzzle flashes, PO S got on his radio and announced, "shots fired by the police."³⁴ Concerned that he might get into the line of fire, PO S went back around the corner to his original position on Western. Based on the recollection of PO S, the gunfire was very rapid and ended quickly. PO S did not fire his weapon during this incident³⁵

On April 30, 2012, an **interview of PO L** was taken at Area Central Detective Division. In his statement, PO L indicated that on April 30, 2012, he was assigned to Beat XXX with his partner, Officer G. While conducting patrol, the officers heard a call over the radio of an incident at "XXX South Western."³⁶ The officers did not acknowledge the call, but PO L decided to head to the scene of the incident. Upon arrival at the scene, PO L observed CPD officers securing the perimeter. At this point, PO L parked his vehicle at the southeast corner of XXX and Western, then walked with Officer G to the perimeter. Upon entry to the perimeter, PO L stationed himself on XXX Street, directly in front of the garage door to Store M. By the time PO L took this position, he saw CPD officers enter the building and shout, "let's see the hands, get out."³⁷ PO L felt that there were enough officers at the door, so he decided to move away.

Commented [HS3]: QM Note: Att. 55, p. 1 has April 24, 2012 for Papin's statement. Att. 55 p. 2, and the audio, Att. 54, indicate April 30, 2012.

As he backed from the door, PO L heard an engine rev inside the store. PO L's next memory is being hit by the vehicle that was inside the store. The vehicle caused PO L to fall back two or three feet, landing on Officer G. During this time, PO L recalled hearing a large volley of gunfire, but could not see who was firing due to his disoriented state. After recovering from the initial shock, PO L saw the vehicle crashed in the middle of the street, with multiple people sitting inside. PO L approached the vehicle, to assist other officers in detaining the occupants; all of whom appeared to have been shot. After the incident, PO L informed his sergeant that he was in pain, at which point PO L was taken to a hospital for treatment. PO L did not fire his weapon during this incident³⁸

On April 30, 2012, an **interview of PO U** was taken at Area Central Detective Division. In his statement, PO U indicated that on April 30, 2012, he was assigned to Beat XXX with his partner, PO X. While the officers were on patrol, a call came over the radio of a burglary in progress at XXX South Western. Upon hearing this call, PO U decided to drive to the scene and assist with the CPD response. When Beat XXX arrived at the scene, PO U parked the vehicle in the opening of the alley on XXX Street. The officers then walked to the alley side of the building,

³⁴ Attachment 53, Page 13, Line 10.

³⁵ Attachment 53

³⁶ Attachment 55, Page 4, Line 21.

³⁷ Attachment 55, Page 8, Lines 4-5.

³⁸ Attachment 55. Medical Records from April 30, 2012, indicate that Officer L was treated at Mount Sinai Hospital for treatment of a contusion to Officer L's left hip. Physician intake notes state that Officer L "was struck by a vehicle going approx 10-15 mph to his l hip." Attachment 165, Page 10.

at which point they observed a pried open window. While PO U could not see through the window to the inside of the building, he heard commotion within Store M. From this location, PO U decided to join a crowd of officers standing on XXX Street, just outside the store.

Once PO U relocated to XXX Street, he observed Officer E make entry into the building. According to PO U, Officer E entered the building through a service door facing XXX Street; at this time, PO U heard an officer announce his office. Several seconds after entry was made, PO U heard an engine rev within the building. As he heard this noise, PO U saw a silver minivan erupt through the closed garage door. Based on PO U's recollection, the van traveled in reverse as it exited the garage bay. In response to this development, PO U turned away from the vehicle and faced the street. As he turned, PO U heard a "cluster" of gunfire, prompting him to take cover behind a parked vehicle.³⁹ PO U did not see any officer fire their weapon, nor did he remove his gun from its holster.⁴⁰

On April 30, 2012, an **interview of PO V** was taken at Area Central Detective Division. In her statement, PO V indicated that on April 30, 2012, she was assigned to Beat XXX with her partner, PO W. While on patrol, PO V heard a call come over the radio of a burglary in progress at XXX South Western. PO W drove Beat XXX to the scene of the incident, parking just west of the XXX Street garage door at Store M. The responding officers then exited their vehicle and walked to the corner of XXX and Western, where two other officers were already positioned. From this spot, PO V walked east along XXX Street, stopping at the alleyway behind Store M. Looking at the side of the store facing this alleyway, PO V was able to see that a window had been pried open.

At this point, PO V shined her flashlight through the open window to look inside the building. From her vantage point, PO V saw the interior of the store, which was full of electronics inventory. PO V saw a door on the far side of the room, through which she observed a black van. A black male exited the passenger side of this van, then walked south to the garage door of Store M. Upon making this observation, PO V walked around the corner of the building to XXX Street, to notify CPD officers of what she saw. Once on XXX Street, PO V saw several officers banging on the garage door and an adjacent service door; PO V also recalled hearing the officers announce that they were police. A male Hispanic then opened the service door, indicating that he lived at the address and had reported the burglary.

This man then exited the building and stood to the east side of the service door. PO V saw PO C walk through this service door and into a vestibule area, where an office door was located on the immediate left. As PO V was positioned directly outside the service door, she observed Officer C knock on the office door and announce his office. During this time, PO P joined Officer C in the vestibule and announced his office. As Officers C and E attempted to make entry, part of the bottom of the office door broke away, allowing PO V to see inside. While looking through this hole in the door, PO V heard a screeching noise, prompting her to shout out, "watch out, it is

³⁹ Attachment 57, Page 10, Line 6.

⁴⁰ Attachment 57

coming.”⁴¹ Immediately thereafter, PO V saw a vehicle crash out of the garage door, causing the garage door to go flying.⁴²

As the vehicle emerged from the garage, PO V heard multiple gunshots go off; in response, PO V took cover in the alleyway to the east of Store M. PO V did not see any CPD officers fire their weapons, nor did she draw her gun from its holster.⁴³

On April 30, 2012, an **interview of PO K** was taken at Area Central Detective Division. In his statement, PO K indicated that on April 30, 2012, he was assigned to Beat XXX with his partner, PO C. While the officers were on patrol, a call came over the radio of a burglary in progress at XXX South Western. In response to this call, Officer C drove Beat XXX to the southeast corner of XXX and Western and parked the vehicle. Based on PO K’s recollection, Beat XXX was the third or fourth unit to respond to the scene. PO K then walked up to the garage door of Store M, where he heard movement inside the building. While standing outside the storefront, PO K and his fellow officers announced their office and requested that the door be opened. After making such announcements for several minutes, a tenant opened the service door to the east of the garage door.

After the service door was opened, PO K saw an office door on the immediate left side of the vestibule. At this time, PO K took position outside the building, directly between the garage door and the service door. From this position, PO K heard officers inside the vestibule shout that the building occupants were getting in a car. As this shouting was going on, PO K saw a red glow through a half inch gap beneath the garage door, which he assumed to be the brake lights of a vehicle. After seeing this glow, PO K heard an engine rev and observed a vehicle erupt through the garage door. In order to avoid the debris of the garage door, PO K stepped to the left and drew his gun from its holster.

During this time, PO L was on the west side of the garage entrance, partially standing in the garage driveway. From the perspective of PO K, PO L appeared to be struck by the accelerating vehicle, at which point PO L appeared to fall down. At this point, PO K believed that PO L had been dragged beneath the vehicle. As the vehicle continued to exit the garage, PO K observed it travel toward the opening of the garage driveway. Once the van passed PO K’s position, he heard gunfire break out. As the vehicle reached the driveway entering the street, it collided with a red van that had been parked in the street. The accelerating vehicle and the red van then moved out to the middle of XXX Street. A CPD vehicle parked on XXX Street was subsequently hit by the red van.

Given that other CPD officers were in PO K’s direct line of fire, he “tucked” his weapon and did not shoot.⁴⁴ When the vehicle came to a rest, the front end was pointed directly at PO K and several officers standing around him. PO K could see the driver making motions toward the steering wheel, causing PO K to believe that the driver was attempting to drive in his direction.

Commented [HS4]: ?

Commented [HS5R4]: Footnote?

⁴¹ Attachment 59, Page 13, Line 15.

⁴² PO V does not specify whether this is the same vehicle that she initially observed inside the darkened storefront.

⁴³ Attachment 59

⁴⁴ Attachment 61, Page 8, Line 11. During the interview of PO K, investigators failed to clarify PO K’s use of the term “tucked.”

Paired with the belief the offenders already ran over an officer, PO K feared for the safety of himself and the other CPD officers standing in front of the vehicle. At this time, PO K could still hear shots being fired; once the shots ended, PO K saw several officers walk in the direction of the vehicle. Rather than walk toward the vehicle, PO K joined his partner to help secure the store.⁴⁵

On April 30, 2012, an **interview of PO X** was taken at Area Central Detective Division. In his statement, PO X indicated that on April 30, 2012, he was assigned to work Beat XXX with his partner, PO U. While on routine patrol, PO X heard a report come over the radio of a burglary in progress at XXX South Western. Based on his recollection, Beat XXX acknowledged the call and PO U drove to the scene. Upon arrival, PO U parked Beat XXX on XXX Street, near the alley behind Store M. PO X observed several other officers at the scene, some standing in the back alley. Walking over to the officers in the alley, PO X saw a window on the rear of Store M's that appeared to be pried open. From his position in the alleyway, PO X heard activity within the building. Based on PO X's recollection, the officers announced, "Chicago Police," but no answer came from inside the building.

