

**SUPPLEMENTARY SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	July 4, 2013
Time of Incident:	1:42 P.M.
Location of Incident:	██
Date of IPRA Notification:	July 4, 2013
Time of IPRA Notification:	2:06 P.M.

On December 18, 2017, the above log was reopened by the Civilian Office of Police Accountability (COPA) for the purpose of reviewing documents, discovery and depositions from ██████████ v. *City of Chicago et al.*, Case No. 13 L ██████████. The case was originally opened by the Independent Police Review Authority (IPRA) after the fatal officer involved shooting of ██████████ on July 4, 2013. The case was closed at IPRA on January 30, 2015. IPRA found the officer involved shooting of ██████████ to be within policy.

Although ██████████ v. *City of Chicago et al.*, Case No. 13 L ██████████ was filed on December 13, 2013, none of the documents, discovery or depositions in the case were referenced or reviewed during IPRA’s investigation. On April 18, 2017, after a jury trial in the Circuit Court of Cook County Law Division before Judge ██████████ ██████████ the Plaintiff, ██████████ as administrator of the estate of ██████████ was awarded \$350,000 in damages.<sup>2</sup> COPA reviewed the litigation materials generated prior to the jury trial seeking to determine whether any of the officers made inconsistent statements during the course of their depositions during the pendency of the litigation, or if any new, credible witnesses surfaced that had information relative to the fatal officer involved shooting death of ██████████. During this reevaluation, COPA also reviewed the original summary report and the documents relied upon therein that served as a basis for the original findings.

After a thorough review, COPA has determined that additional investigative steps should not be taken, nor should involved officers be presented with allegations of misconduct. Information and evidence obtained since the original investigation’s conclusion is summarized below. This COPA Supplemental Summary report does not repeat information contained in the original summary report.

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<sup>1</sup> 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. 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.

<sup>2</sup> The verdict in the civil lawsuit does not impact COPA’s findings in this case.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████ Employee # ██████ DOA: ██████ ██████████, 1998, Police Officer, ██████ DOB: ██████ 1975, Male, Hispanic
Involved Individual #1:	██████████ DOB: ██████, 1995, Male, Black

III. APPLICABLE RULES AND LAWS

General Orders

Chicago Police Department General Order, G03-02-03; Deadly Force

Federal Laws

*Graham v. Connor*, 490 U.S. 386, 397 (1989)

State Laws

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

IV. INVESTIGATION<sup>3</sup>

- a. Depositions taken pursuant to the case of ██████████ v. *City of Chicago et al.*, Case No. 13 L ██████████

Department Members:<sup>5</sup>

Though Officer ██████████ provided additional information during his deposition, his statements are materially consistent with his prior testimony and reports. Officer ██████████ stated that his police vehicle was stopped when he took all eleven shots, and he was inside his police vehicle when he fired all eleven shots. According to Officer ██████████ he fired his weapon because ██████████ was in possession of a gun and that gun was pointed at him and his partner. He also alleged that he was attempting to aim at ██████████ center mass area. Officer ██████████ believed that ██████████ had the gun in his hand when Officer ██████████ fired every shot at ██████████ Officer ██████████ stated that at the time he discharged his weapon, ██████████ was pointing the barrel of the gun that he had in his hands in the direction of Officer ██████████ Officer ██████████ did not recall announcing his

<sup>3</sup> COPA conducted a thorough and complete investigation. The following is a summary of new material evidence gathered and relied upon in our analysis.

<sup>4</sup> The depositions in this case, of both officers and witnesses, were not reviewed or investigated by IPRA.

<sup>5</sup> All involved officers were interviewed by detectives and their interviews are contained in the case supplementary report (RD# ██████████) their interviews are consistent with their prior statements to IPRA and depositions.

office, but he did tell ██████ to drop the gun numerous times. Officer ██████ estimated that he fired at ██████ from an estimated distance of 25 feet but agreed it could have been a little farther. Officer ██████ further agreed that the distance may have increased from shot 1 through 11. Officer ██████ also reiterated that he did not know the exact positioning of ██████ as he fired, but instead was entirely focused on the barrel of ██████ gun which he alleged was pointed at him. Officer ██████ stated that he was focused on the upper portion of ██████ body which was “silhouetted” behind the barrel of a gun pointed in his direction. Officer ██████ fired at ██████ because of this threat. After Officer ██████ saw ██████ drop to the ground, Officer ██████ ceased firing his weapon.

