

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	October 23, 2016
Time of Incident:	10:01 a.m.
Location of Incident:	5924 S. Princeton Avenue, Chicago, IL.
Date of COPA Notification:	October 23, 2016
Time of COPA Notification:	10:30 a.m.

On October 23, 2016, at approximately 10:01 a.m., Officer A, #XXX, was on routine patrol in a marked police vehicle, near Princeton and 59th Street. Officer A observed a vehicle which was missing a front license plate. Officer A also observed that the driver of the vehicle was not wearing a seatbelt. Officer A proceeded to curb the vehicle, which was a gray Nissan Murano. Upon doing so, Officer A observed the occupants acting “suspiciously”. The occupants included two passengers in addition to the driver. The occupants were: Involved Individual 3 (driver), Involved Individual 2 (front passenger), and Involved Individual 1 (rear passenger). Officer A called for backup, and once Officers Officer B, #XXX, Officer C, #XXX, and Officer D, #XXX, arrived, the subjects were asked to exit the vehicle. The subjects in the front and rear passenger seats, Involved Individual 2 and Involved Individual 1, exited the vehicle and ran from the scene.

A foot pursuit ensued, with Officer A and Officer B pursuing Involved Individual 1 and Officer D pursuing Involved Individual 2. While in an empty lot at approximately 5920 S. Princeton, it is alleged that Involved Individual 1 pointed his weapon at Officer A, resulting in Officer A firing six (6) shots and striking Involved Individual 1. Involved Individual 1 was placed into custody and transported to John H. Stroger, Jr. Hospital for treatment. Involved Individual 2 and Involved Individual 3 were placed into custody without further incident.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A; Star #XXX; Employee ID# XXX; Date of Appointment: XX XX, 2007; Police Officer, Unit of Assignment: XX; DOB: XX XX, 1969; Male; Black.
Involved Individual #1:	Involved Individual 1; DOB: XX XX, 1994; Male; Black.

¹On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

III. ALLEGATIONS

Any discharge of an officer's firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. However, COPA determined evidence did not exist which would require allegations of excessive force against Officer A.

IV. APPLICABLE RULES AND LAWS

General Orders

1. Chicago Police Department General Order, GO 03-02-03; Deadly Force
-

Federal Laws

1. Graham v. Connor, 490 U.S. 386, 397 (1989)
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State Laws

1. Illinois State Statute 720 ILCS 5/7-5 (1986)

V. INVESTIGATION²

a. Interviews

Civilian Interviews

On October 23, 2016, at approximately 12:30 p.m., investigators from IPRA arrived at the Trauma Unit of John H. Stroger, Jr. Hospital³ to inquire about the status of Involved Individual 1. According to a doctor, Involved Individual 1 was in surgery due to a bullet lodged in or near his heart. The investigators were informed that surgeries of this magnitude often last for hours.

In a telephone interview with COPA on August 3, 2018, Involved Individual 1 stated that on the date of the incident, he was riding in a Nissan Murano⁴ with friends, Involved Individual 3 and Involved Individual 2. Involved Individual 1 stated that Involved Individual 3 was driving the vehicle, Involved Individual 2 was the front passenger, and he [Involved Individual 1] was seated in the rear passenger seat, behind the driver seat. Involved Individual 1 explained that they were driving eastbound on 59th and Halsted when they observed a marked police SUV pull behind them. At 59th and Princeton, the police activated his emergency equipment and pulled their vehicle over. Involved Individual 1 stated that they became somewhat nervous because they were three parolees in a vehicle with marijuana and a firearm. Involved Individual 1 stated that he was

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

³ Attachment 27.

⁴ Involved Individual 1 stated that the vehicle belonged to Involved Individual 3 and his girlfriend, Civilian 1. Involved Individual 1 added that the vehicle had a tinted rear window but that it was visible to look into the vehicle.

carrying a Hi-Point pistol⁵ in his coat pocket and Involved Individual 2 was in possession of marijuana. Involved Individual 1 stated the Involved Individual 3 nor Involved Individual 2 were aware that he was in possession of a firearm.

Involved Individual 1 explained that the African American uniformed officer, now known to be Officer A, asked Involved Individual 3 to turn off the vehicle and hand him his keys. Involved Individual 1 stated that Involved Individual 3 complied with the officer. Involved Individual 1 said that the officer then called for back-up and two vehicles arrived. The first vehicle was an unmarked, grey SUV with two Caucasian and/or Hispanic plain clothed officers (one male and one female) and the second vehicle was a sedan with two additional officers. Upon the arrival of the additional officers, Officer A asked Involved Individual 3 to exit the vehicle and walked him to his [Officer A] vehicle. Involved Individual 1 stated that the two officers in the SUV walked over to the passenger side of their vehicle. The male officer asked Involved Individual 2 to exit the vehicle and padded him down. The female was at his [Involved Individual 1] door. Involved Individual 1 stated that he moved from the driver's side over to the passenger side because that is where the two officers were located.