From the back alleyway, PO X walked over to the corner of XXX and Western where he saw CPD officers shining their flashlights through the windows of Store M's. PO X looked through the windows with his flashlight, at which point he saw an individual inside running back and forth. While looking through the windows, PO X saw what appeared to be the taillights of a vehicle illuminate. Based on this observation, PO X made his way back around the corner of the building to XXX Street, then walked over to the XXX Street garage door. At the garage door, PO X informed PO L that he saw the taillights of a vehicle approaching; PO X then told PO L that he should get out of the way of the garage door.

Once this message was conveyed, the vehicle erupted from the garage door in reverse. Due to PO X's proximity to the garage door, he jumped out of the way and faced west. PO X's next memory was hearing a volley of gunfire, but as he was faced away from the vehicle, PO X did not see any of the shots. Once he regained his balance, PO X turned around once again, so that he could see the scene of action. At this point, the gunfire ended; PO X had no memory of seeing any officers fire their guns, nor did PO X fire his gun. Once the gunfire was over, several CPD officers walked toward the vehicle, which had crashed in the middle of the street.⁴⁶

On April 30, 2012, an **interview of PO O** was taken at Area Central Detective Division. In his statement, PO O indicated that on April 30, 2012, he was assigned to work Beat XXX with his partner, PO R. During regular patrol, a call came over the radio of a burglary in progress at XXX South Western. As Beat XXX was about a block away, the officers drove over to Store M and radioed in their location. Beat XXX was the first unit on scene, so the responding officers exited their vehicle and walked over to store; while PO R walked to the rear alleyway, PO O walked to the Western side of the store. While in front of the store, PO O took out his flashlight and looked in the storefront windows. Looking inside, PO O observed a black male with a hoodie, which PO O reported to PO R via radio.

⁴⁵ Attachment 61

⁴⁶ Attachment 63

After observing the first offender, PO O saw a second black male walk through a door, which PO O announced over the radio. As PO O looked through the window, two more CPD vehicles pulled up to the scene. PO O recalled backup officers took control of the Western side of the store, so he walked to the alleyway in order to join PO R. From the alleyway, PO O moved to the XXX Street side of the store, to a position between the garage door and service door. While standing in this location, PO O heard another officer announce that he saw lights and heard shuffling. PO O saw lights illuminated through a crack at the bottom of the garage door.

At this time, several officers made entry into the building through the service door. As they entered the building, the officers announced, “we are officers, police, please come out. You are surrounded. You have no way out.”⁴⁷ While officers were entering the service door, PO O’s attention was focused on the garage door. Suddenly, a silver van erupted from the garage door in reverse, emerged from the building, and crashed into a red truck. While the van exited the garage, PO O saw an officer jump out of the way of the vehicle. Officer O then observed both vehicles skid across XXX Street and crash into a parked CPD vehicle.

During this time, PO O heard an officer fire shots at the vehicle. PO O did not recall a pause in the shots, but rather a “rain of fire.”⁴⁸ PO O recalled seeing only one CPD officer fire, Officer F. Although PO O did not have his weapon drawn, during the shooting, he removed his gun from its holster as he approached the vehicle, however he did not fire his gun. According to PO O, he did this to provide cover as officers approached the vehicle.⁴⁹

On April 30, 2012, an **interview of PO W** was taken at Area Central Detective Division. In his statement, PO W indicated that on April 30, 2012, he was assigned to Beat XXX with his partner, PO V. That evening, Beat XXX was assigned to respond to a burglary in progress at XXX South Western. Upon arrival to the scene, PO W noted that Beat XXX was already at the scene; one officer was on the Western side of the building, while the other appeared to be at the rear of the building. Both PO W and PO V made their way to the back of Store M, where a window in the alleyway had been pried open. From this position, PO W heard noise coming from inside the store. In response to this observation, Officers W and V announced their office and shined their flashlights into the window.

Realizing that he would not be able to make entry into the building through this window, PO W walked to the XXX Street side of the store. On this side of the store, PO W encountered a locked garage door and a locked service door. PO W then walked back to the alleyway, where he saw a Hispanic male stick his head out of the second floor window. At this point, PO W returned to the XXX Street side of the store, where a male Hispanic opened the service door. Once this door was open, PO W could see another door inside the vestibule. Based on PO W’s recollection, this door was locked, preventing the officers inside the vestibule from accessing the garage bay.

As these officers attempted to enter the vestibule, PO W stood outside of the building, east of the garage door, facing the service door. Suddenly, a silver minivan ripped through the garage door, traveling in reverse. While the van moved toward XXX Street, PO W headed back to the

⁴⁷ Attachment 63, Page 10, Lines 1-2.

⁴⁸ *Id.* at Page 13, Lines 20-21.

⁴⁹ Attachment 65

rear alleyway to take cover. At the time that PO W moved toward the alleyway, he heard a burst of gunfire behind him. Once in the alleyway, PO W looked back toward the scene of the shooting. PO W saw that the minivan had crashed into several other vehicles on XXX Street; once the shooting had subsided, PO W walked to the vehicles and assisted in the recovery. PO W did not fire his weapon during this incident⁵⁰

On April 30, 2012, an **interview of PO T** was taken at Area Central Detective Division. In his statement, PO T indicated that on April 30, 2012, he was assigned to patrol in the 10th District with his partner, PO S. While on patrol, a call came over the radio of a burglary in progress at XXX South Western. The responding officers acknowledged the call over the radio, then headed to Store M. Upon arrival, PO S parked the vehicle on the west side of the store. Both officers exited the vehicle, approached the west side of the store, and looked through the Western windows with their flashlights. While looking through the windows, PO T saw someone moving inside; in response, PO T announced his office and instructed the individual to exit. The individual first looked in the direction of PO T, then continued to walk around the store.

As this individual walked around inside the store, PO T saw the headlights of a vehicle illuminate. At this time, PO S used his radio to inform OEMC that a car was being started. An individual inside the store walked past PO T's field of vision two more times, after which time the vehicle headlights disappeared from view. Once the headlights disappeared, PO T heard a loud bang and a volley of gunfire. In response to these noises, PO T ran in the direction of the gunfire. By the time PO T rounded the corner of Western and XXX, the gunfire had already subsided. PO T did not fire his weapon during this incident⁵¹

On April 30, 2012, an **interview of PO Q** was taken at Area Central Detective Division. In his statement, PO Q indicated that on April 30, 2012, he was assigned to work Beat XXX with his partner, Officer E. While on patrol, PO Q heard a call of a burglary in progress at XXX South Western. In response to this call, Officer E drove Beat XXX to Store M and parked in an alleyway behind the store. Upon exiting the vehicle, PO Q observed that the store's rear window had been pried open. While the responding officers stood in the alleyway, an individual stuck his head out of a rear window and indicated that the burglars were downstairs. In response to this information, Officer E moved to the front of the building, while PO Q remained in the back alleyway.

As he stood in the alleyway, PO Q heard officers talking at the front of the building, as well as what sounded like a door being kicked in. Suddenly, he heard an enormous crashing noise, immediately followed by a burst of gunfire. Upon hearing the gunfire, PO Q ducked downward and against a wall. Once the gunfire subsided, PO Q emerged from the alleyway to see what was happening. PO Q did not see any shots fired, nor did he fire his weapon.⁵²

SUBJECT INTERVIEWS

On April 30, 2012, IPRA investigators traveled to Mount Sinai Hospital with the purpose of **interviewing Subject 3**. At the hospital, investigators learned that Subject 3 suffered multiple

⁵⁰ Attachment 67

⁵¹ Attachment 69

⁵² Attachment 71

Commented [HS6]: Suggestion: Do not use victim. The beginning of this SRI lists these individuals as Subject #1 and #2.

gunshot wounds during the April 30 incident; however, as Subject 3 did not have an attorney, he indicated that he did not wish to speak with investigators. A subsequent attempt to interview Subject 3 was taken on May 14, 2012; at that time, Subject 3 signed a form indicating that he refused to speak with IPRA. Subject 3 did not respond to subsequent requests for an interview.⁵³

On August 21, 2013, an attorney for the City of Chicago **conducted a deposition of Subject 3**. Regarding the events of April 30, 2012, Subject 3 refused to respond by invoking his Fifth Amendment rights. Subject 3 acknowledged he was shot several times on April 30, 2012, but he refused to answer who shot him.⁵⁴

Commented [H57]: QM checked this section for grammatical errors only.