Though Officer ██████ provided additional information during his deposition, his statements are consistent with his prior testimony and reports. Officer ██████ first observed ██████ at the school standing with other teenagers. ██████ kept looking at the officers and separating himself from the rest of the group. ██████ started to flee, and Officer ██████ gave chase in his unmarked vehicle. Officer ██████ got out the vehicle and gave chase on foot. Officer ██████ lost sight of ██████ for a second, but regained sight of him and his partner in the middle of the block between ██████ Street and ██████ Street. Officer ██████ proceeded to ██████ Street and ██████ Street and slowed down his vehicle. At this point, Officers ██████ and ██████ passed him on ██████ Street and ██████ Street, also in an unmarked vehicle. Officers ██████ and ██████ proceeded northbound on ██████ Street and Officer ██████ proceeded right behind them in his vehicle. Officer ██████ went around them and parked at the ██████ Street edge of the vacant lot. Officer ██████ saw ██████ running in the vacant lot holding a gun. Officer ██████ believed that ██████ was pointing the gun at Officers ██████ and ██████. Officer ██████ then heard multiple gunshots and saw ██████ stumble. Officer ██████ then exited his vehicle and followed ██████ into the vacant lot. Officer ██████ ran eastbound into the vacant lot. Officer ██████ saw ██████ collapse, and he placed him in handcuffs, did a protective pat down and called for EMT.

Though Officer ██████ provided additional information during his deposition, his statements are consistent with his prior testimony and reports.<sup>6</sup> Officer ██████ first noticed the butt of a gun when ██████ was running from him right before the alley. ██████ attempted to pull the gun out of his right waistband. Officer ██████ lost sight of ██████ when ██████ ran onto ██████ Street. Officer ██████ heard somebody say drop the gun. Officer ██████ did not see a gun in ██████ hand when he was in the vacant lot. Officer ██████ did not see ██████ being shot; he heard the shots and saw ██████ stumble. Officer ██████ did not see ██████ point a gun at anybody.

Though Officer ██████ provided additional information during his deposition, his statements are consistent with his prior testimony and reports. The first time he saw ██████ was when he was cutting through the lot behind the liquor store. Officer ██████ did not see ██████ try to throw the gun away. Officer ██████ came to a complete stop when ██████ started cutting east into the vacant lot. ██████ was running away but pointing a gun in the officers’ direction. At some point ██████ dropped the gun, but Officer ██████ does not know exactly when that was in relation to the shots being fired by Officer ██████. According to Officer ██████ ██████ tried to pick the gun up. Officer ██████ told him not to pick up the gun. ██████ attempted to

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<sup>6</sup> Officer ██████ was wearing a red shirt under a black CPD bulletproof vest at the time of the incident. File materials do not reflect the shirt colors of other involved members.

reach for the weapon but could not grab it. [REDACTED] then kept moving forward toward the alley. After [REDACTED] fell to the ground, Officer [REDACTED] placed him into custody.

Civilians:

[REDACTED] was **deposed** and indicated she was present for the officer involved shooting of [REDACTED] but was standing a block away on the corner of [REDACTED] Street and [REDACTED] Avenue. [REDACTED] further indicated that [REDACTED] was her daughter's best friend. [REDACTED] saw [REDACTED] running on [REDACTED] Street past the liquor store into the field near [REDACTED] Street and [REDACTED] Street. [REDACTED] did not see [REDACTED] stop in the vicinity of the liquor store and pick anything up. [REDACTED] could see [REDACTED] hands; his left hand was holding his pants up and his right hand was free. [REDACTED] observed an unmarked car turn west onto [REDACTED] Street from [REDACTED] Street. [REDACTED] heard some yelling and then heard gunshots but did not have a vantage point of the incident. [REDACTED] last saw [REDACTED] when he entered the vacant lot at [REDACTED] Street and [REDACTED] Street as officers pursued. [REDACTED] did not believe [REDACTED] was a threat to the police. [REDACTED] never saw him point a weapon at the officers.<sup>7</sup>