Involved Individual 1 explained that Involved Individual 2 fled in a westbound direction on 59th Street, which made him exit the vehicle and flee southbound on Princeton Avenue. Involved Individual 1 stated that he fled because he had a weapon on him, he was nervous, and had recently been paroled. As he was running on the west side of Princeton, Involved Individual 1 observed Officer A running approximately three to four houses behind him. Involved Individual 1 stated that Officer A told him words to the effect of, "Hey mother fucker, stop." Involved Individual 1 ran into an empty field near a convenience store and as he started to "round the corner" into the field he started to pull the gun out of his pocket. Involved Individual 1 stated that he ran into the field and threw the firearm near two vehicles that were parked in the rear of the store. Involved Individual 1 stated that as he was running, he slipped and fell on a table that was near the rear of the field. At that point, Involved Individual 1 heard a gunshot. He got up and took a few steps (3 to 4) towards the driver's side of a silver vehicle before hearing another shot. Involved Individual 1 stated that immediately his entire body stiffened and he felt pain in his right leg. Involved Individual 1 stated that he tried to run but his right leg was broken. He was able to reach the trunk of the silver sedan. Involved Individual 1 stated that he was hoping on one leg, with his left hand up in the air, saying "don't shoot, don't shoot" and immediately heard a third shot and felt a gunshot to his left leg. Involved Individual 1 explained that he was also shot on the left side of his body, near his heart. Involved Individual 1 stated that he was unaware of who was shooting at him but assumed it was Officer A because he saw the officer come out of bushes and trees, with his weapon drawn. Officer A then turned him over and hand-cuffed him. Involved Individual 1 stated that other officers arrived on scene, as well as an ambulance, which transported him to Stroger Hospital.

Involved Individual 1 stated that he plead guilty on the case, confirming that he pled guilty to Unlawful Possession of a Firearm (UW) and Aggravated Assault on a Peace Officer. Involved Individual 1 denied to COPA that he ever pointed the weapon at Officer A.

⁵ Involved Individual 1 stated that the weapon belonged to a friend. Not Involved Individual 3 or Involved Individual 2.

In an interview with IPRA on October 23, 2016, Witness 1⁶ stated that on the date and time of the incident, he was inside of his home located at XXX S. Princeton. From his vantage point, he had a clear view of the end of the incident, but he did not see how it started or why the officer fired his weapon. Witness 1 stated that he heard four to five shots fired in rapid succession and saw a black male police officer, now identified as Officer A. Witness 1 went outside to see what happened and saw the subject, Involved Individual 1, laying behind two parked cars in the yard. Witness 1 stated that Involved Individual 1 was yelling at Officer A, asking, “Why’d you shoot me?” Witness 1 added that Involved Individual 1 told the officer that he [Involved Individual 1] was not going to shoot him [the officer]. Witness 1 said that Involved Individual 1 appeared very agitated.

Witness 1 stated that two other officers were walking in the alley towards Involved Individual 1 and that Officer A was standing near Involved Individual 1. Witness 1 stated that he did not see a weapon near Involved Individual 1, but he stated that he believed that someone had a video depicting a gun next to Involved Individual 1. Witness 1 did not recall the name of the person who had the video.

Police Officer Interviews

In an interview with IPRA on January 27, 2017, Involved Officer A, #XXX⁷, stated that on the date and time of the incident, he was working alone in Beat XXX, driving a marked police SUV. While he was stopped at a gas station at 59th and Halsted, he observed the subjects’ vehicle, a Nissan Murano, with no front license plate. Officer A observed the vehicle twice before he decided to follow it and run a license plate check. Officer A stated that he called the plate out over the air to the OEMC, and while he waited for them to respond, he curbed the subjects’ vehicle at 59th and Princeton. OEMC responded to Officer A, telling him that there was some type of irregularity with the plates; the results came back either stolen or lost. Hearing this, Officer A decided to conduct a field interview.

Upon approaching the vehicle on the driver’s side door, Officer A asked the driver, Involved Individual 3, to roll down all windows for officer safety and instructed the other two occupants of the vehicle, now known as Involved Individual 1 and Involved Individual 2, to keep their hands visible. Officer A then asked Involved Individual 3, if he had a driver’s license. Involved Individual 3 responded by saying that he did not have a license. Officer A asked Involved Individual 3 for the car keys, to which Involved Individual 3 complied. However, after Involved Individual 3 gave him the keys, Officer A noticed the passenger in the back seat trying to open the door. This “alerted” Officer A to tell Involved Individual 3 that he was only going to write him a ticket for the missing front plate and proceeded to walk out of earshot, where he called for backup. Officer A explained that two (2) tactical officers and a beat officer arrived shortly after. Officer A informed the officers that the occupants of the vehicle were acting suspiciously and that the rear passenger appeared to want to flee.