On June 14, 2017, a **deposition of Subject 3 was conducted**. During this deposition, Subject 3 provided his account of the April 30, 2012 incident. Over the course of the preceding day, April 29, Subject 3 estimated that he consumed two six-packs of beer. In the hours before the incident, Subject 3 met up with two friends, Subject 2 and Subject 1. The three men eventually decided to drive around, during which time they came across the Store M. All three reached a consensus that they would steal radios from the store, after which point they broke into the building. According to Subject 3, the three men created a hole in an air-conditioning duct, then pushed the air-conditioning unit into the store. Subject 3 was the first individual to enter the building, followed by the other two men. Inside of the store, the three men encountered a parked van, which they loaded with store merchandise. In order to move between the van and the storefront, Subject 3 and the two other men ran back and forth. As they loaded the van, all of the men stated phrases such as, “hurry up,” and “let’s go.”⁵⁵

During his time inside the store, Subject 3 did not think the police would show up, as no alarm went off. Subject 3 could not recall hearing any noises outside of the building, but he did note that he experienced an adrenaline rush during the burglary, which caused his hearing to become limited. At some point, the van’s ignition was engaged, causing the vehicle radio to play. When asked, Subject 3 denied seeing any police presence while he was inside the store, including flashlight beams, knocking, or announcements. Once the three men were ready to leave the store, Subject 3 attempted to raise the garage bay door, which rose approximately four inches. Considering that the door would go no higher, the three men entered the van, with Subject 3 sitting behind Subject 2 and Subject 1, who were respectively the driver and front passenger. While the three men sat in the car, Subject 1 announced that he heard a gun go off, at which time Subject 3 saw a light to his right. Subject 3 could not hear gunfire while inside the garage, but he thought Subject 2 and Subject 1 were getting shot at, due to the way their bodies moved. However, Subject 3 was uncertain whether the movements were caused by gunfire, or simply by the van rocking. Immediately after the lights flashed, the van traveled backward, crashed through the garage door and into the street.

Once the van was outside the garage bay, officers were shooting toward the van, hitting Subject 2 and Subject 1. To Subject 3, the shooting felt as though it lasted 15 minutes, and the only person he observed shooting was “all black.”⁵⁶ After the shooting stopped, the officers

⁵³ Attachments 31, 49, 184

⁵⁴ Attachment 245

⁵⁵ Attachment 269, Page 80, Line 2.

⁵⁶ *Id.* at Page 131, Line 23

entered the vehicle to detain the three men, during which time Subject 3 observed an officer “messaging with that gear box.”⁵⁷ However, Subject 3 was unable to describe the van’s shifting mechanism, nor was he able to recall where the mechanism was located. Subject 3 also felt that the police must have tampered with the in-store cameras depicting the incident, “because we was [sic] in there too long getting shot.”⁵⁸

Commented [HS8]: QM checked this section for grammatical errors only.

On April 30, 2012, IPRA investigators traveled to Stroger Hospital to interview Subject 2. Due to the multiple gunshot wounds suffered by Subject 2 during the April 30, 2012 incident, medical staff were preparing Subject 2 for surgery, precluding investigators from conducting an interview with Subject 2. A subsequent attempt to interview Subject 2 was taken on May 9, 2012; at that time, investigators met with Subject 2 at Stroger Hospital. However, due to Subject 2’s inability to coherently verbalize, investigators decided to postpone the interview. Subject 2 did not respond to subsequent requests for an interview.⁵⁹

Commented [HS9]: QM observation note: Subject 2 did not sign the return receipt (Att. 177).

On June 13, 2017, a deposition of Subject 2 was conducted. During this deposition, Subject 2 provided his account of the April 30, 2012 incident. In the hours before the incident, Subject 2 met up with two friends, Subject 3 and Subject 1. According to Subject 2, Subject 1 stated that the three men could make some money, after which time they drove to Store M. Upon arrival at the store, the three men walked into the back alleyway, where Subject 1 lifted up the grate in front of an air-conditioning unit. Subject 1 then pushed the air-conditioning unit into the building, creating an opening into the store. Once inside of the store, Subject 2 encountered a series of plexiglass windows, which the men broke in order to access the storefront. Two vehicles were parked within the loading area of the store; a van was nearest to the garage door, and an SUV was parked adjacent to the van. The three men loaded this van with store merchandise, with the intent that they would use the van to leave the store. When asked, Subject 2 denied hearing or seeing any police presence while inside the store, attributing any “banging” to the noise of tossing merchandise into the van.⁶⁰ However, Subject 2 acknowledged that while he was inside, someone walked past the storefront windows, prompting Subject 2 to tell the other two men, “it’s time to go.”⁶¹

As the van was being loaded, Subject 2 walked up to the garage door so as to determine how to open it. Seeing that the door was locked, Subject 2 did not attempt to lift the garage door. Subject 2 also denied hearing any officers knock on the door as he inspected it. Without keys for the locks, Subject 2 became aware the men would have to drive through the closed garage door. Ultimately, the three men entered the van, with Subject 2 in the driver’s seat, Subject 1 in the front passenger’s seat, and Subject 3 as the middle rear passenger. Subject 2 drove the van in reverse and hit the garage door, creating a loud banging noise; in a matter of seconds, Subject 2 drove forward slightly and repeated the process. Upon hitting the door a second time, the garage door gave way and Subject 1 shouted out, “B, watch out.”⁶² From that point forward, Subject 2 blacked out. Subject 2 was asked whether he believed that interior surveillance footage from Store M had

Commented [HS10]: Van?

⁵⁷ *Id.* at Page 147, Lines 7-8.

⁵⁸ *Id.* at Page 140, Line 24-Page 141, Line 1

⁵⁹ Attachments 9, 42, 177

⁶⁰ Attachment 268, Page 103, Lines 14-18.

⁶¹ *Id.* at Page 120, Line 23.

⁶² *Id.* at Page 125, Line 15.

been altered, to which he indicated that he did. According to Subject 2, the footage must have been altered, as it did not show the van hit the garage door twice.⁶³

Commented [HS11]: QM checked this section for grammatical errors only.

INDEPENDENT WITNESS INTERVIEW

On April 30, 2012, at Area Central Detective Division, IPRA investigators conducted an **interview of witness Civilian 4**. At that time, Civilian 4 provided an account of the April 30, 2012 incident. Immediately prior to the incident, Civilian 4 was asleep in the second floor apartment of XXX South Western, located above Store M. Civilian 4 awoke when he heard noises coming from the floor below him, thinking the noise was being caused by workers in the store below. However, Civilian 4 did not hear the front door alarm go off, which ordinarily happens when employees enter through the main business doors. The voices coming from downstairs spoke English, of which Civilian 4 has a limited understanding, but he could tell two people in the store said, "hurry up."⁶⁴ Concerned that the store was being burglarized, Civilian 4 called 911 and reported an incident at Store M.

Shortly after placing this call, police began to arrive at the scene, which Civilian 4 could hear through the kitchen window. Once police were on scene, Civilian 4 heard a vehicle engine ignite inside of the store, so he proceeded downstairs to let the police in. Civilian 4 opened the service door on XXX Street, at which point police entered the building and attempted to force entry into the garage bay. While officers tried to break open the door to the garage bay, Civilian 4 could hear the vehicle inside accelerate and crash through the overhead door. Once the vehicle emerged from the garage bay, Civilian 4 heard the officers outside fire their weapons. The vehicle continued out of the garage bay and in the direction of XXX Street; at the street curb, the offenders crashed into Civilian 4's van, which was parked at the garage driveway port.⁶⁵

[The remainder of this page intentionally left blank].

⁶³ Attachment 268

⁶⁴ Attachment 48, Page 7, Line 3.

⁶⁵ Attachment 48. Upon review of Video footage obtained from Store M Channel 5 and Vehicle XXX, it has been determined that Civilian 4's van was the red van parked on XXX Street, at the opening of the driveway to Store M garage bay.

b. Digital Evidence**Video Footage**

The following videos relating to the April 30, 2012 incident were recovered:

Surveillance Footage DVD Store M XXX S. Western Ave. Cameras 1-11, 30 April 2012, 00:00:01 to 03:00:01 hours. These cameras do not depict the April 30, 2012 shooting incident.⁶⁶

Surveillance Footage DVD Store M XXX S. Western Ave. Outside Camera/Channel #5 30 April 2012 02:25:46 to 03:25:51 hours. Figure 1 below depicts the angle of this camera from the XXX Street side of Store M, near the southwest corner of the store and above the first story. Channel #5 depicts the sidewalk adjacent to the XXX Street side of the store, as well as the vehicles parked south of the store on XXX Street. A carport ramp is clearly visible in the middle of Channel 5's field of view, located on the sidewalk between the store garage door and the north curb of XXX Street. A panel van is parked westward on XXX Street, in front of the mouth of the carport ramp.



Figure (Fig). 1: Channel #5 layout prior to shooting incident.

At 2:40:53, the first officer to appear in the video walks in from the west, along the south side of the store. This officer shines his flashlight on the XXX Street side of the store, making his way eastward and into the rear alleyway. By 2:42:03 a CPD vehicle pulls onto XXX Street from the west, parks slightly within the righthand frame of reference, and to the south of the parked panel van. Another CPD vehicle drives eastbound on XXX Street, parks at the opening of the rear

Commented [HS12]: QM reviewed this section for grammatical errors only. The specified time frames and related actions indicated in this section, were not viewed for accuracy.

