

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 26, 2019
Time of Incident:	Approximately 7:37 p.m.
Location of Incident:	7408-7414 S. Bennett Avenue (backyard/driveway area)
Date of COPA Notification:	February 26, 2019
Time of COPA Notification:	Approximately 9:00 p.m.

Officer Patrick Wilkison and Officer Mohammad Baker were in the area of 74th Street and Bennett Avenue conducting an arrest warrant investigation. They traveled northbound in an unmarked police SUV on Bennett Avenue and observed [REDACTED] walking southbound on the east side of the street, near the middle of the block. [REDACTED] noticed the officers, turned around and quickly walked northbound. As the officers drove closer to [REDACTED] to confirm his identity, they reported that he appeared to be concealing something. Officer Wilkison exited the front passenger side of the vehicle at which time [REDACTED] ran and a foot pursuit ensued. During the pursuit, Officer Wilkison observed [REDACTED] holding a firearm and announced it over the radio. Officer Wilkison repeatedly issued verbal commands to [REDACTED]. Officer Baker stopped their police vehicle in the middle of the block and ran behind Officer Wilkison.

During the course of the pursuit, [REDACTED] ran westbound through the north gangway of [REDACTED] S. Bennett Avenue. Officer Wilkison followed, at which time it was reported that [REDACTED] flipped over a gate and upon landing, he appeared to be raising his firearm in the direction of Officer Wilkison. In fear for his life, Officer Wilkison fired his weapon at [REDACTED]. When [REDACTED] fled, Officer Wilkison lost sight of [REDACTED] and proceeded into the backyard of 7408 S. Bennett Avenue. Officer Baker ran to the front of the residence and observed [REDACTED] further south on the west sidewalk of Bennett Avenue. Officer Baker ran southbound towards [REDACTED]. [REDACTED] ran westbound through the driveway at 7412 S. Bennett Avenue, towards the backyard area where he emerged in front of Officer Wilkison. Officer Wilkison issued verbal commands as [REDACTED] continued to run with his firearm and looked in the direction of Officer Wilkison. In fear for his life, Officer Wilkison again fired his weapon at [REDACTED]. It was reported that [REDACTED] then fired one (1) time at Officer Wilkison. Officer Wilkison took cover near a garage. Officer Baker proceeded westbound through the driveway at 7414 S. Bennett Avenue and observed [REDACTED] pacing. Officer Wilkison observed [REDACTED] in a defensive stance. As [REDACTED] had just fired at him and in fear that [REDACTED] was going to ambush him or his partner, he fired a third volley of shots in the direction of [REDACTED].

Officer Baker retreated in the driveway as he heard an exchange of gunfire. He then observed [REDACTED] in the backyard moving further south. Officer Baker, while in the driveway, was joined by the three other responding officers. Officers Jeffrey Budz, Joseph Guarascio and Robert Skrobot, assigned to Beat 465B, arrived in the area after hearing a call for emergency assistance. Subsequently, while in the driveway Officers Baker, Guarascio and Budz reported that [REDACTED] was moving towards them while pointing a gun in their direction. It was at this time they fired their

weapons in the direction of [REDACTED] was struck several times. A weapon was recovered, and [REDACTED] was transported, treated and survived.

Any discharge of an officer’s firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. After review of all available evidence, COPA finds that the use of deadly force by the Officers Wilkison, Baker, Guarascio and Budz was within Department policy.

**II. INVOLVED PARTIES**

Involved Officer #1:	WILKISON, Patrick; Chicago Police Officer, Star #14514; Unit 004; White male; Employee # [REDACTED]; DOB: [REDACTED], 1990; DOA: April 25, 2016; On duty; Beat 461A
Involved Officer #2:	BAKER, Mohammad; Chicago Police Officer, Star #19740; Unit 004; White male; Employee # [REDACTED]; DOB: [REDACTED], 1986; DOA: April 1, 2013; On duty; Beat 461A
Involved Officer #3:	BUDZ, Jeffrey; Chicago Police Officer, Star #2931; Unit 004; White male; Employee # [REDACTED]; DOB: [REDACTED], 1991; DOA: October 31, 2016; On duty; Beat 465B
Involved Officer #4:	GUARASCIO II, Joseph A.; Chicago Police Officer, Star #13853; Unit 004; White male; Employee # [REDACTED]; DOB: [REDACTED], 1990; DOA: February 29, 2016; On duty; Beat 465B
Accused / Witness Officer #1:	SKROBOT, Robert B.; Chicago Police Officer, Star #15173; Unit 004; White male; Employee # [REDACTED]; DOB: [REDACTED], 1989; DOA: February 16, 2017; On duty; Beat 465B
Involved Individual #1:	[REDACTED] Black male; DOB: [REDACTED], 1980

**III. ALLEGATIONS**

Officer	Allegation	Finding / Recommendation
Officer Robert Skrobot <sup>1</sup> #15173	1. It is alleged that on or about February 26, 2019, at approximately 7:37 p.m.,	Sustained /

<sup>1</sup> Officer Robert Skrobot resigned from the Chicago Police Department on December 8, 2021. See Att. 164.

	at or near 7418 S. Bennett Avenue, you failed to activate your Body Worn Camera (BWC) at the initiation of the incident.	CPD Member resigned – no discipline recommended
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#### IV. APPLICABLE RULES AND LAWS

##### Rules

1. Rule 6: Disobedience of an order or directive, whether written or oral.
2. Rule 10: Inattention to Duty

##### General Orders

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

##### Special Orders

1. S03-14: Body Worn Cameras (Eff. April 30, 2018)

#### V. INVESTIGATION<sup>2</sup>

##### a. Interviews

Multiple attempts made to interview ██████████ ██████ proved unsuccessful. On April 19, 2019, a certified letter was mailed out to ██████ at the Illinois Department of Corrections (IDOC) in Pinckneyville, IL. Multiple attempts were made to ██████ attorney, ██████ ██████ on April 17, 2019, via telephone, April 22, 2019, via email, May 10, 2019, via letter, and on May 14, 2019, via letter. All attempts made proved unsuccessful, as there was no response.

In a **statement to COPA** on April 4, 2019, **Officer Patrick Wilkison**<sup>4</sup> stated that on the date and approximate time of incident, he and his partner, Officer Baker, were on-duty, in civilian clothing, assigned to the 461A Tactical team. Officer Wilkison was the front passenger to their unmarked police vehicle. Prior to the incident, they were in the area of 74<sup>th</sup> Street and Bennett Avenue searching for a person with an arrest warrant who had pointed a gun at a female victim.<sup>5</sup> They drove westbound on 75<sup>th</sup> Street and observed Officer Guarascio, Officer Budz and Officer Skrobot, assigned to 465B, conducting a traffic stop. They stopped to inquire if Beat 465B needed

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

<sup>3</sup> Atts. 91, 92, 104.

<sup>4</sup> Atts. 70, 79.

<sup>5</sup> Officer Wilkison did not recall the name of either the subject of the arrest warrant nor the victim.

assistance and they did not. Officers Wilkison and Baker turned right onto Bennett Avenue facing northbound. While driving near the south end of the 7400 block of Bennett Avenue (closer to 75<sup>th</sup> Street), Officer Wilkison observed a male, now known to be ██████████ walking southbound on the east side of the street, near the middle of the block.

█████████ looked at the officers and then “immediately turn[ed] around and walk[ed] at a rapid pace [in] the opposite direction.”<sup>6</sup> Officer Wilkison believed that ██████████ was attempting to hide and/or conceal something. Officer Baker drove closer to ██████████ and was parallel to him. ██████████ appeared to shield one side of his body away from the officers with his hands in front of him near his waist area. Based on Officer Wilkison’s experience, he believed that ██████████ was attempting to conceal a weapon. Officer Wilkison opened his passenger side door and ██████████ ran northbound. A foot pursuit ensued and Officer Wilkison yelled “he’s got a gun, drop it.”<sup>7,8</sup> When ██████████ crossed the street running westbound, Officer Wilkison observed a firearm in ██████████ right hand. As ██████████ ran, the gun was moving back and forth.

█████████ ran into a dark gangway, at 7408 S. Bennett Avenue. ██████████ reached the entry into the backyard and encountered a fence that was approximately waist high. Officer Wilkison observed ██████████ entire body and was able to see the outline of his gun. He described that ██████████ used his stomach to flip over the fence. He landed on the other side of the fence and faced Officer Wilkison. Officer Wilkison was positioned in the gangway, parallel to approximately the middle of the house.<sup>9</sup> ██████████ appeared to raise his firearm from his waist going upward with his right hand. “I was in fear of my life at that time that he was going to kill me, so I discharged my firearm.”<sup>10</sup> Officer Wilkison fired his weapon. ██████████ moved to his left, behind the residence of 7408 S. Bennett Avenue. Officer Wilkison stopped firing his weapon when he no longer could see ██████████. He yelled to Officer Baker, who was somewhere behind him, that he did not know where ██████████ went.

Officer Wilkison jumped over the fence into the backyard of 7408 S. Bennett Avenue to search for ██████████. He heard Officer Baker yelling and then ██████████ appeared in front of him in the driveway, between 7408 and 7412 S. Bennett Avenue. ██████████ ran west into the backyard area. ██████████ gun was in his right hand and was moving back and forth as he was running. ██████████ looked in the direction of Officer Wilkison as he commanded ██████████ to get on the ground. “When he looked in my direction, I believed at that time he was going to shoot at me, and I was in fear of my life at that time, and I fired my weapon in his direction.”<sup>11</sup> For this reason as well as ██████████ not complying with verbal commands and with ██████████ gun in his hand while moving back and forth, Officer Wilkison was in fear and discharged a second volley of gunshots.<sup>12</sup> ██████████ turned his body towards Officer Wilkison and fired his weapon in Officer Wilkison’s direction. Officer Wilkison observed one (1) muzzle flash and ran further west to take cover near a garage.

