

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	May 28, 2019
Time of Incident:	1:46 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	May 28, 2019
Time of COPA Notification:	1:51 pm

On May 28, 2019, Officers Philip Strazzante and Rogelio Borjas Jr. were assigned to the Fugitive Apprehension Team. Officer Borjas was tasked with locating [REDACTED] the target of an Investigative Alert indicating there was probable cause to arrest him for his role in the fatal shooting of a 15-year-old. Officer Borjas conveyed to the Team that [REDACTED] co-defendant had recently been arrested, and that [REDACTED] had been changing locations and limiting use of communications devices, which indicated that he knew he was wanted by law enforcement. Officer Borjas learned that a Facebook account believed to belong to [REDACTED] was actively being used at [REDACTED], on the evening of May 27, 2019.

At approximately 7:00 a.m. on May 28, 2019, Officers Strazzante and Borjas set up surveillance in their covert vehicle approximately three houses to the south of [REDACTED] while their partners, Officers Jason Toliver and Marcus McGrone, were in a separate covert vehicle further down the block, and their Sergeant was in another vehicle even further south. There was a red Dodge Journey parked in the house’s driveway which the officers learned was registered to [REDACTED] mother. During their surveillance, [REDACTED] Facebook account was signed into again from that address.

At approximately 1:40 pm, Officers Borjas and Strazzante observed a black male, whom they believed matched description of [REDACTED] exit the house. The man entered the Journey through the passenger side door, due to the driver’s side door being damaged. Officers Borjas and Strazzante left their surveillance position, parking their car just past the Journey to the north, while Officers Toliver and McGrone pulled up their vehicle just south of the Journey on the driver’s side. Officers Borjas and Strazzante approached the passenger side of the vehicle on foot yelling, “police, police, show me your hands.” As they arrived at the front passenger door, they both observed the man point a firearm directly at them through the passenger side window mere feet away from them. In response, Officer Strazzante fired 2-3 shots through the passenger side window, then took cover behind the engine block at the hood of the car, where he fired one more shot through the windshield.

All officers then took cover behind cars on Chappel. An ambulance was called, and a shield was requested. When the shield arrived, the officers, crouching in stack positioning, approached the vehicle and opened the passenger side doors. They apprehended the man, who was unresponsive. A firearm loaded with 10 live rounds in the magazine, one live round in the chamber,

and with its hammer cocked back, was visible on the floor between the front passenger seat and the front passenger door. The man was transported by EMS to the University of Chicago Hospital where he was pronounced deceased. The man who was killed was later identified as [REDACTED] a brother of [REDACTED]

**II. INVOLVED PARTIES**

Involved Officer #1:	Strazzante, Philip; Star #8496; Employee # [REDACTED]; Date of Appointment: September 01, 2010; Police Officer; Unit 606; DOB: December 5, 1982; Male; White.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1998; Male; Black.

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Philip Strazzante #8496	<p>It is alleged that on or about May 28, 2019, at approximately 1:46 pm, at or near [REDACTED] Avenue, Officer Philip Strazzante committed misconduct through the following acts or omissions, by:</p> <ol style="list-style-type: none"> <li>1. Discharging his firearm at or in the direction of [REDACTED] in violation of G03-02, without justification; and</li> <li>2. Seizing [REDACTED] without justification.</li> </ol>	<p>Exonerated</p> <p>Exonerated</p>

**IV. APPLICABLE RULES AND LAWS**

General Orders

1. General Order 03-02: Use of Force (Eff. Oct. 16, 2017 – February 29, 2020)
2. General Order 03-02-01: Force Options (Effective Date: October 16, 2017 – February 29, 2020)
3. U.S. Const. amend. IV

## V. INVESTIGATION<sup>1</sup>

COPA obtained and reviewed relevant video, audio, forensic, and documentary evidence associated with this officer-involved shooting. Additionally, COPA interviewed civilian and officer witnesses, including all involved officers. The following is a summary of the material evidence obtained and analyzed by COPA in this investigation.