[REDACTED] was **deposed** and indicated that she was also present for the officer involved shooting of [REDACTED] was outside barbequing when she heard sirens and saw [REDACTED] running toward her direction. [REDACTED] had a vantage point from her third-floor apartment at [REDACTED] direction of travel was northbound through the alley between [REDACTED] and [REDACTED] Street. [REDACTED] first saw [REDACTED] running from the police in the alley near [REDACTED] Street, approximately a half a block from [REDACTED] Street. [REDACTED] was being chased by a blue and white police vehicle. [REDACTED] never saw [REDACTED] run at any point in time on [REDACTED] Street during the incident. [REDACTED] did not see any police officers chasing [REDACTED] on foot. [REDACTED] ran down the alley and began to cut through a field, heading towards [REDACTED] Street. An unmarked Chicago police vehicle jumped a curb on [REDACTED] Street and drove into the field, stopping somewhere in the middle of the field. [REDACTED] looked back at the vehicle and attempted to change his path of direction. [REDACTED] stated that [REDACTED] had nothing in his hands and was running like a track runner with his hands balled up. She did not see [REDACTED] possess a weapon. [REDACTED] saw [REDACTED] turn around while fleeing but believed he did so to see how close the vehicle chasing was behind him. She did not see [REDACTED] point anything towards the officers.

The passenger officer in the unmarked police vehicle that jumped the curb on [REDACTED] Street started to fire at [REDACTED] and [REDACTED] was hit in the back. [REDACTED] described the shooting officer as Mexican. Officers approached [REDACTED] after the shooting. One officer, not the shooting officer, stepped on [REDACTED] back while another officer handcuffed him. The officers were cursing at [REDACTED] while he was on the ground.<sup>8</sup>

[REDACTED] was sure that [REDACTED] never ran by, or in front of, the liquor store on the corner of [REDACTED] Street and [REDACTED] Street.

[REDACTED] **deposition** was consistent with his prior statement to IPRA.

<sup>7</sup> [REDACTED] was not previously identified as a witness in IPRA's original investigation of the incident.

<sup>8</sup> [REDACTED] was identified as a witness in IPRA's original investigation of the incident, though [REDACTED] declined to sit for an interview.

██████████ deposition was consistent with his prior statement to IPRA and the affidavit identified below.

**b. Affidavits of Witnesses<sup>9</sup>**

██████████ affidavit indicated that she was on the back porch of her residence at ██████████ when she witnessed the officer involved shooting. ██████████ saw an officer shoot ██████████ in the back. ██████████ was running away from the officer when he was shot in the back. ██████████ did not have anything in his hands when he was shot, and at no time did ██████████ see ██████████ in possession of a gun. ██████████ did not see ██████████ turn towards the officers or in any way threaten the officers. ██████████ saw a Latino officer in a red shirt and black vest shoot ██████████ as ██████████ was running away. She saw the same officer flip over ██████████ body after he fell to the ground.

██████████ affidavit indicated that on the day of the incident she was at ██████████ cooking on the back patio. She was with her daughter-in-law ██████████ saw a white male officer in the passenger seat of a police vehicle shooting out the window of the vehicle. The male officer was wearing a red shirt. ██████████ indicated that the officers who exited the police vehicle occupied by the officer that shot at ██████████ did not fire their weapons while outside of that police vehicle. ██████████ indicated that when the officer fired at ██████████ back was facing the officers. ██████████ never observed a gun in ██████████ hands or anywhere around him. ██████████ yelled from her balcony toward the officers, “[D]on’t plant no gun on him either.”<sup>10</sup>

██████████ affidavit indicated that on the day of the incident he was on ██████████ Street between ██████████ Avenue and ██████████ Street. He was in a backyard cooking. He observed a police officer chasing ██████████ on foot. The officer was a male Latino wearing a red jacket. ██████████ indicated that ██████████ was running toward ██████████ Avenue. The officer shot ██████████ when ██████████ back was turned toward the officer. ██████████ observed nothing in ██████████ hands. ██████████ never pointed a gun at a police officer. The pursuing officer shot at ██████████ three times and ██████████ fell to the ground. ██████████ got up and attempted to flee again, but at this point two additional officers pulled up in a marked SUV, got out of their vehicle and began shooting at ██████████ was 30-50 feet from the shooting and nothing was blocking his view. ██████████ never saw ██████████ with a gun, and never saw the officers pick up a firearm off the ground.

██████████ affidavit indicated that on the day of the incident she was on her porch at ██████████ Avenue. Before the incident, she was walking towards ██████████ Street from her home when she saw ██████████ running north on ██████████ Street. ██████████ indicated that there was nothing in ██████████ hands. ██████████ was holding his baggy pants up with his left hand, and nothing was in his right hand. ██████████ heard a gunshot and ran back to her porch. ██████████ heard 6-7 gunshots while on her porch but did not witness the shooting.