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<sup>6</sup> Att. 79, page 21, lines 10-12.

<sup>7</sup> Att. 79, page 26, line 23.

<sup>8</sup> Officer Wilkison did not initially observe ██████████ with a gun prior to his commands. Officer Wilkison stated it appeared that ██████████ was reaching for something inside of his waistband when he yelled such commands.

<sup>9</sup> Att. 56, Officer Wilkison marked an “X” on a google map of his approximate position, and that of ██████████ when he fired his first volley of shots.

<sup>10</sup> Att. 79, page 34, lines 2-6.

<sup>11</sup> Att. 79, page 42, lines 13-16.

<sup>12</sup> Att. 56, Officer Wilkison marked a circled number “2” on a google map of his approximate position, and that of ██████████ when he fired his second volley of shots.

Officer Wilkison took cover in the backyard area between 7408 and 7412 S. Bennett [REDACTED]<sup>13</sup> and observed [REDACTED] [further south] in a crouched position near the garage and parked car at 7414 S. Bennett.<sup>14</sup> [REDACTED] faced a northeast direction with his gun in his right hand that was pointed in front of him. [REDACTED] appeared to be taking a defensive stance as his knees were low to the ground and he was covered behind a vehicle. "I see the gun in his hand, and I believe he is attempting to ambush me or my partner, and then I fire on him for the third time."<sup>15</sup> After he discharged a third volley of gunshots, Officer Wilkison took cover behind a bus parked in the backyard.

Shortly thereafter, Officer Wilkison heard multiple gunshots being fired south of his location but was unaware who was firing. After the incident he learned that Officers Baker, Guarascio and Budz had fired their weapons. After the gunshots stopped, Officer Wilkison along with the other officers, arrested [REDACTED] in the backyard of 7414 S. Bennett Avenue. They rendered aid to [REDACTED] who appeared unconscious. Officer Wilkison observed a gunshot wound to [REDACTED] foot. Officer Guarascio recovered [REDACTED] black handgun and placed it atop a nearby car. After the incident, Officer Wilkison was separated from the other officers. He experienced shortness of breath and sustained a cut to his hand from jumping the fence. He was taken to Little Company of Mary Hospital and released. Officer Wilkison did not recall how many times he fired his weapon during each volley. However, he stated that he fired a total of 14 rounds.

In a **statement to COPA** on April 4, 2019, **Officer Mohammed Baker**<sup>16</sup> stated that on the date and approximate time of incident, he and his partner, Officer Wilkison, were on-duty, in civilian dress, and Officer Baker was the driver of their unmarked police SUV. Officer Baker essentially provided the same information as Officer Wilkison about their actions prior to their foot pursuit of [REDACTED]<sup>17</sup>

Officer Baker stated that when Officer Wilkison exited the vehicle and chased [REDACTED] Baker stopped their police vehicle and chased behind them. He heard Officer Wilkison command [REDACTED] to drop the gun and get down. In addition, he observed [REDACTED] fidgeting with his front waistband area as if he was attempting to pull something.<sup>18</sup> [REDACTED] ran westbound into the gangway of 7408 S. Bennett Avenue and Officer Wilkison followed. Officer Wilkison yelled out that [REDACTED] had a gun in his hands.<sup>19</sup> Officer Baker was in the gangway approximately three to five feet behind Officer Wilkison when he heard rapid gunfire and knew Officer Wilkison was firing because the sound of gunfire was so close to him.<sup>20</sup> He had no visual of [REDACTED] Officer Baker ran eastbound down the gangway of 7408 S. Bennett, arrived at the west sidewalk of Bennett Avenue and

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<sup>13</sup> Att. 56, Officer Wilkinson marked an "X" on a google map of his approximate position when he fired his third volley of shots.

<sup>14</sup> Att. 56, Officer Wilkinson marked a circle on a google map, at 7414 S. Bennett, of [REDACTED] approximate location at the time Officer Wilkinson fired his third volley.

<sup>15</sup> Att. 79, page 47, lines 13-16.

<sup>16</sup> Atts. 73, 74, 80.

<sup>17</sup> Officer Baker provided the names of the subject of the arrest warrant and victim, respectively [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. Att. 80, page 19, lines 3-5.

<sup>18</sup> Att. 80, page 31, lines 6-12.

<sup>19</sup> Att. 80, page 34, lines 11 – 13.

<sup>20</sup> Att. 80, page 37, lines 8-11.

observed ██████ running southbound on the same sidewalk. Baker issued verbal commands to ██████ proceeded to run westbound into the driveway [south of 7408 S. Bennett Avenue], possibly 7414 S. Bennett Avenue.<sup>21</sup> Officer Baker chased behind ██████ and then stopped approximately halfway into the driveway when he no longer had a visual of ██████ and feared that ██████ would ambush him.

Shortly thereafter, Officer Baker observed ██████ west in the backyard area, pacing back and forth between a garage and a parked car near a fence. ██████ appeared agitated and was pacing aggressively. ██████ moved further north, closer to the car, and then Officer Baker lost sight him. It was at this time that Officer Baker heard an exchange of gunfire; he first heard one or two shots, followed by approximately four to six more gunshots.

Suddenly, Officer Baker observed ██████ in front of the garage in the backyard area of 7414 S. Bennett Avenue. He commanded ██████ to get down. ██████ faced the direction of Officer Baker and moved further south to the front of the garage. ██████ held and pointed his gun, in a low position near his waistband, in the direction of Officer Baker. Officer Baker stated, "...fearing for my life and fearing that he had shot my partner right before he came back into my sight, I fired my weapon."<sup>22</sup> Officer Baker had a clear visual of ██████ and observed the outline of his gun. Officer Baker stood in the middle of the driveway when he fired his weapon eight (8) times. He stopped firing his weapon when ██████ was on the ground. While Officer Baker fired his weapon he saw two officers near him in the driveway who also began firing their weapons at ██████. One of the officers was to his right, the other officer to his left and they were all approximately side-by-side. When Officer Baker stopped firing his weapon he realized the other officers were Officers Guarascio and Budz. He described that they had all fired their weapons in close proximity to each other, similar as to what they were taught in the police academy. He did not speculate why the other officers fired their weapons.

After the shots were fired, Officer Guarascio moved toward ██████ recovered ██████ gun and placed it on top of a nearby vehicle. After the gun was recovered, Officer Baker proceeded towards ██████ and announced shots fired at and by the police over the radio and requested an ambulance. The officers then attempted to render aid to ██████. Officer Baker saw his partner on scene but did not know what direction he came from. After the incident, Officer Baker experienced shortness of breath and was taken to Little Company of Mary Hospital for an evaluation and released.

In separate statements to COPA **Officer Joseph Guarascio II**,<sup>23</sup> **Officer Jeffrey Budz**,<sup>24</sup> and **Officer Robert Skrobot**<sup>25</sup> essentially stated the same information. On the date and approximate time of incident, they were assigned to Beat 465B tactical team and were in uniform. Officer Guarascio was the driver of their marked police vehicle, Officer Budz was the front seat passenger and Officer Skrobot was seated in the rear. They had just completed a traffic stop on

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<sup>21</sup> The investigation revealed that ██████ ran westbound into the driveway of 7412 S. Bennett Avenue. Officer Baker ran westbound into the driveway of 7414 S. Bennett Avenue.

<sup>22</sup> Att. 80, page 49, lines 21-23.

<sup>23</sup> Att. 85,103, Officer Guarascio provided a statement to COPA on May 1, 2019.

<sup>24</sup> Att. 100, 101, Officer Budz provided a statement to COPA on May 20, 2019.

<sup>25</sup> Att. 77, 78, Officer Skrobot provided his first statement to COPA on April 4, 2019.

75<sup>th</sup> Street and Euclid Avenue when they heard a male officer call over the radio a foot pursuit and a subject with a gun. They proceeded to the area of 75<sup>th</sup> Street and Bennett Avenue. The lighting conditions were dark with artificial lighting. Officer Guarascio drove northbound on Bennett Avenue. The officers heard a notification of a “10-1”<sup>26</sup> to include “shots fired by the police.”<sup>27</sup> They stopped their vehicle slightly south of 7414 S. Bennett Avenue and all three officers exited the vehicle. As the officers ran towards the location of incident, they heard multiple shots fired.

According to **Officer Guarascio**, when he arrived at the location of incident he observed Officer Baker on the west side of the street looking into a driveway or a gangway. He proceeded towards the driveway and activated his BWC. He positioned himself slightly before the west wall of 7414 S. Bennett Avenue. He looked westbound into the backyard area and observed [REDACTED] facing southbound, in “a defensive position behind the car.”<sup>28</sup> [REDACTED] was “kneeled over,”<sup>29</sup> with his right arm hanging down and holding a gun. Officer Guarascio retreated [east] down the driveway. Officer Baker was to the left of Officer Guarascio, closer to 7418 S. Bennett, and they were approximately less than 10 feet apart.<sup>30</sup> Officer Baker yelled commands at [REDACTED]. Officer Guarascio heard approximately four (4) or five (5) rapid gunshots coming from the backyard area. Officer Guarascio observed [REDACTED] run into the backyard from north to south, while paralleling the front of a garage door. It appeared that [REDACTED] was going to run eastbound, but then proceeded south “[a]nd as he was going south, he turned and pointed his firearm that was in his right hand”<sup>31</sup> at myself, Officer Baker, Officer Skrobot and Officer Budz. Officer Guarascio fired his weapon eight (8) times in the direction of [REDACTED].<sup>32</sup> He was approximately 40 feet in distance from [REDACTED] when he fired and had a clear view of [REDACTED]. He fired his weapon because he was in fear of death or great bodily harm to himself or the other officers. He stopped firing his weapon because Officer Baker, who was ahead of him and to his left, would have been in his line of fire. He observed [REDACTED] fall to the ground, along the south fence of the backyard.<sup>33</sup> He recovered [REDACTED] firearm from the ground and made it safe by releasing the magazine and racked the slide where he observed the gun had malfunctioned and was stove-piped.<sup>34</sup> Officer Guarascio, who is a licensed paramedic in Illinois, proceeded to render aid to [REDACTED].