### A. Interviews - Police Officers

#### Officer Philip Strazzante (First Interview)

COPA initially interviewed Officer Phillip Strazzante on June 26, 2019.<sup>2</sup> He stated that he was assigned to Unit 606, the Fugitive Apprehension Team (Team), and had been since October 2018.<sup>3</sup> He explained that each member of the Team is assigned their own cases. When an officer has identified a potential location for an offender, the Team conducts surveillance with tactical support from the U.S. Marshals.<sup>4</sup> The unit is not assigned body worn cameras (BWC).<sup>5</sup>

In this case, Officer Strazzante's partner, Officer Rogelio Borjas, Jr., was assigned to apprehend ██████████ (██████████).<sup>7</sup> ██████████ was wanted for his role in a shooting where a 15-year-old was killed and an adult was critically injured.<sup>8</sup> Officer Borjas conveyed his belief to the Team that ██████████ knew that he was wanted by law enforcement because ██████████ co-offender in the shooting had recently been apprehended, and because ██████████ was changing locations and limiting his communication devices to evade arrest.<sup>9</sup> Officer Borjas had obtained a warrant for a Facebook account believed to belong to ██████████ and the account was actively pinging from the location of ██████████ on the evening of May 27, 2019.<sup>10</sup> Officer Borjas relayed this information to the Team and planned a surveillance of the residence the following morning.

At approximately 7:00 a.m. on May 28, 2019, Officers Strazzante and Borjas, working in plain clothes, parked their black covert Chevy Equinox approximately three houses to the south of ██████████ on the east side of the street facing north.<sup>11</sup> Officer Borjas was the driver, and Officer Strazzante was the passenger. Team members Officers Toliver and McGrone parked their covert Black Ford Explorer further south on Chappel, and their Sergeant, Sgt. Brian Forberg, was south of them in another vehicle.<sup>12</sup>

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<sup>1</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>2</sup> Atts. 107, 108, 109, 133

<sup>3</sup> Att. 133, pgs. 4-5

<sup>4</sup> Att. 133, pg. 25

<sup>5</sup> Att. 133, pg. 10

<sup>6</sup> COPA will refer to ██████████ and ██████████ by their first names to avoid confusion.

<sup>7</sup> Att. 133, pg. 11

<sup>8</sup> Att. 133, pg. 11

<sup>9</sup> Att. 133, pgs. 11-12

<sup>10</sup> Att. 133, pgs. 14-15

<sup>11</sup> Att. 133, pgs. 7, 12, 15

<sup>12</sup> Att. 133, pgs. 13, 30-31

The residence at [REDACTED] was a bungalow-style home with the front door on the south side of the house leading to the driveway.<sup>13</sup> There was a black Dodge Ram (Ram) backed into the driveway facing east, and a red Dodge Journey (Journey) parked nose-to-nose in front of the Ram, facing west.<sup>14</sup> There was extensive damage to the driver's side of the Journey, with the front driver's side door handle missing.<sup>15</sup> An inquiry into the license plate of the Journey revealed it was registered to a name that Officer Borjas recognized as [REDACTED] mother, which was another indication that [REDACTED] might be present at the address.<sup>16</sup>

Officer Strazzante viewed photographs of [REDACTED] during their surveillance.<sup>17</sup> At approximately 10:00 am, the team received information from the U.S. Marshalls that the Facebook account tied to [REDACTED] had just been accessed from [REDACTED].<sup>18</sup> Officer Borjas communicated a plan to the team via radio that, if they observed [REDACTED] he and Officer Strazzante would park their car just north of the Journey, and Officers Toliver and McGrone would park theirs just south of it, so that if [REDACTED] fled on foot, they would have him covered on both sides.<sup>19</sup>

At approximately 1:40 pm, Officer Strazzante observed a man, now known to be [REDACTED] ([REDACTED] walking from the direction of where the front door of [REDACTED] was located. [REDACTED] walked past the Ram and then approached the passenger's side of the Journey. When [REDACTED] was visible between the two vehicles, Officer Strazzante could see his full body and observed that "he looked to be approximately 5'11", approximately 160, kind of a thin build, ... early 20s, late teens, and had ... kind of protruding ears."<sup>20</sup> Officers Strazzante and Borjas conferred with each other and determined it was a "good match. It [wa]s worth a stop to confirm or deny that it [wa]s [REDACTED] although [they] believed it to be [REDACTED]"<sup>21</sup> They decided to break surveillance and approach to confirm the man's identity.