Officer A proceeded back to the vehicle and told the subjects that they must exit the car. Officer A escorted Involved Individual 3 to the rear of the vehicle. Officer A asked Involved

⁶ Attachments 32-34.

⁷ Attachments 62-64.

Individual 3 if there were any pistols in the car, to which Involved Individual 3 responded, "I don't have pistols; I don't have a pistol." Officer A then told the responding officers "Be careful, I think they got pistols." Shortly after that, a "commotion" ensued at the vehicle, and Officer A observed the front seat passenger, Involved Individual 2, running westbound, followed by Involved Individual 1, running southbound. Officer A stated that Officer D, #XXX, pursued Involved Individual 2, while he pursued Involved Individual 1 southbound on Princeton.

While running after Involved Individual 1, Officer A observed Involved Individual 1's right hand move into his waistband, at which point Officer A drew his weapon. According to Officer A, Involved Individual 1 turned westbound into an empty lot at 5920 S. Princeton, and when he did this, Officer A observed a gun, a black pistol, in Involved Individual 1's hand. Involved Individual 1 ran through the lot, between two vehicles, then jumped over a chair before falling on the ground. At that point, Involved Individual 1 turned with the pistol pointed toward Officer A. Officer A then discharged his weapon at Involved Individual 1. Officer A stated that he fired six shots. Officer A knew he hit Involved Individual 1 because he heard him scream. Involved Individual 1 got up and ran away again, with the pistol still in his hand. However, Involved Individual 1 only made it a "couple of feet and then he fell." Officer A stated that he stopped firing because Involved Individual 1 was no longer pointing the weapon at him.

Officer A stated that he stayed back, taking a defensive position behind a truck in the alley and assessed the situation because he was unsure of whether Involved Individual 1 was going to shoot at him. After a few moments, Officer A decided that Involved Individual 1 was no longer a threat because he saw Involved Individual 1 on the ground with the gun, a black revolver, laying approximately two to three feet "in front" of him. Officer D arrived and handcuffed Involved Individual 1, while Officer A reported "Shots fired by police" over the radio. Once Officer A walked over to observe Involved Individual 1, he noticed that there was blood on his pants. Officers Officer B and Officer C arrived. Officer A stated that Involved Individual 1 stated words to the effect of, "Why did you shoot me, I wasn't going to shoot you." When asked why Officer A did not use his taser, he responded by saying that it would have been inappropriate because it would not have matched the use of force against him.

In an interview with IPRA on November 03, 2016, Witness Officer B⁸, #XXXX, stated that on the date and time of the incident, she was working alone in Beat XXX, driving a marked police SUV. She recalled that Officer A, working Beat XXX, requested a backup unit over the radio, to which she responded. When she arrived on scene, she parked her vehicle and observed that Officer A had a dark gray Nissan Murano, which was facing eastbound, curbed at 59th Street and Princeton Avenue. Officers C and D arrived seconds after she did.

Officer A was near the driver's side door where he was joined by Officer C. Officer B took a position on the passenger's side rear door and Officer D took a position on the passenger's side front door. Officer B observed three black male occupants in the vehicle. Officer B stated that Officer A told her to keep an eye on the rear passenger because "he looked like he was gonna try and run". Officer B stated that she told the rear passenger Involved Individual 1, to keep his hands on the headrest in front of him. She repeated this command several times.

⁸ Attachments 51-53.

Officer B stated that Officer A escorted the driver, Involved Individual 3, out of the vehicle and moved him towards the rear. Shortly after, Officer A told the officers to take the other two occupants out of the vehicle. Officer D moved to open the passenger's side front door, and upon doing so, Involved Individual 2, exited the vehicle and ran westbound. Officer B stated that as soon as this occurred, the backseat passenger, Involved Individual 1, pushed open his door and fled, heading southbound. Officer B explained that Officer A pursued Involved Individual 1, and Officer B followed them. Officer B explained that she was about thirty feet behind Officer A. At one point, Officer A and Involved Individual 1 turned westbound into the vacant lot. Approximately three to five seconds after turning into the vacant lot, Officer B heard five (5) to six (6) shots. Officer B continued to run southbound in an attempt to cut off Involved Individual 1.

Once Officer B arrived in the rear of the lot, she saw Involved Individual 1 on the ground, in the rear of 5924 S. Princeton. At that time, Officer D was already at the scene and handcuffed the subject. Officer B added that Involved Individual 1 was yelling, and she observed blood on Involved Individual 1's lower leg. Officer B observed a black handgun within an arm's reach of Involved Individual 1. Officer B described the weapon and stated that it appeared as though it was in "slide lock" with two rounds jammed in the firearm. Officer B added that she took a position to guard the weapon on the ground. She stated that no officer touched the firearm until it was collected for evidence. She requested EMS over the radio and an ambulance arrived to transport Involved Individual 1 to the hospital.