In addition, **Officer Budz** stated that upon arriving to the location of incident and exiting the police vehicle, he heard multiple shots coming from a northwest direction. The sound of the gunshots was different, and he believed there were multiple shooters. He ran towards the sound of the gunshots. He and Officer Guarascio ran into the driveway of 7414 S. Bennett Avenue, along the south end of the residence, facing westbound. While positioned in the driveway, near the half-way point of the house, Officer Budz observed Officer Baker in the rear backyard area yelling

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<sup>26</sup> According to Officer Guarascio and Officer Budz, a 10-1 code means an emergency by an officer.

<sup>27</sup> Att. 101, page 29, line 24 and, Att. 103, page 28, lines 9-12.

<sup>28</sup> Att. 103, page 38, lines 11-12.

<sup>29</sup> Att. 103, page 42, line 10.

<sup>30</sup> According to Officer Guarascio, Officer Budz was side by side with him.

<sup>31</sup> Att. 103, page 54, lines 5-7.

<sup>32</sup> Att. 84A. Officer Guarascio marks an “X” on a google map of [REDACTED] approximate location at the time Officer Guarascio began to fire.

<sup>33</sup> Att. 84A. Officer Guarascio marked with a small “X” [REDACTED] approximate location, when Officer Guarascio stopped firing his weapon.

<sup>34</sup> Att. 103, page 70, lines 13-14. Officer Guarascio explained that [REDACTED] firearm was stove-piped in that there was a shell casing in the ejector port of the gun which did not allow it to fire.

“drop the gun”<sup>35</sup> while retreating. As he heard the gunshots Officer Budz was concerned that Officer Wilkison was deceased or wounded. Officers Guarascio and Baker were to the south of Officer Budz in the driveway, in a diagonal, staggered line. Officer Budz observed [REDACTED] further west of him in the back area near a garage. [REDACTED] ran with a gun in his right hand moving eastbound, then southeast and then south. He described that [REDACTED] had his right elbow tucked into his side and his firearm was about a foot out from his body while pointed east towards the officers. Upon seeing the gun pointed in their direction, Officer Budz retreated, as he had no shielding, and fired his weapon toward [REDACTED]<sup>36</sup> He stated, “I had an offender pointing a gun at myself and Officer Guarascio and Officer Baker so that’s an imminent threat of great bodily harm.”<sup>37</sup> Officer Budz was in fear for his life and fired his weapon fourteen (14) times. He stopped firing when [REDACTED] was no longer a threat. After Officer Budz stopped firing his weapon, he observed [REDACTED] in the southwest corner of the driveway, laid against the property fence, near a garage. [REDACTED] firearm was “sitting at his fingertips right by his hand.”<sup>38</sup> Guarascio approached and recovered the weapon. Officer Budz then handcuffed [REDACTED] and attempted to render aid, as he is LEMART<sup>39</sup> trained. Responding officers arrived on the scene to assist.

According to **Officer Skrobot**, his normal beat of assignment was 465F. However, on the date of incident his normal partner did not report to work. Therefore, Officer Skrobot worked with Officers Guarascio and Budz. Upon arriving to the location of incident, he exited the vehicle and heard multiple gunshots coming from the direction of the address of incident. Officer Skrobot ran in the direction of the address behind Officers Guarascio and Budz. He ran approximately halfway into the driveway and observed Officer Baker facing west and retreating. He heard a command to “drop the gun.”<sup>40</sup> Officers Baker, Guarascio and Budz were in front of Officer Skrobot. Officer Skrobot described that the other officers were in a staggered line, approximately shoulder to shoulder, in front of him. Officer Skrobot heard additional gunshots, which were fired from Officers Guarascio, Baker and Budz as they faced westbound. He observed the backs of the officers with their arms extended. Officer Skrobot had his firearm out but did not fire his weapon as the other officers were in his line of sight. Officer Skrobot did not see [REDACTED] prior to this volley of shots, and therefore never observed [REDACTED] point or fire a weapon. Officer Skrobot took cover behind the front [east] wall of the residence at 7414 S. Bennett Avenue and had peeked around the corner when the officers were still firing. After the gunshots ceased, he heard silence followed by “he’s down, he’s down.”<sup>41</sup> He re-holstered his weapon and ran west down the driveway. He observed [REDACTED] seated on the ground in the backyard area alongside “a 90-degree [angle of the] corner fence...next to the garage.”<sup>42</sup> Officer Guarascio recovered [REDACTED] weapon to make it safe and placed it on top of a parked car in the backyard. Officer Skrobot is LEMART trained and attempted to render aid to [REDACTED]

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<sup>35</sup> Att. 101, page 48, line 1.

<sup>36</sup> Att. 97A. Officer Budz marked a “dot” on a google map of [REDACTED] approximate location when Officer Budz started to fire towards [REDACTED] and when he stopped fired. Officer Budz marked an “X” of his position and other officers.

<sup>37</sup> Att. 101, page 66, lines 5-8.

<sup>38</sup> Att. 101, page 78, lines 19-21.

<sup>39</sup> LEMART stands for Law Enforcement Medical and Rescue Training.

<sup>40</sup> Att. 78, page 19, lines 12-13.

<sup>41</sup> Att. 78, page 36, line 24.

<sup>42</sup> Att. 78, page 38, lines 10-12.



Officer Skrobot stated he had activated his BWC upon exiting the police vehicle when they first arrived-on scene. However, after the gunshots ceased and as he was running down the driveway towards the subject, he noticed that the light on his camera was still green and he was not recording. He then tapped his camera again, at which time his BWC began to record reflecting a red light on top and a beeping sound.

In a secondary statement to COPA on May 1, 2019, **Officer Robert Skrobot**<sup>43</sup> was accused of failing to activate his BWC at the initiation of the incident, on the date and time of incident. Officer Skrobot stood by his original statement to COPA on April 4, 2019, in that on the date and time of incident, as a result of muscle memory, he double tapped his BWC camera upon exiting the police vehicle and assumed he had turned it on. He did not immediately check to see if the red light, indicating that a BWC is recording, was turned on because he was running to aid an officer. He did not hear the beeping sound that comes from the BWC to indicate it was recording due to the gunfire that was taking place. In general, he periodically checks his camera after activating his BWC to check if the red light is on. On the date of incident, it was not until he looked down at his BWC while he was in the driveway that he observed the green light on, and not red. At that time, he immediately activated his BWC to record.

He did not know why it did not activate to record at the time of incident when he double tapped his BWC. He did not recall having a previous situation where he had double tapped his BWC and it did not record an event. In addition, Officer Skrobot stated that on this same date, prior to the incident, he was successful in recording other non-related BWC events. His BWC training consisted of electronic learning. Although he was never physically shown how to use it, he was familiar with using his BWC and stated that he had had a BWC assigned to him since being assigned to the 004<sup>th</sup> District.<sup>44</sup>

In separate statements to COPA on April 3, 2019, **Officer Melissa Petrus**<sup>45</sup> and **Officer David De La O**<sup>46</sup> essentially stated the same information. They stated that on the date and approximate time of incident they were assigned to Beat 461E. They were at the 004<sup>th</sup> District station, 2255 E. 103<sup>rd</sup> Street, processing an arrest when they heard over the radio a call for an emergency, followed by shots fired at and by the police. They remained at the district processing their arrest. Shortly thereafter, Sergeant Coleman instructed Officer Petrus and Officer De La O to respond to the hospital, Little Company of Mary, where Officer Wilkison and Officer Baker were transported. At the hospital they found Officers Wilkison and Baker to be in different sections of the hospital. Officers Wilkison and Baker did not appear to have any visible injuries. Lieutenant Wooten was also at the hospital. Officer Petrus and Officer De La O were instructed by Sergeant Coleman to take Officer Wilkison back to the scene of incident, which they did. While on-scene, Officer Wilkison gave a walk-through and Officers Petrus and De La O waited for him in their police vehicle.

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<sup>43</sup> Att. 88, 102.

<sup>44</sup> According to Officer Skrobot's first statement to COPA on April 4, 2019, he did not know the exact date he was assigned to the 4<sup>th</sup> District but believed it was approximately one year from the date of that statement.

<sup>45</sup> Atts. 65, 81.

<sup>46</sup> Atts. 67, 82.

Shortly thereafter, they arrived with Officer Wilkison to area south. They were then assigned to be one of the paper cars and complete the arrest report. They gathered information from detectives to complete their report. At no time did they discuss any details with Officer Wilkison, or any involved officer, relative to the incident.