While Officer Borjas radioed the team members, [REDACTED] entered the passenger's side of the Journey and scooted over to the driver's seat.<sup>22</sup> As Officer Borjas started driving toward the Journey, Officer Strazzante saw [REDACTED] bend his neck and stare in their direction: Officer Strazzante "locked eye[s]" and "made direct eye contact" with [REDACTED] through their front windshield and driver's side door window of the Journey.<sup>23</sup> Officer Borjas drove to the north of the driveway of [REDACTED] as planned, and both officers exited the vehicle and approached the passenger's side of the Journey.<sup>24</sup> As they did so, Officer Strazzante yelled, "Police. Let me see your hands. Hands."<sup>25</sup>

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<sup>13</sup> Att. 133, pgs. 12-13

<sup>14</sup> Att. 133, pg. 13

<sup>15</sup> Att. 133, pgs. 13, 28

<sup>16</sup> Att. 133, pg. 38

<sup>17</sup> Att. 133, pg. 14

<sup>18</sup> Att. 133, pgs. 14-15, 38

<sup>19</sup> Att. 133, pg. 13

<sup>20</sup> Att. 133, pgs. 15-16, 27, 39

<sup>21</sup> Att. 133, pg. 16

<sup>22</sup> Att. 133, pg. 16

<sup>23</sup> Att. 133, pgs. 17, 39

<sup>24</sup> Att. 133, pgs. 40-41

<sup>25</sup> Att. 133, pg. 18

When Officer Strazzante arrived at the front passenger side view mirror, he observed ██████ sitting in the driver's seat with his body shifted towards the right facing the passenger's side window, pointing a "silver-ish" gun at Officer Strazzante.<sup>26</sup> When Officer Strazzante saw the gun in ██████ hand, Officer Strazzante, whose own gun was already out "down low," lifted his gun up and "ma[d]e the decision to shoot because I . . . was just expecting to see muzzle flash."<sup>27</sup> Almost simultaneously, Officer Borjas, who was immediately to Officer Strazzante's left, yelled, "gun."<sup>28</sup> Officer Strazzante believed he discharged his weapon three to five times through the front passenger's side window.<sup>29</sup> Officer Strazzante then ran to the front of the Journey to use the engine block for cover.<sup>30</sup> When Officer Strazzante reached the front passenger's side of the hood, he saw through the windshield that ██████ was tracking Officer Strazzante with the gun still in his right hand, pointing it directly at Officer Strazzante.<sup>31</sup> At that point, Officer Strazzante "wanted to break contact and get out of there without getting shot, so [he] shot one shot through the windshield."<sup>32</sup>

Officer Strazzante then ran for cover to his left, ultimately moving to a position on the east side of Chappel. Officer Strazzante did not know whether ██████ was hit so he started calling out radio transmissions reporting that the subject was still in the driver's seat with a firearm.<sup>33</sup> Another officer called for "Fire," while Officer Borjas told Officer Strazzante to check himself for gunshots and asked if he was alright.<sup>34</sup> A shield was requested, and when Officer Strazzante saw a TAC car approaching the scene from the wrong direction on the one way street, he "told them to stop" because he did not know if ██████ was still armed and capable of shooting.<sup>35</sup>

Once the shield arrived, Officer Strazzante and his team approached the Journey.<sup>36</sup> The back passenger door was opened first, followed by the front passenger door. Officer Strazzante observed a silver semi-automatic pistol on the floor between the front passenger's seat and door, which he said was the gun that he had just seen in ██████ hand.<sup>37</sup> The firearm was upside down, with the handle facing upwards and the slide down.<sup>38</sup> Officer Strazzante observed that the hammer was cocked back and that the gun had black grips.<sup>39</sup> ██████ right hand was extended over the front passenger's seat, in the direction toward where the firearm was located.<sup>40</sup> Other officers handcuffed ██████ and EMS was cleared to enter the scene.<sup>41</sup>

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<sup>26</sup> Att. 133, pg. 18

<sup>27</sup> Att. 133, pg. 19

<sup>28</sup> Att. 133, pg. 19

<sup>29</sup> Att. 133, pgs. 19, 40

<sup>30</sup> Att. 133, pgs. 19-20, 44-45

<sup>31</sup> Att. 133, pgs. 19-20, 40

<sup>32</sup> Att. 133, pg. 20

<sup>33</sup> Att. 133, pgs. 20, 27

<sup>34</sup> Att. 133, pgs. 21, 31

<sup>35</sup> Att. 133, pg. 21

<sup>36</sup> Att. 133, pg. 21

<sup>37</sup> Att. 133, pgs. 21-22

<sup>38</sup> Att. 133, pg. 22

<sup>39</sup> Att. 133, pg. 24

<sup>40</sup> Att. 133, pg. 22

<sup>41</sup> Att. 133, pg. 23

As a result of the incident, Officer Strazzante experienced ringing in his left ear, an elevated heart rate, and shaking.<sup>42</sup> Paramedics transported him via ambulance to Advocate Christ Medical Center, where he was treated and released several hours later. He took a breathalyzer which was 0, and gave urine, which he did not know the results of.<sup>43</sup> Officer Strazzante then relocated to Area South to complete his Tactical Response Report. While there, he learned the subject involved in the incident was not [REDACTED] but his brother, [REDACTED]