Officer B learned that Involved Individual 2 was subsequently located hiding in a bush nearby and arrested. She further added that a weapon was recovered from the same area where Involved Individual 2 was located.

In an interview with IPRA on November 03, 2016, Witness Officer D⁹, #XXX, stated that on the date and time of the incident, he was working with a partner, Officer C, and driving in an unmarked police SUV. Officer D stated that he heard a request for assistance at Princeton and 59th. He and Officer C, working Beat XXX responded to the location. Upon arrival, Officer D observed Officer B's vehicle parked behind Officer A's car, behind another vehicle with three occupants. Officer A informed the responding officers that the occupants were acting suspicious, and that it appeared that the rear passenger, Involved Individual 1, attempted to flee during the initial stop. Officer A further informed the officers that Involved Individual 1 continued to act suspiciously throughout the traffic stop.

Officer D took a position on the front passenger's side of the car, while Officer C took a position on the front driver's side, and Officer B took a position on the rear passenger's side. Officer D noted that the windows on the vehicle were tinted and that Involved Individual 1 would not keep his hands up, making it difficult for the officers to see what he was doing. Officer D explained that at that point, Officer A removed the driver, Involved Individual 3, from the vehicle with Officer C's assistance. Officer D then began to remove the front passenger, Involved Individual 2, but Involved Individual 2 fled on foot, running westbound on 59th Street.

Officer D stated that he pursued Involved Individual 2 westbound down an alley, but lost sight of him when Involved Individual 2 entered the alley. Moments later, Officer D heard five to

⁹ Attachments 54-56.

six gunshots in close proximity. Officer D continued southbound in the alley and saw Involved Individual 1 on the ground with a gunshot wound to his leg. Officer D also observed a black handgun near Involved Individual 1, which he initially believed to be in slide lock but later learned was stove-piped¹⁰. Officer D then proceeded to handcuff Involved Individual 1, at which point Officer B arrived on scene. Officer D later returned to the area where he had last seen Involved Individual 2 and found him lying prone in a bush. Involved Individual 2 was placed into custody without further incident. Officer D added that a weapon was recovered within the bush where Involved Individual 2 was located. Officer D added that he did not see the weapon that was recovered.

In an interview with IPRA on November 03, 2016, Witness Officer C¹¹, #XXXX, stated that on the date and time of the incident, she was driving in an unmarked police SUV with a partner, Officer D. Officer C gave essentially the same account of the incident as did Officers D and B. Officer C stated Officer A radioed for an assist car to meet him at 59th Street and Princeton Avenue. Officers C and D arrived a few seconds after Officer B.

Officer C stated that she assisted Officer A with getting the driver, Involved Individual 3, out of the vehicle. She commented that Involved Individual 3 was very cooperative and “didn’t resist in any way.” Officer C stated that the other two passengers exited the vehicle and ran in different directions. Involved Individual 1 ran southbound and Involved Individual 2 ran west. Officer C radioed for assistance, saying that their detainees fled. While Officer A, Officer B, and Officer D gave chase, Officer C stayed with Involved Individual 3. A few moments later, Officer C heard five to six gunshots. She proceeded to call out shots fired over the radio. Officer C then handcuffed Involved Individual 3, placed him into the back of the caged squad car, and ran to the alley where the shots were fired. When she arrived on the scene, Involved Individual 1 was already in handcuffs and appeared to be shot in the leg. Officer C stated that she did not witness Involved Individual 2 being detained but learned of the details from other officers.

b. Digital Evidence

In-car camera video footage from Beat XXX, Vehicle #XXX¹² was collected as part of this investigation. At approximately 09:53:04, the video depicts Officer A’s vehicle driving eastbound, exiting a Quickmart parking lot, behind a dark colored SUV. At approximately 09:53:23, Officer A activates his emergency equipment. At approximately 09:54:01, the dark colored SUV pulls over on the south corner of Princeton Avenue with Officer A parking his vehicle behind. At approximately 09:56:50, Officer A is observed at the driver’s side of the subject’s vehicle, appearing to speak with the driver. At approximately 09:59:41, a dark colored unmarked unit arrives and parks at an angle, in front of the subject’s vehicle. Officers C and D exit the vehicle, while Officer B is observed walking from behind the subject’s vehicle. Officers Officer D and Officer B approach the subject’s passenger side while Officer C approaches the driver’s side, where Officer A is standing. At approximately 10:00:13, the driver, now known as Involved

¹⁰ A stovepipe jam usually occurs in semi-automatic or fully-automatic firearms and is a failure-to-eject malfunction (i.e.) the cartridge that was just fired did not get ejected from the firearm properly and the cartridge case is partially stuck in the ejection port. This means the weapon cannot load the next cartridge into the chamber properly and will not fire.

¹¹ Attachments 57-59.

¹² Attachment 44.