Commented [HS13R12]: QM watched the videos.

Commented [HS14]: Att. 146 is labeled as Att. 170, in CLEAR, on the actual attachment, sheet of typed paper. Att. 170 is a conflict certification.

Commented [HS15R14]: Suggestion: Add a note to the attachment in your file, or change the attachment number in your case file from 170 to 146.

⁶⁶ Attachment 146

alleyway. Many more CPD officers begin to surround the scene, moving along the XXX Street side of the store and into the rear alleyway.

Starting at 2:45:27, several officers center around the area of the garage bay service door, draw and point their weapons in the direction of the door. Simultaneously, the officer nearest to the garage door moves closer to the service door, so that he is in the middle of the carport. By 2:45:42 this officer moves back westward, standing adjacent to the garage door and facing east.

Five seconds later (2:45:48), a silver van crashes out of the garage bay, traveling in reverse gear. Figure 2 below depicts the action that commences at 2:45:48. The garage door can be seen breaking away, then sliding up over the roof of the silver van. Also, at 2:45:48, the officer closest to the garage door appears to be struck by the vehicle, with the driver's side rear fender pushing along the officer's midsection.



Fig. 2: Silver van emerges from garage bay, hitting PO L.

While the silver van continues to exit the garage bay, it appears to push the stuck officer toward XXX Street, into an officer standing immediately to the south. At 2:45:49, the struck officer begins moving west, as the silver van reaches XXX Street and strikes the parked panel van. The struck officer then begins to run westward, out of the frame of reference, while the officer he ran into draws a firearm and points it at the silver van. In the next second (2:45:50), the silver van pushes the panel van into XXX Street, then slightly to the east. At this same time, the Officer E pointing his handgun at the silver van appears to fire his weapon toward the silver van. By 2:45:52, the silver van is no longer moving in reverse, and can be seen moving forward slightly.

Near the top of the frame of reference, beneath the slash between “30/2012,” an officer can be seen firing his weapon at 2:45:53 and 2:45:55. Reaching 2:45:56, the officer who drew his weapon appears to drop a magazine, then reload the firearm. The vehicle also appears to have stopped moving at this point, and all officers appear to have ceased discharging their weapons at 2:45:56. The officer who reloaded his firearm then resumes his aim at the silver van, walking toward the vehicle. At 2:46:00, officers can be seen approaching from the east side of the garage door, walking toward the van with firearms drawn. The first officers reached the van at 2:46:14, after which time the scene appears to become stable. During two separate instances (2:50:49, 2:51:41), an officer with a ponytail appears to drop something, then picks it up. The first drop takes place east of the garage door, near the electrical box; the second takes place near a puddle on the XXX Street curb.⁶⁷

In-car camera video Beat XXX, Vehicle XXX: Dashcam footage opens facing eastbound on XXX Street, parked slightly northeast. At 0:01, Beat XXX parks on XXX Street, directly south of Store M. Due to the angle of the vehicle, the field of view covers the panel van parked in front of the store garage, as well as part of the southeast corner of the store. By 0:09, a CPD Tahoe parks in front of Beat XXX, partially at the opening of the rear alleyway. Until 3:50, only a few officers can be seen moving about, and the beams of several flashlights can be seen on the storefront.

At 3:50, the panel van appears to be pushed southward, into the field of view. A silver van then enters the field of view, traveling in reverse and pushing the panel van to the south. By 3:51, the silver van pushes the panel van to its east side, so that the two vans are parallel. Once the vehicles are moved to the righthand side of the frame of reference, a crowd of officers can be seen crouching near an electrical box. One second later (3:52), the silver van leaves the field of view, while an officer standing just north of the electrical box appears to aim his firearm at the van. Three apparent muzzle flashes can be seen on the officer’s firearm, which lasts until 3:53, when the officer takes cover.

From 3:53 until 3:54, the silver van moves forward, in the direction of the electrical box. By 3:54, the officer who took cover re-aims his weapon, then appears to fire another three times. The van sinks several inches at 3:56, after which time the officers approach the silver van, handguns drawn. After this time, the scene appears to become stable. By 8:48 an officer with a ponytail can be seen dropping something near the electrical box, then bending down to pick something up. At 9:12 she moves over to another officer, at which point she removes items from her pants pockets, then hands the items—one by one—to the other officer. After handing the items over, she appears to take a dark object from the other officer, then walks off screen. Later, at 18:19, she picks up something the size and shape of a notecard.⁶⁸

Commented [HS16]: Att. 147 is labeled as Att. 171, in Clear, on the actual attachment sheet of typed paper. Att. 171 is a Closed Detective Supplementary report.

Commented [HS17R16]: Suggestion: Add a note to the attachment in your file, or change the attachment number in your case file from 171 to 147.

⁶⁷ Attachment 147

⁶⁸ Attachment 179

c. **Documentary Evidence****Arrest Report Subject 3 and Subject 2**

On April 30, 2012, Subject 3 was arrested under Central Booking (CB) #XXX, pertaining to Records Division (RD) #XXX. Subject 2 was arrested under CB #XXX, RD#XXX. In both arrest reports, victims are listed as PO L and Store M, the reporting person is listed as Civilian 4. Arrestee vehicle impounded and recorded as 2010 Chrysler Town and Country minivan, gray in color. From the incident narrative, attesting/arresting officers R and O indicate that they responded to a burglary in progress at XXX South Western, during which time he observed the suspect load items into a vehicle. Once officers surrounded the building, the suspect entered this vehicle and drove through a garage door. As the vehicle exited from the garage bay, PO L was struck and fell to the ground. All three vehicle occupants were shot by the police during this time; Subject 1 was shot fatally.⁶⁹

Original Case Incident Reports RD #XXX, #XXX, #XXX, # XXX, # XXX

On April 30, 2012, incident report RD #XXX was created with regard to an aggravated battery to police officer/police involved shooting/burglary/auto-theft that took place at XXX South Western. Victim listed as Store M and PO L; reporting party listed as Civilian 4. **Named suspects listed as Subject 3 and Subject 2.** Additional RD #s listed as XXX, XXX, XXX, and XXX. According to this report, Officer A fired 10 rounds; PO B fired 12 rounds; Officer C fired 6 rounds; Officer D fired 9 rounds; Officer E fired 3 rounds; Officer F fired one round; Officer G fired 18 rounds; and Officer H fired 18 rounds. Witness officers are listed as PO V, PO R, PO K, PO O, PO L, PO Q, PO S, PO T, PO X, PO U, and PO W.

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Commented [HS18]: QM note: No specific injuries/GSW locations listed in this SRI.

Commented [HS19]: QM note: Several inventories with approximately 144 item numbers inventoried by CPD under RD# HV264189. No outstanding ISP reports related to this case. It is unknown whether this case has a copy of all related inventories and ISP reports, in the case file.

Commented [HS20R19]: QM note: One inventory for RD# HV264651. No outstanding ISP report related to this case. It is unknown whether this case has a copy of the inventory and ISP report, in the case file.

Commented [HS21R19]: QM note: There are no inventories for the other RD numbers.

Commented [HS22]: The arrest report listed two charges. Do you think you should list them as well?

Commented [HS23]: There are three suspects listed, two named.

⁶⁹ Attachments 4, 5

[Picture Redacted]

Fig. 3: This aerial diagram of the incident scene was created by the Chicago Police Department for RD #XXX, based on LEICA scan results.⁷⁰ The diagram shows the location of involved vehicles subsequent to the shooting, as well as the location of recovered evidence. Vehicle #1 is the Chrysler Town & Country, Vehicle #2 is Civilian 4's red van. The red numbers in the diagram indicate recovered evidence, including shell casings, fired bullet fragments and unfired bullets.

According to the report narrative, on the day of the incident, Chicago Police officers responded to a call of a burglary in progress at Store M. Upon arrival at the store, officers observed a pried open window in the rear alleyway; through other windows of the store, officers saw individuals moving back and forth from a vehicle. A tenant on site allowed police officers into a vestibule of the building, indicating that the burglars were still inside of the store. While these officers attempted to make entry into the garage bay, the burglars entered a vehicle in the garage bay and drove in reverse. In so doing, the vehicle crashed through the closed garage door, hitting PO L and crashing into a parked vehicle. Concerned for the safety of PO L and other officers, several officers fired their weapons toward the van at this time. After vehicles collided, officers observed the burglars' vehicle move forward, prompting them to continue firing until the vehicle came to a complete stop.⁷¹

Four other Records Division numbers were created in relation to the April 30, 2012 incident. RD #XXX involved a report of a stolen vehicle. According to this report, the stolen vehicle was a green Chevy van, stolen from the area of XXX South Western. RD #XXX involved report of a bullet found in a CFD ambulance. A justifiable homicide at XXX South Western was recorded under RD #XXX, with the victim reported as Subject 1, witness reported as PO L, and date of occurrence April 30, 2012 at 2:43 AM. Under RD #XXX, the traffic collision that took place during the incident is recorded. The narrative indicates that a Chrysler Town and Country reversed through the overhead door of XXX South Western, struck PO L, then struck a Ford Aerostar. The Chrysler then pushed the Aerostar out into XXX Street, at which point the vehicles collided with a Chicago Police vehicle and a Toyota Corolla.⁷²

Case Supplementary Report RD #XXX

Chicago Police Department Case Supplementary Report for RD #XXX: Part of the report is dedicated to identifying where the three burglars were located inside the gray van; placement was substantiated through video footage and officer recollection. Upon review of the evidence, it was determined that Subject 2 was driver, Subject 1 was front passenger, and Subject 3 was rear passenger. The report also provides a synopsis of videos footage relevant to the incident, with Store M Camera 5 and In Car Camera XXX showing the shooting incident. The supplementary report includes summaries of interviews of all officers present during incident, conducted by reporting detectives.