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<sup>9</sup> The affidavits of witnesses were produced by Plaintiff’s counsel in the litigation and not reviewed or investigated by IPRA.

<sup>10</sup> ██████████ mother-in-law, passed before being able to sit for a deposition.

### c. Expert Reports<sup>11</sup>

The Plaintiff, ██████ obtained an expert in the case of P█████ v. *City of Chicago et al.*, Case No. 13 L ██████. The expert, ██████ drafted a report for the litigation. ██████ indicated that the placement of the ██████ gunshot wound, to the left spine on ██████ back, proceeding through and through in a relatively level manner exiting to the right and below the left nipple of his chest, is inconsistent with ██████ turning to the right and pointing a gun at Officer ██████. ██████ opined that the wound path refutes the contention that, at the time he was shot, ██████ turned to the right and pointed a gun directly at Officer ██████. Further, ██████ opined that the location of the entrance wound, and subsequent wound track is consistent with an individual being shot in the back as he is running directly away. Specifically, ██████ indicated that the wound is inconsistent with Officer ██████ statements, “I believe at the time that I was firing my weapon that he had a gun in his hand, and he was pointing it at me while I was firing” and, “He [█████] was running away but pointing the gun in our direction.” ██████ opined that Officer ██████ was not in rational fear of imminent death or great bodily harm to himself or others at the time he fired eleven shots because ██████ was running away. He also opined that it was likely that ██████ dropped the gun long before he was shot as the gun was found approximately 77 feet from ██████ body.

The Defendant, City of Chicago, obtained an expert in the case of P█████ v. *City of Chicago et al.*, Case No. 13 L ██████. The expert, ██████ of the Peregrine Corporation, drafted a report for the litigation. ██████ did a walk-through of the scene with Officers ██████ and ██████ test fired Officer ██████ weapon for accuracy, and electronically timed Officer ██████ firing a series of rapid shots from his firearm. ██████ opined that Officer ██████ decision to fire at ██████ was appropriate for a variety of reasons. First, he indicated that although ██████ was running away, ██████ turned and pointed the gun in the direction of Officer ██████ (as indicated by Officers ██████ and ██████ and that “a gun that a suspect has pointed well away from the officer, such as with the gun’s muzzle pointed straight upward, straight downward, or 90 degrees to the right or the left of the officer, can be brought to bear on the officer and fired in a quarter of a second (0.25 seconds) or less.” Further, it was clearly determined, through videotape and officer testimony, that ██████ did in fact have a firearm in his possession when he entered the vacant lot.

The timed series of rapid shots revealed that, at most, it took 1.24 seconds for Officer ██████ to fire all eleven shots. As such, ██████ opined that Officer ██████ shot immediately after ██████ presented a threat by pointing the weapon in his direction. Officer ██████ fired only the amount of times necessary to end the threat by firing at the “center mass” of ██████ and his silhouette, while focusing on the “barrel of the gun.” ██████ opined that ██████ being shot in the back does not disprove Officer ██████ account because a human can rotate a full 180 degrees in about 0.5 seconds. It would have taken Officer ██████ as much time or more to react to the perceived threat. As such, the account of Officer ██████ that the suspect was running away when he slightly turned around and pointed the firearm in the direction of officers, is consistent with the medical examiner’s report that ██████ was shot in the middle of the back with a through and through which did not have an angle either downward or upward in trajectory. ██████ concluded that, “In the time it would take Officer ██████ to raise his own

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<sup>11</sup> Expert reports were explicitly part of the litigation and not previously explored by IPRA.

service pistol and begin firing, ██████ would have likely changed position and angle of his body as he ran—perhaps even changing it several times.”

#### IV. ANALYSIS/CONCLUSION<sup>12</sup>

Pursuant to our review of materials not considered in IPRA’s original investigation of this incident, though additional detail was probed during depositions due to new or more specific questioning, COPA has determined that the involved and witness officers provided testimony not inconsistent with their prior statements, including those provided to IPRA. Furthermore, pursuant to a review of deposition testimony and affidavits provided by witnesses, three of whom were not previously interviewed by IPRA, COPA has determined that additional investigation into the facts and circumstances surrounding the officer involved shooting is not merited.

##### Credibility of Witnesses:

██████████ and ██████████ were identified as witnesses pursuant to the litigation, but not previously discussed or identified by IPRA. ██████████ recalled a series of events leading up to the officer involved shooting which was largely consistent with the accounts of officers and other witnesses. However, ██████████ account diverges in that she claims not to have observed ██████████ with a firearm, which is controverted by available video evidence depicting ██████████ with a firearm in the moments ██████████ would have observed ██████████ did not observe the moments surrounding Officer ██████████ firearm discharge.