**b. Digital Evidence<sup>47</sup>**

**Evidence Technician (ET) Photographs** <sup>48</sup> depict the scene and the recovered evidence from various angles.

**Body-worn camera (BWC) video from Officer Wilkison**<sup>49</sup> begins as he is seated in the passenger seat of a vehicle. The video depicts him exiting the police vehicle and engaging in a foot pursuit northbound, and then westbound, behind a male subject now known to be [REDACTED]. Officer Wilkison yells verbal commands to the effect of “put it down, put the gun down...” while also providing information over the radio, “emergency,” “74<sup>th</sup> and Bennett,” “he’s got a gun in his hand” and continued to yell “get on the ground.”<sup>50</sup> Officer Wilkison runs west behind [REDACTED] into a dark lit gangway, now known to be between 7404 and 7408 S. Bennett Avenue. There appears to be a brick wall to his left. The video is dark and distorted at this time. The sound of what appears to be a chain-link fence rattling can be heard. While still facing westbound Officer Wilkison suddenly appears to stop running and fires his weapon westbound four (4) times.<sup>51</sup> Due to the dark lighting conditions and distorted camera view, the video does not capture a view of [REDACTED] as shots are fired. There appears to be a streetlight in the distance. A male in the background, now known to be Officer Baker, reports, shots fired by the police, which is repeated by Officer Wilkison.<sup>52</sup>

The video depicts Officer Wilkison moving west towards a gate leading to a backyard of 7408 S. Bennett Avenue. He holds his firearm with a two-hand grip. He appears to scan the area and then jumps over the gate to the backyard, which is primarily dark with soft amber light. [REDACTED] is not in view. Officer Wilkison moves southbound towards a driveway, shared between 7408 and 7412 S. Bennett Avenue. [REDACTED] emerges from a driveway further south while running westbound, in front of Officer Wilkison, further into the backyard area, now known to be 7412 S. Bennett. *See Figure 1.* A motion-activated light is observed in the distance. As [REDACTED] runs westbound, he appears to look in the direction of Officer Wilkison who simultaneously commands [REDACTED] to “get on the ground.”<sup>53</sup> At this time Officer Wilkison fires approximately four (4) gunshots in the direction of [REDACTED] who is running and then appears to trip or fall to the ground. [REDACTED] is no longer in view.

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<sup>47</sup> In addition to the BWC summarized below, COPA also obtained and reviewed 184 BWC (125 of the BWC video clips were shared by the Department of Law in which they shared such video clips via OneDrive) and 57 in-car cameras clips of officers who responded to the officer-involved shooting incident and/or were unrelated to the incident. Specific addresses, directions and identification of off-camera voices were derived from other evidence compiled in this investigation.

<sup>48</sup> Att. 156.

<sup>49</sup> Att. 39. The audio begins at approximately 30 seconds into the video.

<sup>50</sup> *Id.* at 00:30-48.

<sup>51</sup> *Id.* at 00:47-48.

<sup>52</sup> *Id.* at 00:49-51.

<sup>53</sup> *Id.* at 01:10.



Figure 1: Screenshot from Officer Wilkison's BWC depicting ██████ running westbound and appears to have his arm pointed towards Officer Wilkison before Officer Wilkison fires a second volley of gunshots towards ██████

Officer Wilkison appears to take a few steps back when suddenly one (1) gunshot is heard. Officer Wilkison responds to the gunshot by lowering his body. He retreats further west towards a white garage door. Officer Wilkison announces, "shots fired by the offender" followed by "he's down."<sup>54</sup> Second later, ██████ stands south of Officer Wilkison, near a dark colored sedan. In the distance, Officer Baker yells, "get down."<sup>55</sup> Officer Wilkison fires his weapon six (6) times in the direction of ██████. He then retreats further north and takes cover behind a red van. Simultaneously, multiple gunshots discharge in the background. Subsequently, the gunshots cease, and male voices are heard. Officer Wilkison asks if everyone is okay and then proceeds south to the rear driveway area of 7414 S. Bennett. Other officers detain ██████ in the rear driveway area near a dark colored sedan and along the fence. An unknown male announces, "weapon recovered."<sup>56</sup> The remainder of the video depicts officers detaining and then rendering medical aid to ██████. Officer Wilkison announces "461-Adam we have the offender in custody, weapon recovered, no officers are hit, okay, we need an ambulance for the offender."<sup>57</sup> The remainder of the video depicts responding officers on scene.

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<sup>54</sup> *Id.* at 01:16-18.

<sup>55</sup> *Id.* at 01:20.

<sup>56</sup> *Id.* at 01:49.

<sup>57</sup> *Id.* at 03:13.



Figure 2: Screenshot from Officer Wilkison's BWC before he fires a third volley of shots in the direction of [REDACTED] after [REDACTED] fired one gunshot.

**Body-worn camera (BWC) video from Officer Baker**<sup>58</sup> begins outside on the street with dark lighting conditions and the video quality is at times distorted. Officer Baker is located in what appears to be a gangway between 7404 and 7408 S. Bennett Avenue facing westbound. He is holding a radio in his left hand and Officer Wilkison, is in the distance of the gangway. Officer Baker turns eastbound facing the street and then proceeds to run southbound on the west sidewalk of Bennett Avenue. He slows down and then stops to face westbound into a dark driveway south and adjacent to 7414 S. Bennett Avenue. He runs westbound through the driveway. As Officer Baker approaches the west end of the driveway the video depicts an open backyard area with a white garage further in the distance and a dark sedan vehicle parked in front, slightly to the right of the garage. Officer Baker yells, “ay, get down”<sup>59</sup> while walking backwards. There is distant and partial view of what appears to be the top of someone’s head. Multiple gunshots are heard as Officer Baker begins to retreat while holding and pointing his firearm ahead of him, facing west. Officer Baker begins to fire his weapon multiple times as he retreats backward.<sup>60</sup> Officer Guarascio, yells “he’s down” and the gunfire stops.<sup>61</sup> Officer Guarascio runs westbound in the driveway, past Officer Baker. Officer Guarascio is observed in the distance along the south wooden fence of the driveway. Officer Budz walks past Officer Baker towards the direction of [REDACTED] who is on the ground, slumped along the southwest corner of the fence. Officer Baker announces over the radio that the subject is down, requests EMS and provides an address of 7414 S. Bennett. Officers detain [REDACTED] and check him for injuries while attempting to speak to him. Officer Baker announces, “shots fired by us and by the offender.”<sup>62</sup> The video depicts multiple officers attempting to render aid.

<sup>58</sup> Att. 37 The audio begins at approximately 30 seconds into the video.

<sup>59</sup> *Id.* at 00:34.

<sup>60</sup> *Id.* at 00:38.

<sup>61</sup> *Id.* at 00:45

<sup>62</sup> *Id.* at 02:09.



Figure 3: Screenshot from Officer Baker's BWC with a view of the rear backyard area of 7414 S. Bennett Avenue before he fires his weapon.

**Body-worn camera (BWC) video** from **Officer Guarascio**<sup>63</sup> begins with him driving. The lighting conditions are dark. He exits the vehicle and begins to run northwest on Bennett Avenue. As he runs, multiple gunshots discharge.<sup>64</sup> Officer Guarascio approaches the driveway, south and adjacent to 7414 S. Bennett Avenue. He announces over the radio “465B, shots fired.”<sup>65</sup> The video depicts Officer Guarascio running westbound into the driveway. Officer Baker is depicted from behind as he faces westbound further down the driveway. Officer Guarascio gets closer to Officer Baker as Officer Baker retreats backwards while yelling “get down.”<sup>66</sup> Six (6) distinct gunshots are heard and simultaneously Officers Guarascio, Baker and Budz retreat backwards while discharging their firearms.<sup>67</sup> As they fire, Officer Baker moves backwards further south of Officer Guarascio. Due to the dark lighting conditions, there is no view of the target of their gunfire. Officer Guarascio appears to stop firing as he briefly lowers his hands and then raises them back up as he continues to fire his weapon. Officer Guarascio yells “he’s down” and all gunfire comes to a stop.<sup>68</sup> Officer Baker is positioned slightly in front and to the left of Officer Guarascio and Officer Budz is to the right of Officer Guarascio. Officer Guarascio runs further west, into the driveway, past Officer Baker and positions himself along the south fence. The video depicts a wide view of the backyard area. Officer Guarascio moves towards the direction of [REDACTED] who was seated and slumped over in the southwest corner of a wooden fence. Officer Guarascio picks up a black firearm that was south of [REDACTED] and near his hand. He clears the gun and places it on top of the rear trunk of a parked dark colored sedan. He proceeds to attempt to locate [REDACTED]

<sup>63</sup> Att. 42. The audio begins at approximately 30 seconds into the video.

<sup>64</sup> *Id.* at 00:30.

<sup>65</sup> *Id.* at 00:36.

<sup>66</sup> *Id.* at 00:38.

<sup>67</sup> *Id.* at 00:39-48 captures the distorted audio of gunshots fired by Officers Guarascio, Baker and Budz.

<sup>68</sup> *Id.* at 00:48.

injuries and render aid. Shortly thereafter, Officer Guarascio announces ██████ is shot in the foot. When asked, ██████ later responds that he is hurt on both his legs, and indicates his left heel. Responding officers are observed in the area.



Figure 4: Screenshot of Officer Guarascio's BWC after shots were fired. Officer Guarascio's shadow is depicted as he approaches ██████ and recovers the firearm next to him.



Figure 5: Screenshot from Officer Guarascio's BWC depicting ██████ firearm that he recovered and cleared.