Individual 3 exits the vehicle and is escorted by Officer A to the front of Officer A's vehicle. At approximately 10:00:28, the front seat passenger, now known as Involved Individual 2, exits the vehicle. At approximately 10:00:35, Involved Individual 2 flees from the officers. Immediately following, Involved Individual 1 exits the vehicle and also flees from the officers. Nothing further is observed as it relates to this investigation.

The **in-car camera video footage collected from Beat XXX, Vehicle #XXX**¹³ captured the initial contact with the subjects but did not depict the events that occurred after Involved Individual 2 and Involved Individual 1 fled, leading to the shooting. At approximately 9:59:30, the video depicts Beat XXX park behind a marked CPD SUV, vehicle number 9059. Officers C and D are observed at the passenger side of the subject's vehicle, a dark colored SUV, speaking with the occupant(s). At 10:00:28, the front passenger, now known to be Involved Individual 2, exits the vehicle and appears to speak with the officers. At approximately, 10:00:36, Involved Individual 2 abruptly flees from the officers, running in a west bound direction, out of camera view. Subsequently, the rear passenger, now known to be Involved Individual 1, exits the vehicle and runs in a southbound direction down Princeton Avenue. At approximately 10:00:13, Officer C is observed placing a third subject, now known to be Involved Individual 3, in the backseat of CPD vehicle 9059. Nothing further related to this incident is observed.

At the time of the incident, officers from the XXX District had not yet been equipped with **body worn cameras (BWC)**. The XXX District was deployed with BWCs on May 1, 2017.

Third party surveillance video was recovered from two locations¹⁴. After viewing the video footage, it was found that they did not capture anything related to this investigation¹⁵

The **Office of Emergency Management and Communication (OEMC) Event Queries, calls made to 911, and Police Radio Transmissions**¹⁶ were collected and made part of this case file. Relevant police radio transmissions document that on October 23, 2016, Beat XXX, now known to be Officer A, asked dispatch to run plate number XXXX, located at 59th Street and Princeton Avenue. Dispatch informed the officer that the plates were reported stolen and that the vehicle should be a Green Nissan Murano. Beat XXX requested a vehicle to back him up. Beat XXX responded that they would assist. Moments later, a female officer, appearing out of breath, reported a black male heading southbound then westbound on Princeton Avenue. Subsequently shots fired was reported. An ambulance was requested, with a stable condition. A male officer then reported shots fired by police and a weapon recovered. The address of incident was reported as 308 W. 59th Place.

Evidence Technician (ET) photographs¹⁷ depict the scene, evidence recovered, and Officer A.

¹³ Attachment 43.

¹⁴ These videos are from the Quickmart located at XXXX S. Princeton and a residence located at XXX W. 59th Street.

¹⁵ Attachments 74-75.

¹⁶ Attachments 12-21.

¹⁷ Attachment 71.

c. Physical Evidence

A **Chicago Fire Department Ambulance Report**¹⁸ documents that Ambulance 36 arrived at 5924 S. Princeton Avenue at approximately 10:12 a.m. to treat and subsequently transfer Involved Individual 1 to the hospital. EMS reported one individual lying on the ground with multiple gunshot wounds (GSW): one GSW to the posterior right lower leg; two GSWs to the left anterior lower leg; and one GSW to the left axillary area of the chest. The paramedics aided the patient by applying occlusive dressings to his wounds and transported him to John H. Stroger, Jr. Hospital.

Medical Records¹⁹ obtained from John H. Stroger Hospital documented that Involved Individual 1 arrived at the emergency department with multiple gunshot wounds (GSWs). Involved Individual 1 sustained a GSW to the left chest wall, a wound to the right posterior calf, and wounds to the left posterior calf and anterior shin.

The Chicago Police Department Crime Scene Processing Report, #XXX²⁰, documents the recovery and inventory of items located on the scene. The items recovered and inventoried include Officer A's firearm, a Glock 17, 9mm semi-automatic pistol²¹, inventoried under XXX, one Hi-Point, Model C9 9mm Luger semi-automatic pistol recovered from 5924 S. Princeton Avenue, in an empty lot, inventoried under XXX, one Interarms, Model Firestar 9mm semi-automatic pistol, recovered from 312 W. 59th Place, under bushes, inventoried under XXX. Officer A's firearm contained one (1) Win 9mm Luger+P cartridge in the chamber and eleven (11) Win 9mm Luger+P cartridges in the magazine. The Hi-Point firearm contained two (2) Tulammo 9mm Luger cartridges and one (1) Geco 9mm Luger cartridge in the chamber, and six (6) Geco 9mm Luger cartridges in the magazine. The Interarms firearm contained one (1) GFL cartridge case in the chamber, one (1) GFL 9 mm Luger cartridge, one Aguila 9mm Luger cartridge, and eight (8) Tulammo 9mm Luger cartridges in the magazine. In addition, two (2) metal fragments were recovered from the interior front passenger door of a 2003 Hyundai located at 5924 S. Princeton (Inventory No. XXX), and five (5) Win 9mm Luger+P fired cartridge cases were recovered from the rear of the weed filled lot at 5922 S. Princeton Avenue (Inventory No. XXX).