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Commented [HS24]: Report: "...grating had been broken and bent back from the frame..." Att. 29, p. 6, para 1. Is this the same as "prried open?"

Commented [HS25R24]: "The grate had been cut along the bottom...That portion had been bent out..." See Att. 172, p.9.

Commented [HS26R24]: The point is, do you want to use "prried open," as indicated throughout this SRI?

Commented [HS27]: QM note: This is a theft/recovery report.

Commented [HS28]: The police report is for a justifiable homicide. Suggestion: If you are referencing the report, use the actual classification on the report. See related attachments cited in this SRI.

Commented [HS29]: Att. 171.

Commented [HS30]: See Att. 171. Att. 172 is not "dedicated to identifying" the subjects' location in the van; Att. 171 is very specific to those details.

⁷⁰ LEICA is a brand name of a scanning technology used to conduct 3-D surveys over a specified plat of land.

⁷¹ Attachment 29

⁷² Attachment 28, 161, 162, 163

Tactical Response Reports and Officer Battery Reports

All responding officers that used force authored Tactical Response Reports (TRR), and all injured responding officers authored Officer Battery Reports (OBR) in relation to the April 30, 2012 incident. Each TRR notes that Subject 3 used a vehicle as a deadly weapon; each OBR indicates that the driver attempted to use his vehicle to strike the officer.⁷³ For involved officers, the TRR records the number of times each officer discharged his weapon, listed as follows: Officer H, 18 times; Officer C, 6 times; Officer E, 3 times; Officer G, 18 times; Officer F, once; Officer D, 9 times; Officer A, 9 times; PO B, 11 times.⁷⁴

Chicago Police Department Crime Scene Processing Report

Crime Scene Processing Report XXX was drafted with regard to the April 30, 2012 shooting incident. In this report, all physical evidence recovered from the scene is listed out, including the firearms of all eight involved officers, magazines, live cartridges, expended shells, and fired bullets. The expended shells were recovered from the sidewalk outside of Store M, surface of XXX Street, and the garage and foyer floor of Store M. The following items were inventoried regarding the eight involved firearms:

Inventory #XXX: Glock 17 9mm handgun, Serial #XXX; 1 live round from chamber; 5 live rounds from magazine; 1 magazine with 17 round capacity.

Inventory #XXX: Sig Sauer P229 9mm handgun, Serial #XXX; 1 live round from chamber; 7 live rounds from magazine; 1 magazine with 13 round capacity.

Inventory #XXX: Glock 17 9mm handgun, Serial #XXX; 2 rounds from chamber; 1 magazine with 16 round capacity.

Inventory #XXX: Springfield XPM-9 handgun, Serial #XXX; 1 live round from chamber; 10 live rounds from magazine; 1 magazine with 18 round capacity.

Inventory #XXX: Glock 19 9mm handgun, Serial #XXX; 1 live round from chamber; 12 live rounds from magazine; 1 magazine with 15 round capacity.

Inventory #XXX: Glock 19 9mm handgun, Serial #XXX; 1 live round from chamber; 14 live rounds from magazine; 1 magazine with 15 round capacity.

Inventory #XXX: Glock 17 Gen 4 9mm handgun, Serial #XXX; 1 live round from chamber; 16 live rounds from magazine; 1 magazine with 17 round capacity.

Inventory #XXX: S&W M&P9 9mm handgun, Serial #XXX; 1 round from chamber; 16 rounds from magazine; 1 magazine with 17 round capacity.⁷⁵

Commented [HS31]: What are the related attachment numbers?

Commented [HS32R31]: Atts. 129-140

Commented [HS33]: Add the Att. number to your below footnote.

Commented [HS34]: FYI: There is one additional CSPR (#196979) related to the RD# HV264189; Att. 11 has four and Att. 167 has one.

Commented [HS35R34]: You need CSPR 196979, at least in your case file. I did not locate it in CLEAR.

Commented [HS36]: See comments in this section.

Commented [HS37]: Attachment 11 contains a four different CSPRs. This SRI has only one report number (193410) for Attachment 11. See Att. 11, p. 10, 11, and 12.

⁷³ The TRR (Attachment 26) authored by PO L specifies that Subject 3 used his vehicle to hit PO L in the left hip.

⁷⁴ TRR Attachments: 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25, 26; OBR Attachments: 129-140

⁷⁵ Attachment 11

Cook County Criminal Case Docket XXX and XXX

These dockets pertain to the criminal trials against Subject 3 and Subject 2, filed in relation to the April 30, 2012 incident. Both Subject 3 and Subject 2 were charged with Murder/Other Forcible Felony; Attempt Murder/Intent to Kill; Aggravated Battery of a Police Officer; Burglary; and Receive/Possession/Sell Stolen Vehicle. Subject 3 was ultimately convicted on three charges, receiving a sentence of 20 years for Murder/Other Forcible Felony; 6 years for Aggravated Battery of a Police Officer; and 6 years for Receive/Possession/Sell Stolen Vehicle. Subject 2 was also convicted of three charges, receiving a sentence of 25 years for Murder/Other Forcible Felony; 6 years for Aggravated Battery of a Police Officer; and 6 years for Aid/Abet/Possession/Sell Stolen Vehicle.

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VI. ANALYSIS

During the April 30, 2012 incident, eight CPD officers discharged their firearms, for a total of 75 gunshots. Allegations were brought against all eight officers, premised on their conduct during and after the shooting. COPA's recommended finding on these allegations follows, along with COPA's basis for reaching these findings. This analysis is introduced by a brief summary of the facts, which were established by a preponderance of the evidence.⁷⁶

SUMMARY OF FINDING OF FACTS

The morning of April 30, 2012, three men—Subject 3, Subject 2, and Subject 1—drove together to the Store M, located at XXX South Western with the intent to burglarize the store. Traveling to the alley behind Store M's, the three men encountered an air-conditioning vent, which they pried open so as to access the interior of the building. Once all three men were inside of the store, they discovered a van parked inside of the garage bay. Subject 3, Subject 2, and Subject 1 proceeded to load the van with store merchandise, during which time a building tenant became aware of the ongoing burglary. This tenant, Civilian 4, called 911 to report the issue, which was broadcasted to 10th District officers via OEMC. In response to this radio transmission, 19 officers responded to the scene and surrounded the building. During their response, Civilian 4 opened the garage bay service door, allowing officers to enter the building. Once inside the service door vestibule, officers encountered a locked door, which lead into the garage bay. As Officers P and C attempted to kick open this door, Subject 3, Subject 2, and Subject 1 entered the van. Subject 2 took the driver's seat, while Subject 1 served as front passenger and Subject 3 sat behind them.

The garage door was locked shut, so Subject 2 drove the van in reverse gear, crashing into the closed garage door. At this same time, several officers were standing outside of the store, directly in front of the garage door. With the force of the moving vehicle, the garage door gave way, allowing the van to exit the garage bay. Emerging from the building, the rear driver's side bumper of the van struck PO L on his left side, causing PO L to fall backward and away from the vehicle. Over the course of one second, the van exited the garage bay, traversed the sidewalk south of Store M's, and crashed into a vehicle parked on XXX Street. The van then pushed this vehicle further into XXX Street, paused, and moved forward slightly. During the eight second timeframe that the van moved outside of Store M's, eight officers discharged their weapons at the driver of the van. By the time the van stopped moving, all officers ceased discharging their weapons. Officers then approached the stalled van, secured the scene, and radioed for paramedic support.

⁷⁶ A preponderance of the evidence will be found when more than 50% of the evidence points toward one outcome; *to wit*, a preponderance of the evidence establishes that it is more likely than not that something did in fact occur. "Preponderance of the Evidence." LII / Legal Information Institute. February 13, 2018. Accessed April 06, 2018. https://www.law.cornell.edu/wex/preponderance_of_the_evidence.

Legal Standard

Commented [HS38]: QM did not review this section, nor beyond this point, per QM Mandate meetings, February 8, 2018.