**Body-worn camera (BWC) video** from **Officer Budz**<sup>69</sup> begins with him seated in the front passenger seat of a vehicle. Officer Budz exits the vehicle and runs in a northwest direction

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<sup>69</sup> Att. 38. The audio begins at approximately 30 seconds into the video. Att. 43 is BWC footage from Officer Budz of a traffic stop prior to this incident.

across Bennett Avenue. Officer Guarascio runs in front of Officer Budz. Multiple gunshots are heard in the background.<sup>70</sup> Officer Budz, who is slightly behind and to the right of Officer Guarascio, runs westbound into a dark driveway south and adjacent to 7414 S. Bennett Avenue. As Officer Budz approaches the west end of the driveway, in the distance there appears to be an open backyard area. Officer Budz activates his flashlight. Officer Baker, yells “get down.”<sup>71</sup> Multiple gunshots are heard in the background and simultaneously Officer Budz begins to retreat backwards down the driveway while discharging his weapon. Officer Budz’s flashlight is now facing the brick wall to his right. The gunshots cease and Officer Budz stands in the driveway alongside a brick wall to his right. Further west into the distance there is a partial view of a garage door and to the south of the garage appears to be a fence. ██████ is in the distance seated on the ground, slightly slumped over while leaning against the southwest corner of a wooden fence. Officers Budz and Guarascio proceed to ██████ who does not move or speak. Officer Budz yells to “push the gun away” and Officer Guarascio recovers the gun.<sup>72</sup> Officer Budz handcuffs ██████. The remainder of the video depicts multiple officers responding to the scene and attempting to render aid to ██████. Although ██████ initially appears unresponsive, he soon is able to respond to questions about his injuries.

**Body-worn camera (BWC) video from Officer Skrobot**<sup>73</sup> does not depict a view of shots being fired. The video begins with Officer Skrobot taking cover behind the east wall of the front of 7414 S. Bennett Avenue, along the southeast corner. The driveway is along the south end of the residence. The video depicts a distant and partial view of Officers Guarascio, Baker and Budz, in the driveway facing westbound. Officer Budz is along the south brick wall of 7414 S. Bennett ██████, Officer Baker is along the north brick wall of 7418 S. Bennett Avenue and, Officer Guarascio is walking westbound past Officer Baker. Officer Skrobot proceeds west to the backyard area; ██████ is slumped over along the southwest corner of a wooden fence. Officers cautiously advance towards ██████. The video depicts ██████ being detained and being checked for injuries. Officer Guarascio instructs Officer Skrobot to watch the gun. A black handgun and a magazine clip are observed on the rear hood of a dark blue sedan that is parked in the backyard area, slightly north of where ██████ was detained. The video depicts the arrival of responding units and officers surrounding ██████.

An **Electronic Recorded Interview (ERI) video of ██████** was recorded by Detective Katz and Detective Fiedler while at University of Chicago Hospital. The video depicts ██████ lying flat on a hospital bed in a neck brace. Detective Katz advises ██████ of his Miranda rights. ██████ requests an attorney and the detective does not proceed with questions. The video then comes to an end.

COPA obtained and reviewed **Portable Observation Device (POD) videos #7172**<sup>75</sup> and **#7175**<sup>76</sup> from the date and approximate time of incident. POD #7175, located at 7500 S. Jeffrey Boulevard, did not capture the incident. POD #7172, at 7501 S. Constance Avenue, captured

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<sup>70</sup> *Id.* at 00:31.

<sup>71</sup> *Id.* at 00:39.

<sup>72</sup> *Id.* at 01:00.

<sup>73</sup> Att. 41. The audio begins at approximately 30 seconds into the video.

<sup>74</sup> Att. 116.

<sup>75</sup> Att. 124.

<sup>76</sup> Att. 125.

involved and responding units arriving to the vicinity of the incident, but did not capture the incident.

**Office of Emergency Management and Communications (OEMC) Event queries,<sup>77</sup> 911 calls<sup>78</sup> and CPD Transmissions<sup>79</sup>** are consistent with one another and the notifications captured on officers' BWC. Additionally, nine (9) 911 callers reported hearing shots fired in the area of incident. A male 911 caller, now known to be [REDACTED], under event #1905714437,<sup>80</sup> reports there were two bullet strikes in his rear window at [REDACTED] (southwest from the backyard of the location of incident) and police were responding to his residence.<sup>81</sup>

OEMC transmissions also include notifications and information broadcast over the air that were previously identified in BWC summarizations.

**CPD Axon Body Worn Camera Audit Trail reports<sup>82</sup>** for Officer Skrobot document his device name as X81033706. On the date of incident, he activated his BWC at 19:36:20<sup>83</sup> and a recording started due to an event button press. At 19:37:17 hours, a recording stopped due to an event button press. At 19:38:59 hours,<sup>84</sup> a recording started due to an event button press. At 19:42:24, a recording stopped due to an event button press.

### c. Physical Evidence

A **Canvass Report<sup>85</sup>** documents COPA investigators canvassed the area of incident on February 27, 2019, to identify civilian witnesses, video camera or other pertinent information. No additional witnesses were identified other than audio witnesses who heard multiple shots fired. Business cards were left at residences where there was no answer.

[REDACTED], [REDACTED], stated that during the time of incident she was sleeping in her bedroom on the second floor. She woke up to the sound of gunshots and rolled to the floor. She heard additional volleys of gunshots followed by an unknown person say words to the effect of "get down." Shortly thereafter, she looked outside of her bedroom window to her backyard and observed police officers detaining the subject. [REDACTED] stated that she has a video camera stationary at the front of her house, but it did not record the incident as it is improperly installed. [REDACTED] stated that her vehicle and garage door were damaged by bullet strikes.

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<sup>77</sup> Att. 159-161.

<sup>78</sup> Atts. 126-134.

<sup>79</sup> Atts. 135-148.

<sup>80</sup> Att. 160.

<sup>81</sup> Gunfire penetrated an occupied building past where [REDACTED] was struck. Review of the recovered expended bullets by the Illinois State Police determined that these bullets do not contain enough detail to compare them with the officers' weapons. Therefore, COPA was unable to identify which, if any, officer fired the bullets into this building; allegations were not served regarding this stray gunfire. See Atts. 16, 120, and 157.

<sup>82</sup> Atts. 121, 122.

<sup>83</sup> Att. 40. This BWC video depicts an unrelated traffic stop.

<sup>84</sup> Att. 41. This BWC video is related to the incident and begins with Officer Skrobot taking cover behind the front of a residence.

<sup>85</sup> Att. 21.



██████████, who resides at ██████████, stated that on the date and time of incident, he was watching television with his wife when he heard rapid gunshots. He stated that the video camera on his rear porch does not work, as there is no connection.

**Chicago Fire Department (CFD) Ambulance Reports**<sup>86</sup> document the transport of three ambulances on the date of incident, and at the location of incident.

Ambulance 70 treated ██████████ who was shot with an entrance and exit wound to his right foot, an entrance wound to his left foot; and an entrance and exit wound to the left scapula (shoulder blade). ██████████ refused to answer any questions and stated, “he was in a lot of trouble.”<sup>87</sup> ██████████ was transported to the University of Chicago Hospital.

Ambulance 50 transported Officer Wilkison to Little Company of Mary Hospital for an abrasion to his right hand as a result of jumping over a fence during a chase.<sup>88</sup> It was further documented that Officer Wilkison felt anxious.

Ambulance 09 transported Officer Baker to Little Company of Mary Hospital, for complaints of shortness of breath and numbness to his hands and feet.

The **Medical Records** for ██████████ from the University of Chicago Hospital<sup>89</sup> document that he arrived at the hospital on February 26, 2019, at 8:13 p.m.<sup>90</sup> with multiple gunshot wounds. ██████████ reported that he was shot, fell, and hit his head with loss of consciousness. It was documented that ██████████ stated that he “messed up”<sup>91</sup> but would not elaborate further. ██████████ also stated that he “made a mistake,” was “in the wrong place at the wrong time”<sup>92</sup> and was unable to recall any further details. The injury locations were noted as his foot and torso: “Secondary notable for 6 GSWs: two GSWs the left scapula with minimal breathing, two GSWs the right foot on the dorsum and on the plantar surface and two GSWs on the left foot to include, one on the dorsum and the other on the heel.”<sup>93</sup>

**CPD Crime Scene Processing Reports (CSPR),<sup>94</sup> Inventory Sheets<sup>95</sup> and Evidence Plats (not to scale)<sup>96</sup>** document evidence located, marked, photographed/video-graphed, collected and/or inventoried in connection with the incident. It is reported that ██████████ was photographed and fingerprinted while at the University of Chicago Hospital.<sup>97</sup> ██████████ firearm was swabbed for DNA

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<sup>86</sup> Atts. 27-29.

<sup>87</sup> Att. 29, page 3.

<sup>88</sup> Little Company of Mary Hospital records describe this laceration as a superficial puncture wound. See Att. 95.

<sup>89</sup> Att. 149.

<sup>90</sup> Att. 149, page 1, 130.

<sup>91</sup> Att. 149, page 12.

<sup>92</sup> Att. 149, page 15.

<sup>93</sup> Att. 149, page 6.

<sup>94</sup> Att. 15, 16.

<sup>95</sup> Atts. 17.

<sup>96</sup> Att. 118.

<sup>97</sup> Gunshot residue (GSR) swabs were not obtained. See Att. 3.

and his clothing and personal belongings were photographed and packaged. The weapons of the involved officers were inspected and recovered while at Area South. Officer Guarascio's firearm, was identified as a Glock 19, 9mm semi-automatic pistol, Serial # [REDACTED], black Glock magazine,<sup>98</sup> with one (1) live round in the chamber and seven (7) live rounds head stamped "Win 9mm Luger +P." Officer Budz's firearm was a Glock 17, 9mm semi-automatic pistol, Serial # [REDACTED], black Glock magazine,<sup>99</sup> with one (1) live round in the chamber and three (3) live rounds head stamped "Win 9mm Luger +P." Officer Wilkison's firearm was a Glock 19, 9mm semi-automatic pistol, Serial # [REDACTED], black Glock magazine,<sup>100</sup> with one (1) live round in the chamber and one (1) live rounds head stamped "Win 9mm Luger +P;" and, Officer Baker's firearm was a Glock 19, 9mm semi-automatic pistol, Serial # [REDACTED], black Glock magazine<sup>101</sup> with eight (8) live rounds head stamped "Win 9mm Luger +P."