A **Laboratory Report from the Illinois State Police Forensic Science Center** documents evidence received and examined involving this case. The Forensic Science Center received the following²²:

•**Inventory #XXX**, which involves Exhibit 22, 23, and 24. Exhibit 22 is a Glock, Model 17, 9mm Luger semiautomatic pistol, with serial number XXX. Exhibit 22 was operable as received and test fired. Exhibit 22 has rifling characteristics of six polygonal lands and grooves with a right hand twist. Exhibit 23 is one (1) Winchester 9mm Luger +P cartridge which no further examination was given. Exhibit 24 is eleven (11) Winchester 9mm Luger +P cartridges and one magazine. Exhibit 24 was used to test fire Exhibit 22.

¹⁸ Attachment 41.

¹⁹ Attachment 68.

²⁰ Attachment 69.

²¹ ISP Exhibit 22.

²² Attachments 61, 77.

•**Inventory #XXX**, which involves Exhibit 15: one (1) fired bullet jacket fragment (Exhibit 15A) and one metal fragment (Exhibit 15B). The caliber and rifling characteristics of Exhibit 15A could not be determined and could not be identified or eliminated as having been fired from Exhibit 22. Exhibit 15B is unsuitable for further comparison.

•**Inventory #XXX**, which involves Exhibit 16: five (5) Winchester 9mm Luger +P fired cartridge cases. The fired cartridge cases in Exhibit 16 were confirmed as having been fired from Exhibit 22.

•**Inventory #XXX**, which involves Exhibits 31A: swabs recovered from Hi-Point pistol and 32A: swabs recovered from Hi-Point magazine and cartridges. Exhibits 31A and 32A was amplified and profiled at the 24 loci contained within the PowerPlex Fusion PCR amplification kit. A mixture of human DNA was identified in Exhibit 31A which was interpreted as a mixture of at least four people. A major human male DNA profile was identified in Exhibit 31A, which matches the DNA profile of Involved Individual 1 and does not match the DNA profile of Involved Individual 2. This profile would be expected to occur in approximately 1 in 23 nonillion Black, 1 in 220 decillion White or 1 in 63 decillion Hispanic unrelated individuals. A mixture of human male DNA profile was identified in Exhibit 32A from which Involved Individual 1 cannot be excluded. Involved Individual 2 can be excluded from the major human male DNA profile identified in Exhibit 32A.

•**Inventory #XXX**, which involves Exhibits 33A: swabs recovered from Interarms pistol and 34A: swabs recovered from Interarms pistol magazine and cartridges. Exhibits 33A and 34A was amplified and profiled at the 24 loci contained within the PowerPlex Fusion PCR amplification kit. A mixture of human DNA profiles was identified in Exhibit 33A, which was interpreted as a mixture of at least four people. This mixture is not suitable for comparisons or entry into the DNA Index. A mixture of human DNA profiles was identified in Exhibit 34A at the Amelogenin, TH01, and D8S1179 loci which was interpreted as a mixture of at least two people. This mixture is not suitable for comparisons or entry into the DNA Index.

•**Inventory #XXX**, which involves Exhibit 35A: buccal standard from Involved Individual 1.

•**Inventory #XXX**, which involves Exhibit 36A: buccal standard from Involved Individual 2.

d. Documentary Evidence

The **IPRA Preliminary Report**, the **CPD's Major Incident Notification (MIN) Report**, and the **Case Supplementary Report**²³ contain information identified and obtained in the preliminary stages of the investigation. The reports contain information consistent with information gathered throughout the investigation.

²³ Attachments 4, 9, 60.

A **Tactical Response Report (TRR)**²⁴ completed by Officer A documents that Involved Individual 1 did not follow verbal direction, fled and pulled away, presented an imminent threat of battery, and used force likely to cause death or great bodily harm by pointing a gun in the direction of Officer A. Officer A responded with member's presence, verbal commands, and the discharge of his firearm. Officer A discharged his firearm six (6) times.

The **Officer's Battery Report (OBR)**²⁵ completed by Officer A documented that while on duty, in uniform, he was engaged in a daytime traffic stop. The offender pointed a semi-automatic weapon at Officer A. Officer A did not sustain any injuries.

The **Arrest Report**²⁶ for **Involved Individual 1** documents that Involved Individual 1 was placed into custody after a traffic stop was initiated by Officer A for no front registration. Involved Individual 1 was the back-seat passenger in the vehicle and was observed by Officer A trying to exit the vehicle. Involved Individual 1 disregarded officer commands. Involved Individual 1 fled the vehicle and was pursued by Officer A into the north gangway of 5924 S Princeton. Involved Individual 1 pointed a black highpoint model C-9 9mm semi-automatic handgun at Officer A. This placed Officer A in fear of bodily harm or death, resulting in Officer A discharging his weapon at Involved Individual 1, striking him. Involved Individual 1's weapon was recovered on scene.