In situations where an officer discharges his firearm to prevent great bodily harm, such actions are governed by Chicago Police Department General Order G03-02-03, “Deadly Force.” Under the directive, “Deadly Force” is defined as “force which is likely to cause death or great bodily harm,” including “the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm [and] the firing of a firearm at a vehicle in which the person to be arrested is riding.”⁷⁷ Such force may be employed in situations

[...]

- B. Firing at or into a moving vehicle is only authorized to prevent death or great bodily harm to the sworn member or another person. When confronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle’s path.”⁷⁸

An officer’s ability to use force is further defined under Chicago Police Department General Order G03-02, “Use of Force Guidelines.”⁷⁹ The relevant part of this directive states:

“II. General Information

Chapter 720, Article 5, Section 7-5, of the Illinois Compiled Statutes provides in part:

‘A peace officer...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest.’

III. Department Policy [...]

B. Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.

C. As set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer.”

It should also be noted that an officer’s use of deadly force is a seizure within the meaning of the Fourth Amendment. When applying the Constitutional standard to a situation, the question

⁷⁷ G03-02-03(I)(A) (Effective 01 October 2002-10 February 2015), citing 720 ILCS 5/7-8.

⁷⁸ G03-02-03(II)(A) (Effective 01 October 2002-10 February 2015).

⁷⁹ G03-02 (Effective 01 October 2002-15 October 2017).

is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham*, 490 U.S. at 397; see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is objectively reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation "must embody allowance for the fact that police Officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham*, 490 U.S. at 396-97.

Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the Officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)). The analysis of the reasonableness of an officer's conduct must be grounded in the perspective of "a reasonable Officer on the scene, rather than with the 20/20 vision of hindsight" and "allow for the fact that police Officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014)(quoting *Tennessee*, 471 U.S. at 1, internal quotation marks omitted).

APPLICATION

In the case at hand, each of the shooting officers consistently stated that, as the van moved out of the garage and onto the street, they discharged their weapons at the driver of the silver van. Looking to the language of G03-02-03, it is apparent that such actions would have fallen under the scope of the "Deadly Force" directive. Once an officer employs deadly force, it must be determined whether the use of deadly force was justified under the circumstances. As stated above, the determination as to whether force is justified will be guided by a reasonable officer standard. To establish whether a reasonable officer in the position of one of the eight firing officers would have believed that deadly force was warranted, a series of factual determinations must be made. Again, these factual determinations have been proven by a preponderance of the evidence.

I. Factual Determinations

The following facts have been established during the course of this investigation: A. As the van exited Store M's garage bay, the rear driver's side of the vehicle struck the left side of PO L; B. After the van moved backward into XXX Street, the van shifted direction and moved forward; C. From the time that the van exited Store M's garage bay until the time that the van stopped moving, eight seconds passed; D. All shots were fired during this eight second timeframe.

A. As the Van Exited Store M's Garage Bay, the Rear Driver's Side of the Vehicle Struck the Left Side of PO L

From the evidence collected during the course of this investigation, including officer statements, tactical response reports, officer battery reports, medical records, and video footage, the investigation has revealed that the rear driver's side of the van hit the left side of PO L. In statements to IPRA, eight responding officers stated that they observed the silver van crash through the garage door, at which point PO L was stuck by the van.⁸⁰ Additionally, PO L also provided a statement to IPRA, wherein L indicated that he had been hit by the vehicle.⁸¹ Other documentary evidence such as medical records and departmental reports also reflected that PO L was struck by the van.

Video footage from Store M also depicts the collision. At minute 02:45:48, the rear of the silver van can be seen emerging from Store M's garage bay, traveling in the direction of a crowd of officers standing outside of the building.⁸² During 02:25:48, as the van proceeds backward, the rear driver's side panel of the van hits the left side of PO L.⁸³ As the vehicle strikes PO L, the officer's left leg appears to become elevated, at which time PO L throws his arms out to the sides.⁸⁴



Figure 4: Zoom-in of Store M Channel 5 footage at 02:45:48, showing the moment when PO L is struck by the silver van.

⁸⁰ Attachments 78, 85, 91, 98, 104, 111, 116, 122

⁸¹ Attachment 55

⁸² Attachment 147

⁸³ *Id.*

⁸⁴ Attachment 171

In consideration of the aforementioned evidence indicating that PO L was struck by the van, as well as the void of evidence to suggest otherwise, the investigation has revealed a preponderance of evidence to make a factual determination. Thus, as the van exited Store M's garage bay, the rear driver's side of the vehicle struck the left side of PO L.

B. After the Van Moved Backward Into XXX Street, the Van Shifted Direction and Moved Forward

From the evidence collected during the course of this investigation, including officer statements, photographs, and video footage, the investigation has revealed that the van shifted direction and moved forward. In interviews to IPRA, seven responding officers state that they observed the van change direction and move forward. Specifically, Officers C, B, M, G and K saw the van travel in reverse out of the garage bay, then stop in the middle of XXX Street.⁸⁵ The officers then observed the driver make a motion that resembled "changing gears," at which time the vehicle moved forward. Officer A also observed the vehicle stop moving in reverse, followed by the driver making a "gear shifting" motion.⁸⁶ Based on the account of Officer D, he observed the van move forward.⁸⁷

Based on the Original Case Incident Report for RD #XXX, the silver van was a 2010 Chrysler Town & Country. Looking to the 2010 Chrysler Town & Country Owner's Manual, this vehicle had a gearshift situated in the dashboard, directly right of the gauge panel.

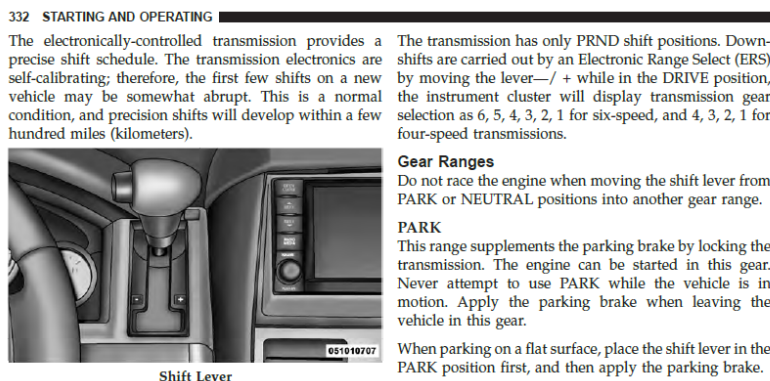


Fig. 5: Diagram of 2010 Chrysler Town & Country gearshift.

⁸⁵ Attachments 83, 98, 111, 116, 61

⁸⁶ Attachment 91

⁸⁷ Attachment 104

Looking to the Chicago Police Department Evidence Technician photographs of the silver 2010 Chrysler Town and Country, the gearshift is clearly located in the same position: directly right of the gauge panel.



Fig. 6: Original ET photo and zoom-in, depicting location of gearshift.⁸⁸

Given the prominent location of this mechanism, nearby the front windscreen, it would appear reasonable for an officer to believe that he saw the van driver attempting to shift gears.

The officer statements that the driver shifted gears, after which time the van moved forward, are also corroborated by video from Channel 5 and dashcam footage from Vehicle XXX. Looking to Channel 5, minute 02:45:51, the silver van has reversed into the middle of XXX Street, and is no longer moving in reverse.⁸⁹ By 02:45:52, the van shifts direction and moves forward.⁹⁰ In the footage from Vehicle XXX, the silver van comes into the left side of the field of view at minute 03:50.⁹¹ The entire body of the silver van passes across the field of view, and by minute 03:52, the entire body of the silver van has passed out of the right side of the field of view.⁹² During minute 03:53, the van remains outside of the field of view, and by 03:54, the front panel of the van re-enters the right hand side of the field of view.⁹³

⁸⁸ Red circle added for emphasis.

⁸⁹ Attachment 147

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

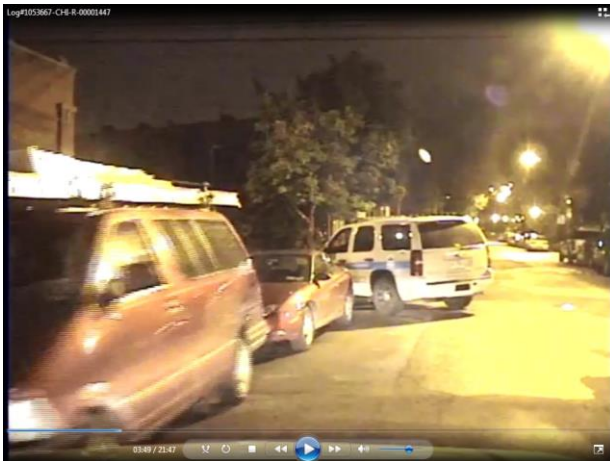


Fig. 7: Minute 03:49, immediately prior to the silver van entering the field of view



Fig. 8: Minute 03:50, as the silver van enters the field of view

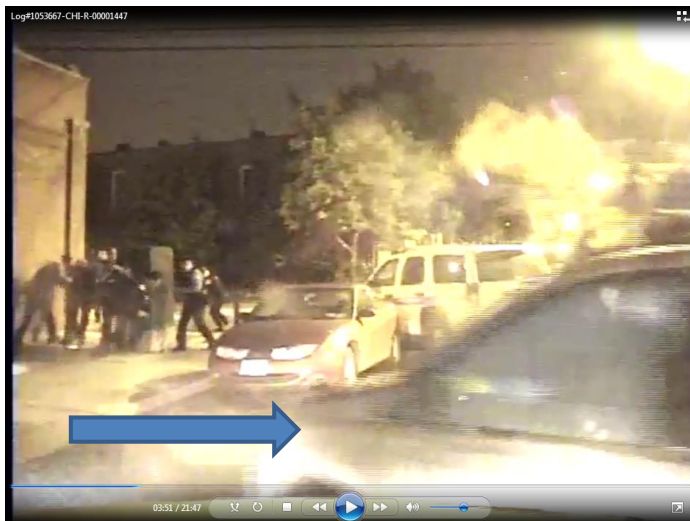


Fig. 9: Minute 03:51, the silver van passes across the field of view, from left to right. The blue arrow indicates the direction of travel and identification of the silver van.