There were a total of 44 recovered fired cartridge casings head stamped "Win 9mm Luger +P" identified as follows: 30 were recovered from the driveway pavement at 7414 S. Bennett Avenue; nine (9) recovered from the driveway pavement at 7408 S. Bennett Avenue; one (1) recovered from rear gangway between garages at 7408 and 7412 S. Bennett Avenue; two (2) recovered from the north gangway at 7408 S. Bennett Avenue; and two (2) recovered from the south gangway at 7404 S. Bennett Avenue.

There were a total of eight (8) recovered fired bullet and/or metal fragments to include: one (1) fired bullet recovered from the inside garage floor (at 7414 S. Bennett Avenue), adjacent to the rear driver's side quarter panel of a parked gray Mercedes Benz 300, bearing IL license plate # [REDACTED]; one (1) metal fragment recovered from the inside garage floor adjacent to the front passenger's door of the gray Mercedes Benz; one (1) fired bullet recovered from rear passenger seat of the gray Mercedes Benz; one (1) fired bullet recovered from floor of the vestibule area of rear door at 7419 S. Constance Avenue; one (1) metal fragment recovered from floor of east bedroom near window at 7419 S. Constance Avenue; one (1) fired bullet recovered from alley pavement [at 7414 S. Bennett Avenue; and, two (2) fired bullets, with red stains, suspect blood, recovered from dirt near rear fence.

The firearm of [REDACTED] was identified as a Taurus PT111, 9mm, semi-automatic pistol, serial # [REDACTED], recovered on the top of the trunk of a Blue Audi A8L, bearing IL license plate # [REDACTED], parked in the rear driveway at 7414 S. Bennett Avenue. Also recovered with the firearm was a Black PT111 9mm magazine containing an unknown number of live rounds and one (1) fired cartridge case head stamped "FC 9mm Luger."

It is documented that the Mercedes Benz displayed defects consistent with bullet holes on the front roof and driver's side rear door.

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<sup>98</sup> The capacity of this magazine is 15. See Att. 4.

<sup>99</sup> The capacity of this magazine is 17. See Att. 4.

<sup>100</sup> The capacity of this magazine is 15. See Att. 4.

<sup>101</sup> The capacity of this magazine is 15. See Att. 4.

**Illinois State Police (ISP) Forensic Science Laboratory Reports<sup>102</sup> – Latent Prints<sup>103</sup>** dated June 24, 2019, documents the processing of one (1) discharged cartridge case “FC 9mm Luger” recovered from [REDACTED] firearm. It is documented that there were no suitable latent prints.

**ISP Forensic Science Laboratory Reports – Firearms/ Toolmarks<sup>104, 105</sup>** dated June 28, 2019, documents the examination and testing of the recovered firearms evidence. [REDACTED] firearm, a Taurus PT111, 9mm semi-automatic pistol, with one (1) magazine was inventoried with five (5) G.F.L (Fiocchi) 9mm Luger cartridges and, four (4) Federal 9mm Luger Cartridges. [REDACTED] firearm was tested and found to be operable. It was determined that one (1) Federal 9mm Luger expended cartridge casing, recovered from the top of the rear of the Audi trunk, was fired by [REDACTED] firearm.

In addition, all the firearms belonging to each shooting officer were tested and found to be operable as received. ISP determined the following in respect to the recovered expended cartridge casings and which firearm it came from: there were eight (8) Winchester 9mm Luger +P expended cartridge casings, recovered from the driveway of 7414 S. Bennett Avenue, fired by Officer Guarascio’s firearm; fourteen (14) Winchester 9mm Luger +P expended cartridge casings, recovered from the driveway of 7414 S. Bennett Avenue, fired by Officer Budz’s firearm; fourteen (14) Winchester 9mm Luger +P expended cartridge casings, in which nine (9) were recovered from the driveway pavement at 7408 S. Bennett Avenue; one (1) was recovered from the rear gangway between garages at 7408 and 7412 S. Bennett Avenue; two (2) were recovered in the rear gangway 7404 S. Bennett Avenue; and two (2) were recovered from the rear gangway at 7404 S. Bennett Avenue, fired by Officer Wilkison’s firearm. Lastly, eight (8) total Winchester 9mm Luger +P expended cartridge casings, were recovered from the driveway pavement at 7414 S. Bennett Avenue fired by Officer Baker’s firearm.

The **Shotspotter Technology Reports<sup>106</sup>** document the date, time, longitude, latitude and number of “rounds” heard. Report #58072 for the area of 7404 S. Bennett Avenue documents that on the date of incident, the sound of four (4) rounds (gunshots) were captured at 19:37:55 hours. Report #58073 for the area of 7417 S. Bennett Avenue documents the sound of sixteen (16) rounds (gunshots) were captured at 19:38:29 hours.

#### **d. Documentary Evidence**

A **Major Incident Notification Report (MIN)** for **RD #JC166992<sup>107</sup>** documented the incident. A secondary RD #JC167189, for a “law enforcement / non-fatal firearm discharge - gunshot injury, was also registered.”<sup>108</sup>

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<sup>102</sup> In an ISP DNA cancellation report dated September 8, 2020, it is documented that a swab box containing swabs collected from the Taurus PT111 handgun was collected but the swabs were not tested for DNA as ISP did not receive permission to consume the DNA for testing. Att. 158.

<sup>103</sup> Att. 121.

<sup>104</sup> Att. 120.

<sup>105</sup> An ISP Firearm/Toolmarks laboratory report dated June 15, 2021, documents two (2) 9mm, 38 caliber fired bullets, under Inventory # [REDACTED] [recovered at 7419 S. Constance Ave.], determined suitable [for comparison] and inconclusive [as they were not compared]. See footnote 67. Att. 157.

<sup>106</sup> Atts. 45, 50. According to Shotspotter.com, its software detects the sound of gunfire with a precise location.

<sup>107</sup> Att. 35.

<sup>108</sup> See Att. 8 for JC167189 Case Report.

Additional CPD reports documented that all involved officers were administered drug and alcohol tests with negative results.<sup>109</sup> All involved officers were in compliance with weapon qualifications and FOID card registration.<sup>110</sup>

A **CPD Arrest Report**,<sup>111</sup> documented the arrest of [REDACTED]. He was charged with; one (1) count of Aggravated Discharge with a Firearm against Officer Wilkison, four (4) counts of Aggravated Assault/Use Firearm/Peace Officer against each involved officer, one (1) count of Attempted Murder - First Degree against Officer Wilkison, one (1) count of Aggravated UUV/Loaded/No FCCA-FOID, and Issuance of Warrant, # [REDACTED]. A name check revealed that [REDACTED] was on parole and a warrant was issued by the Illinois Department of Corrections (IDOC). The charges were approved by the CCSAO Felony Review Unit.<sup>112</sup>

A **Tactical Response Report (TRR)** completed by **Officer Wilkison**<sup>113</sup> documents the date, time and location of incident. The lighting conditions were dark, and the weather was clear. Officer Wilkison documented that [REDACTED] did not follow verbal direction, fled, and used force likely to cause death or great bodily harm. [REDACTED] was armed with a semi-automatic pistol and fired his weapon at involved officers. Officer Wilkison responded to defend himself and other department members. He mitigated his response by using member presence, verbal direction, zone of safety, movement to avoid attack and tactical positioning. Officer Wilkison fired first and fired a total of fourteen (14) times.

A **TRR** completed by **Officer Baker**<sup>114</sup> documents essentially the same information as the TRR of Officer Wilkison. Officer Baker reported that [REDACTED] presented an imminent threat of battery with a weapon and that [REDACTED] fired the first shot. Officer Baker fired a total of eight (8) times.

**TRRs** completed by **Officers Budz**<sup>115</sup> and **Guarascio** document similar information as reported by Officers Wilkison and Baker. Officer Budz fired fourteen (14) times. Officer Guarascio fired a total of eight (8) times.

**Detective Supplementary Reports** for **RD#JC166992**<sup>116</sup> are consistent with other departmental reports and information provided by the involved members in this summary report. Such information included but is not limited to identifiers of the involved parties, details of evidence recovered, personnel assignments and summaries of statements taken by detectives. The reports should be read in conjunction with one another.

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<sup>109</sup> Att. 57.

<sup>110</sup> Att. 58.

<sup>111</sup> Att. 6; See Att. 7 for JC166992 Case Report.

<sup>112</sup> [REDACTED] entered a plea of Not Guilty on March 28, 2019, to multiple felony counts in *People v. [REDACTED]* 19CR036 [REDACTED], see Att. 117. On June 29, 2021, [REDACTED] entered a plea of Guilty for Aggravated Discharge of a Firearm/Peace Officer/Fireman and was sentenced to 10 years with the Illinois Department of Corrections (IDOC) in which he received 853 days of credit for time served. Att. 163.

<sup>113</sup> Att. 11.

<sup>114</sup> Att. 12.

<sup>115</sup> Atts. 13, 14.

<sup>116</sup> Atts. 9, 10, 113, 114.

A report titled *Canvass*, dated March 15, 2019, documents the identifiers of audio witnesses who heard multiple gunshots fired and/or the sound of sirens. There were no eyewitnesses identified.

A report titled *Progress-Violent (Scene)*, dated June 2, 2019, by Detective Brian Cunningham #21419, documents on-scene observations by the reporting detective (R/D) to include the detailed location of all evidence identified and recovered. Two civilians, [REDACTED] [REDACTED], occupant at [REDACTED] and [REDACTED] [REDACTED], occupant at [REDACTED], were identified and interviewed during a CPD canvass.<sup>117</sup>

[REDACTED] was inside of his residence during the time of incident and heard multiple gunshots fired as well as verbal commands to include “drop the gun and show your hands.”<sup>118</sup> He exited the rear of his residence when he felt it was safe and observed police officers rendering medical aid. He was then instructed to remain inside of his home.