Involved Individual 1 was subsequently charged with multiple counts of Felon in Possession / Use of a Firearm PR/PA, Aggravated Unlawful Use of a Weapon/Vehicle/Previous Conviction, Aggravated Unlawful use of a Weapon/Person/Previous Conviction/Aggravated Assault/Use Firearm/Peace Officer under case number XXX of the criminal courts. On June 26, 2018, Involved Individual 1 pled guilty to Felon in Possession/Use of a Firearm PR and Aggravated Assault/Use Firearm/Peace Officer. Involved Individual 1 was sentenced to seven (7) years in the Illinois Department of Corrections (IDOC).²⁷

The **Arrest Report** for **Involved Individual 2**²⁸ documented that he was placed into custody after a traffic stop initiated by Officer A for no front registration. Involved Individual 2 fled from the front passenger seat of the vehicle, holding the front of his waistband. Officer D pursued the subject on foot. After a time, Involved Individual 2 was found hiding in a bush near 312 W. 59th Place. While being placed under arrest, officers observed a Blue Steel Fire-Star Plus 9mm Handgun with live rounds from the location Involved Individual 2 was found. During a search by transporting officers, one hand-rolled cigar with green leaf substance, suspected to be cannabis, was found as well as one small Ziploc bag of a green leaf substance, suspected to be cannabis. Involved Individual 2 was arrested for UUW-Weapon- Felon Poss/Use Firearm/Parole, Agg. Assault/Peace Officer/Weapon, and Issuance of a warrant. Involved Individual 2 was ultimately charged with multiple counts of Felon in Possession/Use of Firearm PR/PA, Aggravated UUW/Vehicle/Previous Conviction, Aggravated UUW/Person/Previous Conviction, under case

²⁴ Attachment 11.

²⁵ Attachment 10.

²⁶ Attachment 5.

²⁷ Attachment 79.

²⁸ Attachment 6.

number 16CRXXXXX²⁹. Involved Individual 2 was found guilty at trial on August 8, 2018, and his case remains pending for sentencing.

The **Arrest Report** for **Involved Individual 3**³⁰ documents that he was placed into custody after a traffic stop initiated by Officer A for not having the proper front registration. A name-check for Involved Individual 3 revealed that he did not have a valid license, that his license was suspended, and that he is currently on parole. Involved Individual 3 was given a citation (XXX)³¹ and charged with Street Gang Contact/Parole³².

Multiple attempts³³ were made to interview **Involved Individual 1, Involved Individual 3, and Involved Individual 2**. All three subjects' attorneys declined to have their clients provide a statement to IPRA due to their pending criminal cases.

According to the **Detective Supplementary Report (Cleared Closed; Arrest/Prosecution)**³⁴, Involved Individual 1 sustained three (3) gunshot wounds (GSW). One GSW to his lower right leg, which was lodged, one through and through GSW to his lower left leg, and one GSW to his upper left chest near his armpit, which was also lodged.

e. Additional Evidence

IPRA conducted a **canvass** of the area of incident. The majority of the buildings/locations canvassed were empty or vacant. Furthermore, most of the individuals interviewed did not hear or see anything involving the incident.

Civilian 2, who lives at XXX W. 59th Place, stated that she heard four to five gunshots, went outside, and then heard a man saying that "he couldn't breathe". Civilian 2 did not witness the actual incident.

Civilian 3, who lives at XXX W. 59th Place, stated that her sister told her that she heard shots fired. Civilian 3 looked out the window and saw a female uniformed officer chasing a black male. Civilian 3 stated that she did not witness the actual incident³⁵.

VI. ANALYSIS

CPD Policy, Illinois State Statute, & Constitutional Standards

The applicable Chicago Police Department order is General Order 03-02-03, II, which states as follows:

²⁹ Attachment 78.

³⁰ Attachment 7.

³¹ Attachment 80.

³² This charge was stricken of leave to reinstate on October 24, 2016.

³³ Attachment 76.

³⁴ Attachment 66.

³⁵ Attachments 28, 29.

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

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

A police officer’s use of deadly force while making an arrest is codified under section 7-5 of the Illinois Criminal Code (Code) (720 ILCS 5/7-5 (West 2016)). That statute provides that a police officer “need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest.” 720 ILCS 5/7-5(a) (West 2016). It then outlines the amount of force an officer is justified using in certain situations.