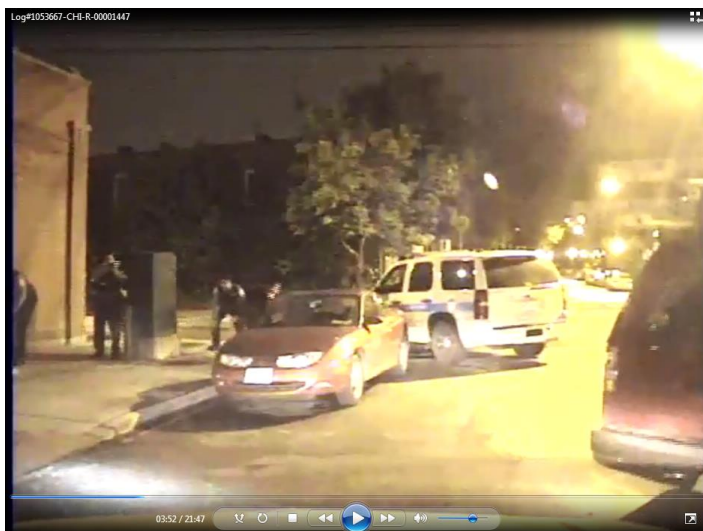


Fig. 10: Minute 03:52, the silver van has passed across the field of view, exited the right side of the field, and is entirely outside of the frame.

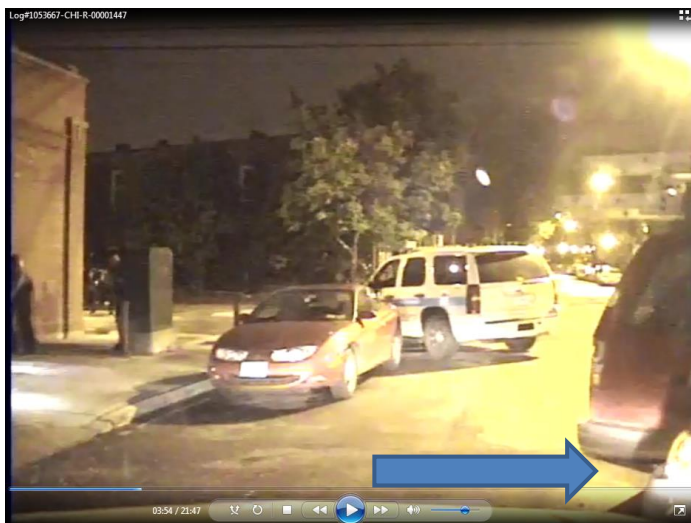


Fig. 11: Minute 03:54, the silver van has re-entered the right side of the field of view. The blue arrow indicates the identification of the silver van coming back in the north direction.

Considering the statements of the officers, the location of the gearshift, and the relevant video footage, a preponderance of the evidence exists to formulate a factual determination. As such, after the van moved backward into XXX Street, the van shifted direction and moved forward.

C. Eight Seconds Elapsed From the Time the Van Exited Store M's Garage Bay Until the Time That the Van Stopped Moving

From the video footage evidence collected during the course of this investigation, the investigation has revealed that eight seconds passed between the time the van exited Store M's garage bay, up until the time that the van stopped moving. The entire movement of the silver van outside of the building is captured by Channel 5.⁹⁴ At minute 02:45:48, the silver van emerges from Store M's garage bay, strikes PO L, and moves out into XXX Street.⁹⁵ After crashing into vehicles parked on XXX Street, the vehicle changes directions and moves forward.⁹⁶ By 02:45:56, the vehicle ceases moving, after which time officers begin approaching the stalled vehicle.⁹⁷ Although the statements of involved officers do suggest that the episode lasted "seconds," Channel 5 footage irrefutably shows the van's movement takes place between minutes 02:45:48 and 02:45:56. Considering this, a preponderance of the evidence exists to formulate the aforementioned factual determination.

⁹⁴ Attachment 147

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

D. All Shots Were Fired During This Eight Second Timeframe

From the evidence collected during the course of this investigation, including officer statements and video evidence, the investigation has revealed that the involved officers fired their weapons only during the eight seconds timeframe described *supra*. All shooting officers state that by the time the vehicle stopped moving, they had stopped firing their weapons. Specifically, officers C, B, D, M, and P all stated that by the time that the van ceased moving, they had stopped discharging their weapons.⁹⁸ Officer F noted in her interview that as the van was moving, she shot once; an officer then moved into her line of fire, so she took cover until the scene was secure.⁹⁹ According to Officer A, he fired at the van as it moved, but his firearm jammed.¹⁰⁰ By the time he cleared the jam, the van was no longer moving, and he did not fire again.¹⁰¹ As Officer G fired at the moving van, his firearm went into slide lock.¹⁰² By the time he had reloaded, the van was no longer moving, and he did not fire again.¹⁰³

These statements are corroborated by the two relevant videos, Channel 5 and Vehicle XXX. During the eight second timeframe that the van is moving, officers can be seen bracing themselves, moving away from the garage, and firing at the moving van.¹⁰⁴ Once the eight second period is over (minute 02:45:56), no further firearm discharges can be seen.¹⁰⁵ In examining the footage taken from Vehicle XXX, minute 03:56 is synchronized with Channel 5's minute 02:45:56. Prior to Vehicle XXX, minute 03:56, at least one officer can be seen discharging his firearm.¹⁰⁶ After Vehicle XXX, minute 03:56, no further firearm discharges can be seen.¹⁰⁷ Considering the commonality between the statements of involved officers, as well as the actions depicted in the two videos, a preponderance of the evidence exists to formulate a factual determination. As such, during the eight second timeframe that the silver van moved outside of Store M, all officer firearm discharges took place.

II. It Was Reasonable For Shooting Officers to Believe That Their Fellow Officers Were in Imminent Danger

Under the first prong of G03-02-03, an officer may apply deadly force if he “reasonably believes that such force is necessary to prevent death or great bodily harm to the sworn member or to another person.”¹⁰⁸ As stated *supra*, the investigation has revealed several factual findings, *to wit* the van emerged from Store M's garage in reverse, struck PO L, and changed to a forward direction all over the course of eight seconds. Looking to the video of the incident captured by

⁹⁸ Attachments 85, 98, 104, 111, 122

⁹⁹ Attachment 78

¹⁰⁰ Attachment 91

¹⁰¹ *Id.*

¹⁰² Attachment 116

¹⁰³ *Id.*

¹⁰⁴ Attachment 147

¹⁰⁵ *Id.*

¹⁰⁶ Attachment 179

¹⁰⁷ *Id.*

¹⁰⁸ G03-02-03(II)(A)(1) (Effective 01 October 2002-10 February 2015).

Store M Camera 5, it took the van one second to travel across the sidewalk south of the store.¹⁰⁹ Moreover, immediately prior to the van crashing out of the garage door, the video shows officers standing in the direct path of the vehicle.¹¹⁰ Considering that these officers would have had less than one second to get out of the path of a vehicle weighing in excess of two tons,¹¹¹ it would appear reasonable to believe that these officers faced imminent death or great bodily harm.

III. It Was Reasonable for Shooting Officers to Believe That Deadly Force Was Necessary to Prevent the Danger

While it would be reasonable for responding officers to believe that their fellow officers were in imminent danger, such a belief alone would not be enough to meet the standard of G03-02-03. When faced with the aforementioned circumstances, the officer's use of deadly force would only be justified when he reasonably believes deadly force is necessary to *prevent* the danger. Under the Use of Force Guidelines directive,¹¹² the objective reasonableness of an officer's use of force must be guided by the standard set out in the seminal Supreme Court decision *Graham v. Connor*.¹¹³ In *Graham*, the court noted that "the calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation."¹¹⁴ Nevertheless, the *Graham* court emphasized that the officer's actions must be "'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation."¹¹⁵

In this case, the van crashed through the closed garage door and hit PO L, at which point it became evident to responding officers that the driver van had reckless disregard for the safety of others. This justified all the officers who witnessed this act to be on high alert.