[REDACTED] stated that he was asleep in his bedroom when he heard two-to-four gunshots, followed by his glass window breaking. Subsequently he observed damage to his rear bedroom window caused by bullet strikes.

In addition, CPD Beat 6P33<sup>119</sup> observed bullet strike(s) to the rear bedroom closet door, bedroom interior wall, and to the rear storm door and rear entry door. Beat 5813<sup>120</sup> recovered a fired bullet (CSM #54) from the floor of the rear door vestibule and, a metal fragment (CSM #55) from the bedroom floor, near the window.<sup>121</sup>

Although video surveillance cameras were located at 7414 S. Bennett Avenue, 7457 S. Bennett Avenue, 7449 S. Bennett Avenue, 7350 S. Bennett Avenue and 7411 S. Constance Avenue, none of these cameras were functional at the time of incident.

A report titled *Cleared/Closed*,<sup>122</sup> documented that detectives interviewed the involved officers, who provided narratives consistent with their statements to COPA. In addition to documenting that [REDACTED] asked for an attorney, it was further documented that [REDACTED] spontaneously inquired whether the officer was okay.

In addition, it is documented that before Officer Wilkison fired a second volley of shots, Officer Wilkison heard noises moving south and “observed [REDACTED] still had his weapon and pointed it again at Officer Wilkison as he moved across the yard.”<sup>123</sup> It is documented that Officer Wilkison stated he was in fear for his life and fired gunshots at [REDACTED]”<sup>124</sup> [REDACTED] fired his weapon in the direction of Officer Wilkison as Officer Wilkison observed a muzzle flash in his

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<sup>117</sup> COPA did not obtain statements from these individuals because they reportedly did not witness the incident.

<sup>118</sup> Att. 113, page 17.

<sup>119</sup> According to GPRs, att. 115, Beat 6P33 was assigned to Detective Lorenzo Sandoval #20027.

<sup>120</sup> According to GPRs, att. 115, Beat 5813 was assigned to ET Heneghan #13066.

<sup>121</sup> Att. 113, page 16, 17.

<sup>122</sup> Att. 114.

<sup>123</sup> Att. 114, page 16, paragraph 3.

<sup>124</sup> Att. 114, page 16, paragraph 4.

direction coming from ██████ handgun and Officer Wilkison notified OEMC. It is documented that Officer Wilkison stated that he observed ██████ rise back to his feet while still holding his firearm. ‘Officer Wilkison fired additional gunshots at ██████ while he was still holding his firearm and was therefore still a threat to his “imminent safety.”<sup>125</sup>

**General Progress Reports (GPRs)**<sup>126</sup> document police activities and investigative actions taken by CPD Detectives. The information documented is essentially the same as reported in department reports. Such information includes but is not limited to: officer and civilian identifiers, notes of statements, hand-drawn maps (not to scale) with approximate measurements of the location of incident to include marked evidence, points of reference of OEMC audio transmissions,<sup>127</sup> crime scene marker numbers identifying evidence, and canvass information.

In addition, it is documented by Detective Cunningham, as stated by Officer Wilkison, that in relation to his third volley of shots fired, Officer Wilkison “ ‘...moved towards the garage, saw [the] subject standing up [and] shot at subject who just shot in [officer’s] direction.’ ”<sup>128</sup>

## VI. LEGAL STANDARD

### a. Use of Deadly Force<sup>129,130</sup>

The Department’s stated highest priority is the sanctity of human life. In all aspects of their conduct, the Department expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.<sup>131</sup> Department members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.<sup>132</sup> This means Department members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.<sup>133</sup>

When evaluating every use of force, the main issue is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>134</sup> Factors to be considered in assessing the reasonableness of force include, but are not limited to: (1) whether the subject was posing an imminent threat to the officer or others; (2) the

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<sup>125</sup> Att. 114, page 16, paragraph 4.

<sup>126</sup> Att. 115.

<sup>127</sup> Refer to page 31.

<sup>128</sup> Att. 115, page 8.

<sup>129</sup> On October 16, 2017, the Department materially modified its Use of Force policy. The Department’s current Use of Force Policy prohibits the use of deadly force under circumstances that would be permissible under the Fourth Amendment to the United States Constitution and Illinois state law. COPA’s analysis focuses solely on whether Officers Wilkison, Officer Baker, Officer Guarascio and Officer Budz complied with General Order G03-02. COPA cites case law solely for guidance on how to interpret common concepts or terms.

<sup>130</sup> Att. 63, General Order G03-02-01: Force Options

<sup>131</sup> General Order G03-02 (II)(A).

<sup>132</sup> *Id.* at (III)(B).

<sup>133</sup> *Id.* at (III)(B).

<sup>134</sup> Att. 62, General Order G03-02(III)(B)(1).

risk of harm, level of threat or resistance presented by the subject; (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; and (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.<sup>135</sup>

The discharge of a firearm in the direction of a person constitutes deadly force under Department policy.<sup>137</sup> Department policy dictates that "[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."<sup>138</sup> Thus, a Department member may use deadly force in only two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.<sup>139</sup> "A threat is imminent when it is objectively reasonable to believe that:

- a. the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm."<sup>140</sup>

During all use of force incidents, Department members will strive to use **de-escalation techniques** to prevent or reduce the need for force, based on the totality of the circumstances.<sup>141</sup> Officers must continually assess the situation to determine

"(1) if any use of force is necessary; (2) the authorized force option based on the totality of the circumstances; (3) if the seriousness of the situation requires an immediate response or whether the member can employ other force options or the Force Mitigation Principles; and (4) if the level of force employed should be modified based upon the subject's actions or other changes in the circumstances. The level of force will be de-escalated immediately as resistance decreases, provided that the member remains in control and as safety permits."<sup>142</sup>

These concepts of force mitigation include but are not limited to exercising persuasion, advice, and warning prior to the use of physical force; stabilizing the situation using time, distance or positioning to isolate and contain the subject; and requesting additional personnel to assist or make use of specialized units of equipment, such as crisis-intervention-team trained officers.<sup>143</sup>

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<sup>135</sup> *Id.*

<sup>137</sup> *Id.* at (III)(C)(1).

<sup>138</sup> *Id.* at (III)(C)(3).

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* at (III)(C)(2).

<sup>141</sup> G03-02-01.II.B

<sup>142</sup> G03-02-01.II.F

<sup>143</sup> G03-02.III.4

Department policy recognizes that Department members must “make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”<sup>144</sup>

#### **b. Body Worn Cameras (BWCs)**

To increase transparency and improve the quality and reliability of investigations, Department policy mandates all law-enforcement-related encounters to be electronically recorded on the officers’ BWC.<sup>145</sup> Law-enforcement-related encounters include, but are not limited to, calls for service, investigatory stops, seizure of evidence, foot and vehicle pursuits, arrests, use of force incidents, high risk situations, emergency driving situations and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene.<sup>146</sup> The recording of law-enforcement-related encounters is mandatory.<sup>147</sup> Officers must activate their BWCs at the beginning of an incident and record the entire incident.<sup>148</sup> If there are circumstances preventing the activation of the BWC at the beginning of an incident, the officer “will activate the BWC as soon as practical.”<sup>149</sup> Any member who knowingly fails to properly comply with the directive is subject to departmental discipline.<sup>151</sup>

#### **c. Standard of Proof**

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

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

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<sup>144</sup> *Id.* at (II)(D).

<sup>145</sup> S03-14.II.A

<sup>146</sup> S03-14.III.A.2

<sup>147</sup> S03-14.III.A.1

<sup>148</sup> S03-14.III.A.2

<sup>149</sup> S03-14.III.A.2

<sup>151</sup> *Id.* at (II)(A).



A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>153</sup> If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense.<sup>154</sup> Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>155</sup>

## VII. ANALYSIS

### a. The Use of Deadly Force by Officers Wilkison, Baker, Budz and Guarascio Complied with Department Policy.

A preponderance of the evidence demonstrates that Officers Wilkison, Baker, Budz and Guarascio reasonably complied with the Department’s use of deadly force policy. COPA finds that each instance of the officers’ use of deadly force was objectively reasonable, necessary and proportional to the imminent threat posed by ██████████. Moreover, the officers used deadly force as a necessary and proportional response of last resort.

#### i. Officer Wilkison

First, the evidence shows that Officer Wilkison used deadly force in direct response to an imminent threat to his life. Specifically, Officer Wilkison, who discharged the first, second and third volley, reasonably believed that ██████████ conduct was immediately likely to cause death or great bodily harm to him or his partners unless action was taken. Officer Wilkison first fired at ██████████ after ██████████ pointed his gun at him in the gangway of 7408 S. Bennett Avenue. Officer Wilkison saw ██████████ jump over a low fence and then, while facing Officer Wilkison, point the weapon at the officer. Officer Wilkison discharged his weapon at ██████████ four times and stopped when ██████████ was no longer a threat. COPA finds that Officer Wilkison reasonably believed that ██████████ posed an imminent threat to his and to Officer Baker’s lives. Officer Baker corroborated Officer Wilkison’s account, stating that he also believed that ██████████ had pointed his gun at the officers.<sup>156</sup> Officer Wilkison’s firearm discharge during the first volley was therefore objectively reasonable considering the totality of the circumstances.

Likewise, Officer Wilkison’s discharge during the second and third volleys was in response to an imminent threat posed by ██████████. Officer Wilkison reported that he fired the second volley when he saw ██████████ running through the backyard with the gun still in his right hand. Officer Wilkison repeatedly instructed ██████████ to get on the ground, but ██████████ continued to disregard his commands. When ██████████ looked at Officer Wilkison, Officer Wilkison believed that ██████████ would shoot at him

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<sup>153</sup> See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

<sup>154</sup> See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>155</sup> *Id.* at ¶ 28.