Both ██████████ and ██████████ claim not to have observed ██████████ with a firearm as he was being pursued by officers. ██████████ provided deposition testimony as to ██████████ path of flight inconsistent with that of other witnesses, involved officers, and other independent video evidence.

██████████ however, indicated she observed an officer fire upon an unarmed ██████████ credibility is called into question because she would have had a similar vantage point to that of ██████████. Furthermore, photos taken on the date of the incident depict a tree line that more likely than not, would have obscured ██████████ and ██████████ view of the shooting incident.

██████████ was sitting on his back porch when he saw a black male run past the liquor store and into the street, before turning around and picking up something from the sidewalk (later verified as a gun through independent video evidence). The male continued to run northbound on ██████████ Street holding his right side. ██████████ then heard a vehicle’s engine and saw a gray SUV pull up with an officer hanging out the window with his gun drawn yelling “drop it, drop it.” The male then ran past a line of trees in the vacant lot and ██████████ heard gunshots but did not see the shooting. ██████████ is the most accurate of the eyewitnesses based on the independent video evidence that depicts a majority of the incident.

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<sup>12</sup> While this Supplemental Summary Report of Investigation does not re-state all of the evidence contained in the original Summary Report of Investigation, the analysis, by necessity, takes all of that evidence into consideration when reaching the following conclusions. This analysis should not be interpreted as relying on the evidence contained in the investigative section of this document alone.

██████████ indicated that he was barbequing when he saw an officer chasing a young man. The officer chasing the young man was wearing a red shirt and fired three times at the young man as he ran into the vacant lot. According to ██████████ the young man was hit in the leg, then maybe the back. He attempted to get up after he fell to the ground, but two additional officers got out of a police vehicle and began firing at the young man. According to ██████████ the young man did not have a gun. ██████████ testimony and affidavit are inconsistent with the independent video evidence and ballistic evidence.

Analysis of Expert Testimony:

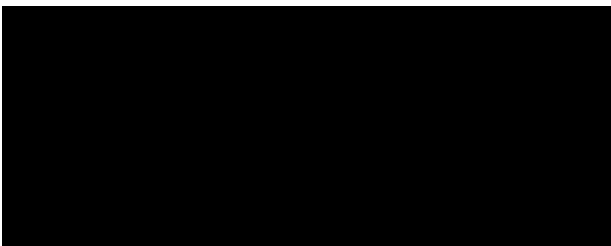
The Plaintiff's expert opines that the officers' account is inconsistent because the wound is one that is consistent with being shot in the back while running away. He further opined that ██████████ dropped the gun long before he was shot as the gun was found approximately 77 feet from ██████████ body.

The Defendants' expert opined that Officer ██████████ decision to fire at ██████████ was appropriate because, although ██████████ was running away, ██████████ turned and pointed the gun in the direction of Officer ██████████ (as indicated by Officers ██████████ and ██████████ and that, in the time it would have taken for Officer ██████████ to fire, ██████████ could have turned toward, pointed his weapon, and then turned away from Officer ██████████ explained that it would have taken Officer ██████████ as much time or more to react to the perceived threat. Therefore, the account of Officer ██████████ that the suspect was running away when he slightly turned around and pointed the firearm in the direction of officers, is consistent with the medical examiner's report that ██████████ was shot in the middle of the back with a through and through which did not have an angle either downward or upward in trajectory.

The expert testimony in this case, coupled with questions of credibility surrounding inconsistent witness statements, is not so compelling as to suggest that additional investigation into the facts and circumstances of the incident would result in a finding that Officer ██████████ use of force was outside of Chicago Police Department policy at the time.

In conclusion, COPA's review of materials not considered in IPRA's original investigation of this incident does not dictate that additional investigative steps be taken, nor involved officers be presented with allegations of misconduct. Therefore, this matter should be closed and IPRA's original conclusion remain unchanged.

Approved:



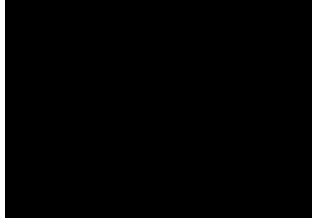
2/13/19 \_\_\_\_\_  
Date



Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	15
<b>Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	