Finally, an officer’s use of deadly force is a seizure within the meaning of the Fourth Amendment and, therefore, must be reasonable. *Muhammed v. City of Chicago*, 316 F.3d 680, 683 (7th Cir. 2002). “The ‘reasonableness’ inquiry in an excessive force case is an objective one: the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” *Graham v. Connor*, 490 U.S. 386, 397 (1989); *see also Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The 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*, 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*, 316 F.3d at 683 (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (en banc) and omitting emphasis).

Officer A’s Use of Deadly Force

The use of deadly force by Officer A against Involved Individual 1 was objectively reasonable under the totality of the circumstances, and, therefore, within the bounds of CPD policy as outlined by the CPD Deadly Force General Order 03-02-03, II. Furthermore, Officer A’s use of force also complied with the applicable Illinois law and United States law.

Accordingly, the relevant question is whether a reasonable officer in Officer A’s position would have believed the use of deadly force was necessary to prevent death or great bodily harm.

COPA applies the same analysis to all of Officer A's six shots. COPA makes its factual and legal determinations using a preponderance of the evidence standard. A proposition is proved by a preponderance of the evidence when it is found to be more probably true than not. *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005). A preponderance of evidence shows that Officer A reasonably believed that deadly force was necessary to prevent death or great bodily harm to other officers and civilians.

1. Involved Individual 1 possessed a firearm

Officer A explained that during the foot pursuit, he observed Involved Individual 1's right hand move into his waistband. At that point, Officer A drew his weapon. As the chase continued, Officer A observed a black pistol in Involved Individual 1's hands. Involved Individual 1 then ran through a vacant lot, between two vehicles, and jumped over a chair before falling to the ground. After falling, Involved Individual 1 turned with the pistol pointed towards Officer A. After being struck by gunfire, responding officers placed Involved Individual 1 into custody. Within arm's reach of Involved Individual 1 was the Hi-Point C9, 9mm caliber pistol Involved Individual 1 had brandished towards Officer A. Officers Officer B and Officer D also observed the handgun near Involved Individual 1. Officer B stated that the handgun was within arm's reach of Involved Individual 1. In this instance, Officer A's statements are credible and consistent with Officers Officer B and Officer D's statements that a black hand gun was within arm's reach of Involved Individual 1. Based on the totality of the circumstances, Involved Individual 1 possessed a firearm.

2. Involved Individual 1 posed an imminent threat of death or great bodily harm to Officer A and others

A reasonable officer in Officer A's position would certainly believe that deadly force was necessary to prevent death or great bodily harm. First, Officer A saw a gun in Involved Individual 1's hands during the foot pursuit. Not only was Involved Individual 1 visibly in possession of a handgun, a preponderance of the evidence demonstrates that he pointed the gun at Officer A. Officer A alleges that Involved Individual 1 pointed his firearm at him. However, Involved Individual 1 alleged that he never pointed the gun at Officer A. Involved Individual 1 alleged that he started to pull the gun out of his pocket upon entering the empty lot and threw the firearm between to vehicles that where parked in the rear.

Officer A's assertion that Involved Individual 1 pointed a firearm at him is corroborated by other evidence and is more credible. First, Involved Individual 1 expressly admitted to possession of a firearm. Second, a firearm, with Involved Individual 1's DNA, was found within arm's reach of Involved Individual 1.³⁶ This makes it unlikely that he discarded the firearm in the manner he alleged. Finally, Involved Individual 1 pled guilty to aggravated assault of a police officer with a firearm 720 ILCS 5/12-2(c)(6).

³⁶ Multiple other officers observed the firearm next to Involved Individual 1 shortly after the incident.

As soon as Mr. Involved Individual 1 pointed the firearm in Officer A’s direction, Officer A was justified in using deadly force. *See Bell v. Crow*, 321 F. 3d 637, 639 (7th Cir. 2003) (if a suspect threatens an officer with a weapon, the risk of serious physical harm has been established such that the officer police may use deadly force). Further, Involved Individual 1 continued to flee holding the gun *after* he was shot by Officer A. Officer A stopped firing his weapon because Involved Individual 1 was no longer pointing the gun in Officer A’s direction.

Thus, based on the totality of the facts and circumstances, an officer with similar training and experience as Officer A would reasonably believe that Involved Individual 1 posed an immediate threat to his life and the lives of others. Therefore, his use of deadly force was objectively reasonable under the circumstances.

VII. CONCLUSION

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

The evidence establishes that Officer A believed that Involved Individual 1 posed an imminent and deadly threat and that Officer A’s belief were objectively reasonable under the circumstances.

COPA has determined by a preponderance of the evidence that Officer A’s use of deadly force against Involved Individual 1 was objectively reasonable as outlined in the Use of Force Model, state and federal law and the Chicago Police Department’s General Orders.

Officer	Allegation	Finding
Officer A	No allegation of Misconduct	Use of deadly force was within CPD policy.

Approved:

Deputy Chief Administrator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	XX
Major Case Specialist:	Major Case Specialist
Deputy Chief Administrator:	Deputy Chief Administrator