<sup>156</sup> Att. 80 at 39.

and fired his weapon four more times. Officer Wilkison's BWC supports his account, showing ██████ with his arm extended towards Officer Wilkison as he crosses the backyard (*see* Figure 1 above). After Officer Wilkison's second volley, ██████ turned towards Officer Wilkison and fired one shot at him. Officer Wilkison took cover and saw ██████ taking a defensive stance behind a parked car with the weapon pointed in front of him. Officers Baker, Budz and Wilkison separately corroborated Officer Wilkison's observation that ██████ was taking a defensive stance and added that it appeared that ██████ was attempting to advance towards them. Fearing that ██████ would attempt to ambush him or his partners, Officer Wilkison fired six more shots at ██████

The totality of the circumstances indicates that Officer Wilkison's belief that ██████ posed an imminent threat was objectively reasonable. ██████ had already pointed the weapon at Officers Wilkison and Baker and had fired his weapon at Officer Wilkison. Officer Wilkison's BWC corroborates that Officer Wilkison truly believed that ██████ had fired at him as his physical response was to get low and take cover. Although the evidence does not clearly show ██████ firing his weapon, the evidence, to include audio from BWCs, depict the sound of one (1) shot fired. In addition, ISP Firearms labs results tested the expended cartridge from ██████ firearm and concluded that this round was fired from his gun.<sup>157</sup> In addition, ██████ had failed to comply with Officer Wilkison's repeated commands, refused to discard the gun and appeared to be preparing to ambush the officers. Officer Wilkison's firearm discharge during the first, second and third volley at ██████ was objectively reasonable considering the totality of the circumstances.

Second, the evidence shows that Officer Wilkison used deadly force only as a last resort. Specifically, Officer Wilkison only discharged his firearm at ██████ after ██████ repeatedly disregarded his verbal commands, pointed the gun at him, fired a shot at him, and appeared to attempt to ambush Officer Wilkison and his partners. COPA finds by a preponderance of the evidence that it was not feasible to de-escalate the situation under the circumstances facing the officers. However, the evidence does show that Officer Wilkison used de-escalation techniques during the incident whenever possible. For instance, immediately upon encountering ██████ Officer Wilkison began giving clear, loud, and repeated verbal directions for ██████ to drop the gun and to get on the ground. ██████ ignored each of Officer Wilkison's orders. Instead, ██████ responded by firing at Officer Wilkison. Based on the totality of the circumstances, COPA finds by a preponderance of the evidence that Officer Wilkison's use of deadly force was within Department Policy.

#### *ii. Officers Baker, Budz and Guarascio*

Likewise, the fourth volley discharged by Officers Baker, Budz and Guarascio was within the Department's Use of Deadly Force Policy. Specifically, COPA finds by a preponderance of the evidence that the officers reasonably believed that ██████ conduct was immediately likely to cause death or great bodily harm unless action was taken. After Officer Baker followed Officer Wilkison down the gangway of 7408 S. Bennett Avenue and Officer Wilkison fired his first volley, Officer Baker, believing ██████ might circle back, returned to Bennett Avenue. His suspicions were confirmed when he saw ██████ running southbound on Bennett Avenue and then running westbound into the driveway of 7414 S. Bennett. Officer Wilkison then observed ██████ running into the backyard of 7414 S. Bennett and discharged his second volley. Officer Baker entered the alley at 7414 S. Bennett and saw ██████ pacing between the wooden fence and the parked Audi in front of the garage at 7414 S. Bennett Avenue. Officer Baker then briefly lost sight of ██████ and

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<sup>157</sup> Att. 120

heard an exchange of gunfire, which he believed to be shots fired by ██████ and Officer Wilkison (Officer Wilkison's third volley). ██████ then came back into his view. ██████ faced Officer Baker and pointed the gun in Officer Baker's direction.

At about this time, Officers Budz, Skrobot and Guarascio arrived on scene and heard shots fired. Officer Guarascio saw Officer Baker enter the driveway between 7414 and 7418 S. Bennett Avenue. Officers Guarascio, Skrobot and Budz then exited their squad car and proceeded westbound into the driveway. As they approached the driveway, they saw Officer Baker "backpedaling" east through the driveway and yelling "drop the gun, drop the gun."<sup>158</sup> ██████ did not comply with Officer Baker's commands. Instead, ██████ took a defensive position near the parked Audi while pointing the gun in the officers' direction.<sup>159</sup> All three officers, concerned for their safety, fired their weapons multiple times at ██████<sup>160</sup> ██████ collapsed on the ground from his gunshot wounds and the officers were able to secure the gun and take him into custody.

The totality of the circumstances demonstrate that Officers Budz, Baker and Guarascio only discharged their weapons after ██████ pointed his firearm at them. The evidence demonstrates that the officers reasonably believed that ██████ would fire his weapon at them. Specifically, the three officers knew that there had been numerous shots fired in the area, they did not know the whereabouts or status of Officer Wilkison, they observed ██████ disregard numerous verbal commands and saw him pointing his firearm at them while crouched in a defensive position as if he were about to ambush them. It was therefore objectively reasonable for the officers to believe that deadly force was necessary.

Second, the evidence shows that Officers Baker, Budz and Guarascio used deadly force only as an option of last resort. Specifically, the officers only discharged their firearms at ██████ after ██████ repeatedly disregarded Officer Baker's verbal commands to drop his gun and pointed the gun at them. COPA finds that it was not feasible to de-escalate the situation under the circumstances facing the officers. The officers were side by side in a narrow driveway<sup>161</sup> with no available cover while facing an armed person who was pointing a gun in their direction and who had just fired at a fellow officer. As such, they had no option other than to fire their weapons. Based on the totality of the circumstances, COPA finds by a preponderance of the evidence that Officer Baker's, Budz' and Officer Guarascio's use of deadly force was within Department Policy.

#### **b. Officer Skrobot Failed to Activate his BWC at the Initiation of the Incident.**

The allegation that Officer Skrobot violated Department Policy by failing to activate his BWC at the initiation of the incident is **Sustained**. This incident involved multiple law-enforcement-related activities that Department policy identifies as requiring the activation of BWC, including but not limited to foot and vehicle pursuits, arrests, use of force incidents, seizure of evidence, searches, and high-risk situations. In this case, Officer Skrobot's BWC begins with Officer Skrobot at the address of incident taking cover. Although Officer Skrobot was responding to a highly stressful and alarming call of an emergency and/or shots fired, there were no exigent

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<sup>158</sup> Att. 101 at 47.

<sup>159</sup> Att. 101 at 58; Att. 103 at 42, 54, 56.

<sup>160</sup> Att. 101 at 61; Att. 103 at 58.

<sup>161</sup> Att. 118 (Plat 1 of 3 indicating that the driveway between 7414 and 7418 S. Bennett was approximately 8'11" wide)

circumstances that would have prevented him from activating his BWC while en route to the scene. In addition, Officer Guarascio, Officer Budz and Officer Wilkison initiated their BWCs upon exiting their vehicles.

Officer Skrobot stated that he assumed that as a result of muscle memory, he had double-tapped on his BWC to activate it upon exiting the police vehicle. An audit trail of Officer Skrobot's BWC documents that he activated his BWC at 19:36 hours which recorded an unrelated traffic stop. The recording stopped at 19:37 hours. The evidence demonstrates that Officer Guarascio, Budz and Skrobot were completing their traffic stop when they learned over the radio of a 10-1 call and immediately drove towards the location of incident. At 19:38 hours, Officer Skrobot activated his BWC which depicted him taking cover and then approaching the subject after shots were fired. While it appears that Officer Skrobot had approximately one minute in between ending the traffic related BWC to initiating the new BWC recording relative to the incident, within that timeframe he was inside of a police vehicle without any restrictions.

COPA finds that Officer Skrobot failed to timely activate his BWC in violation of Special Order 03-14, and Allegation #1 is **Sustained**.

## I. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Robert Skrobot

Due to the resignation of Officer Skrobot on December 8, 2021,<sup>163</sup> COPA will not recommend discipline for his failure to timely activate his BWC.

## II. CONCLUSION

The evidence demonstrates that an officer with similar training and experience under the totality of the circumstances would have reasonably believed that ██████ posed an immediate threat of death or great bodily harm and that the use of deadly force was necessary to prevent death or great bodily harm. To that point, all the officers involved, whom are reasonably believed to have the same training and experience, fired their weapons at ██████ as they believed he was an imminent threat.

In regard to the Allegation #1 against Officer Skrobot, based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer Robert Skrobot	1. It is alleged that on or about February 26, 2019, at approximately 7:37 p.m., at or near 7418 S. Bennett Avenue, you failed to activate your Body	SUSTAINED / CPD Member resigned – no

<sup>163</sup> See PAR form, Att. 164.

	Worn Camera (BWC) at the initiation of the incident.	discipline recommended
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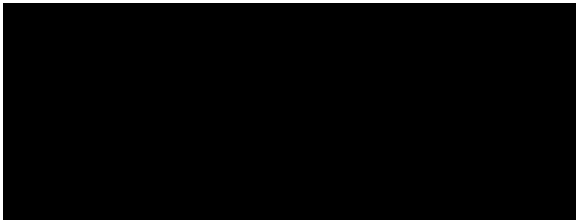
Approved:



March 20, 2023

\_\_\_\_\_  
Angela Hearts-Glass  
*Deputy Chief Administrator*

\_\_\_\_\_  
Date



March 20, 2023

\_\_\_\_\_  
Andrea Kersten  
*Chief Administrator*

\_\_\_\_\_  
Date