As the van continuously moves over an eight second period, the vehicle changes direction, putting officers into its direct path. In each of the shooting officers' statements to IPRA, the officers state that they observed a vehicle being used as a deadly weapon against other officers; without controlling the driver of this vehicle, no one officer could prevent the vehicle from causing great bodily harm to officers in its path. With the rapidly unfolding chain of events, as well as the close proximity of victim and potential victim officers to the deadly force of the van, it is difficult to fathom what other tactics any responding officer could have employed in order to save the lives of his fellow officers.

¹⁰⁹ Attachment 147 depicts footage from Store M Channel 5. A stopwatch was utilized to calculate how long it took the silver van to cross the sidewalk south of Store M. Starting at the time the silver van emerged from Store M garage bay (approximately 2:45:48), until the moment that the silver van hits a panel van parked on XXX Street (approximately 2:45:49), the stopwatch recorded one second to have passed.

¹¹⁰ Attachment 147 at 2:45:47.

¹¹¹ Attachment 28, Page 1 indicates that the silver vehicle was a 2010 Chrysler Town and Country. This vehicle has a recorded curb weight of 4507 pounds (Edmunds.com/Chrysler/town-and-country/2010/features-specs/).

¹¹² G03-02 (Effective 01 October 2002-15 October 2017).

¹¹³ 490 U.S. 386 (1989)

¹¹⁴ *Id.* at 396-97.

¹¹⁵ *Id.* at 397.

Based on the entirety of the conditions faced by the eight shooting officers, it was objectively reasonable for these officers to believe that deadly force was necessary to prevent death or great bodily harm, meeting the standard established in *Graham*. From the fourth factual determination made in this case, it has been demonstrated that all shooting officers stopped firing by the time the vehicle was no longer in motion. This course of action would suggest that, once the threat of imminent danger had subsided, deadly force was no longer employed by Chicago Police members. In applying deadly force only during the eight second window, the totality of the circumstances suggest that the shooting officers applied objectively reasonable deadly force.

Based on the entirety of the conditions faced by the eight shooting officers, it was objectively reasonable for these officers to believe that deadly force was necessary to prevent death or great bodily harm, meeting the standard established in *Graham*. From the fourth factual determination made in this case, it has been demonstrated that all shooting officers stopped firing by the time the vehicle was no longer in motion. This course of action would suggest that, once the threat of imminent danger had subsided, deadly force was no longer employed by Chicago Police members. In applying deadly force only during the eight second window, the totality of the circumstances suggest that the shooting officers applied objectively reasonable deadly force.

IV. It Was Reasonable For Shooting Officers to Believe That Shooting Into the Van Was Necessary to Prevent the Danger of Deadly Force

Each shooting officer discharged their weapons at Subject 3, Subject 2, and Subject 1 while they were inside the silver van.¹¹⁶ In situations where an officer discharges his firearm into a moving vehicle, the officer's actions are only authorized "to prevent death or great bodily harm to the sworn member or another person."¹¹⁷ The Deadly Force directive also mandates that sworn members move out of the vehicle's path "when confronted with an oncoming vehicle and that vehicle is the only force used against them."¹¹⁸ Based on the analysis above, it would have been reasonable for the shooting officers to believe that deadly force was necessary to prevent death or great bodily harm, namely of the officers in the path of the silver van. Therefore, all eight officers were permitted to shoot into the moving vehicle under G03-02-03(II)(B).

Under the second provision of G03-02-03(II)(B), an officer is required to move out of the vehicle's path "when confronted with an oncoming vehicle and that vehicle is the only force used against them."¹¹⁹ A reasonable officer would have known that his fellow officer was required to move out of the way of the moving vehicle if feasible. However, considering that these officers would have had less than one second to get out of the path of a vehicle weighing in excess of two tons,¹²⁰ it was reasonable for each shooting officer to believe that their fellow officers could not move out of the way in time particularly given their close proximity to the vehicle. As the shooting

¹¹⁶ Allegations 1 and Allegation 2 are duplicative because it is undisputed that Subject 3, Subject 2, and Subject 1 were inside the silver van at the time each shooting officer discharged their weapons. Therefore, the analysis for each allegation is identical.

¹¹⁷ G03-02-03(II)(B) (Effective 01 October 2002-10 February 2015).

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Attachment 28, Page 1 indicates that the silver vehicle was a 2010 Chrysler Town and Country. This vehicle has a recorded curb weight of 4507 pounds (Edmunds.com/Chrysler/town-and-country/2010/features-specs/).

officers' actions comported with all applicable sections of G03-02-03(II)(B), Allegation #1 and 2 against all shooting officers should be **Exonerated**.¹²¹

V. Officer F Did Not Pick Up Shell Casings At the Scene of the Shooting

Based on video footage depicting the aftermath of the shooting, Officer F can be seen picking up items from the ground. Premised on these actions, IPRA brought forth the allegation that Officer F picked up shell casings from the crime scene. In the aftermath of suspected criminal activity, "it is the policy of the Chicago Police Department to secure and protect crime scenes..."¹²² The directive goes on to specify that "evidence will NOT be disturbed prior to processing, unless it is absolutely necessary to preserve life or to protect the evidence from loss or damage."¹²³ Only in situations where a department member has established a "compelling reason," may the member "handle evidence before the crime scene has been evaluated by a forensic investigator, an evidence technician, or a detective."¹²⁴

In this case, video footage from Store M Channel 5 and Beat XXX show officer actions subsequent to the shooting incident, including an officer who bends over several times to reach the ground. When shown this video footage, Officer F acknowledged that she could be seen in the clips, recognizable by her hair in a ponytail. Concerning footage of Officer F bending to reach the ground, Officer F was specifically asked whether she was picking up shell casings. Officer F responded that she was not picking up shell casings, but rather the live rounds from her magazine. According to Officer F, she had removed the bullets from the magazine of her firearm, with the purpose of counting how many bullets were left. The purpose of this action, Officer F explained, was to verify that she only fired one round. While counting the bullets, Officer F's hands kept shaking, causing her to drop the bullets to the ground. Officer F then picked up the bullets from the ground.

Reviewing Crime Scene Processing Report XXX, evidence technicians reported the location of each inventoried expended shell. Based on this report, expended shells were recovered from the sidewalk outside Store M, from the floor inside the store, and from the surface of XXX Street. None of the shells are reported to have been recovered from Officer F's person. Beyond these records and the aforementioned video footage, no other evidence regarding Officer F's involvement with shell casings was obtained. In consideration of Officer F's explanation of the video footage, as well as the recorded location of all inventoried shell casings, a preponderance of the evidence exists to indicate that Officer F did not pick up shell casings. In light of these circumstances, Allegation #3 against Officer F should be **Unfounded**.¹²⁵

¹²¹ The only exception is Allegation #1 against Officer F. IPRA alleged in Allegation #1 against Officer F that Officer F discharged her weapons multiple times. However, the evidence demonstrates that Officer F only discharged her weapon once. The action did not occur as alleged and therefore Allegation #1 should be **Unfounded**.

¹²² G04-02(II) (Effective 15 June 2002-06 November 2014).

¹²³ G04-02(III)(D) (Effective 15 June 2002-06 November 2014).

¹²⁴ G04-02(III)(E) (Effective 15 June 2002-06 November 2014).

¹²⁵ It should be noted that G03-02-03 (effective October 16, 2017) specifically requires officers who discharge their firearms to ensure that their firearm remains holstered and secured until it is submitted to Forensic Services Division personnel. This was not in effect on the date of this incident.

CONCLUSION

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

Officer	Allegation	Finding
Officer A	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer A discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer A discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer B (Now Sgt. Officer B)	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer B discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer B discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer C	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer C discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer C discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated

Officer D	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer D discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer D discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer E	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer E discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer E discharged his firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Exonerated 2. Exonerated
Officer F	<ol style="list-style-type: none"> 1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer F discharged her firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and, 2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer F discharged her firearm into a moving vehicle without justification, in violation of Rule 6. 	<ol style="list-style-type: none"> 1. Unfounded 2. Exonerated
Officer F	<ol style="list-style-type: none"> 3. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer F picked up 	<ol style="list-style-type: none"> 3. Unfounded

	shell casings after a police involved shooting, in violation of Rule 6.	
Officer G	<ol style="list-style-type: none">1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer G discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer G discharged his firearm into a moving vehicle without justification, in violation of Rule 6.	<ol style="list-style-type: none">1. Exonerated2. Exonerated
Officer H	<ol style="list-style-type: none">1. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer H discharged his firearm multiple times at Subject 3, Subject 2, and Subject 1, in violation of Rule 6; and,2. It is alleged that on April 30, 2012, at approximately 2:43 AM, in the vicinity of XXX South Western, Officer H discharged his firearm into a moving vehicle without justification, in violation of Rule 6.	<ol style="list-style-type: none">1. Exonerated2. Exonerated

Approved:

Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:	XXX
Investigator:	XXX
Supervising Investigator:	XXX
Deputy Chief Administrator:	XXX