### Officer Phillip Strazzante (Second Interview)

Officer Strazzante's second interview with COPA on July 23, 2021,<sup>44</sup> was generally consistent with his first, and he objected that the delay in the investigation – the incident having occurred two years earlier – as prejudicial to him.<sup>45</sup> In this interview, Officer Strazzante recounted that during the surveillance, he knew [REDACTED] height, weight, race, sex, and age; had seen several color photographs of him, and noted that [REDACTED] had protruding ears.<sup>46</sup> He explained that he did not personally do any investigation into [REDACTED] because that is typically done by the officer assigned to the investigation, which was Officer Borjas.<sup>47</sup> He did not know [REDACTED] had a brother and had never seen a photo of [REDACTED] and [REDACTED] together.<sup>48</sup>

In this interview, Officer Strazzante recounted that the Dodge Ram in the driveway had a bunch of “FOP-looking stickers” on the window and he and Officer Borjas considered whether a Chicago police officer lived at the address.<sup>49</sup>

Officer Strazzante clarified that when he and Officer Borjas approached the Journey on foot, he was not able to see [REDACTED] or any movements [REDACTED] may have made because of the tints on the windows, but he believed that [REDACTED] could see them.<sup>50</sup> Both he and Officer Borjas gave commands such as, “Police. Hands. Let me see your hands,” as they approached the Journey.<sup>51</sup>

The next time Officer Strazzante was able to see [REDACTED] was when Officer Strazzante “was looking down the barrel of [REDACTED] gun.”<sup>52</sup> At that time, [REDACTED] position on the front seat of the Journey was not immediately behind the driver's wheel but was closer to the driver's side; he was upright at a 45 degree angle towards the passenger window; and he had the gun in his right hand with his right arm fully locked and extended over the passenger's seat pointing towards the passenger door.<sup>53</sup> Officer Strazzante heard Officer Borjas yell, “Gun,” but was not sure if he (Officer Strazzante) yelled it himself, or just thought, “Fuck, gun,” and expected “to see a muzzle flash and get shot.”<sup>54</sup>

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<sup>42</sup> Att. 133, pgs. 34-35

<sup>43</sup> Att. 133, pg. 24

<sup>44</sup> Atts. 132, 133

<sup>45</sup> Att. 113, pg. 6

<sup>46</sup> Att. 113, pgs. 48-49, 51-52, 56

<sup>47</sup> Att. 113, pgs. 55-57

<sup>48</sup> Att. 113, pgs. 54-55

<sup>49</sup> Att. 113, pgs. 41, 49-50, 55, 66-67

<sup>50</sup> Att. 113, pgs. 6, 8, 19, 60

<sup>51</sup> Att. 113, pg. 19

<sup>52</sup> Att. 113, pg. 6

<sup>53</sup> Att. 113, pgs. 9-15

<sup>54</sup> Att. 113, pg. 20

After Officer Strazzante fired his gun through the passenger door window, ██████ seemed to have no reaction.<sup>55</sup> However, after Officer Strazzante made his “split second” decision to move towards the front of the car to hide behind the engine block, he observed ██████ track Officer Strazzante with his gun while remaining in roughly the same position, at a 45 degree angle, as if facing towards the passenger side headlight.<sup>56</sup> Officer Strazzante took one more shot and did not see ██████ reaction or movements after that.<sup>57</sup>

In this interview, Officer Strazzante was asked how the firearm got “under the seat,” although in his first interview, Officer Strazzante had stated that the gun was between the passenger door and the passenger seat, not “under” a seat.<sup>58</sup> Even so, Officer Strazzante attempted to explain the location of the gun by stating that from his knowledge, with the adrenaline rush, sometimes people do not realize they are shot at first, and are able to keep going until they lose enough blood pressure.<sup>59</sup> Thus, Officer Strazzante admittedly speculated, since ██████ had already been leaning to the side, at the point when he must have lost blood pressure, his hand opened up and the gun fell to the side.<sup>60</sup>

Officer Strazzante further explained that he was the about third man back when they eventually approached the car behind the shield, and when the front passenger door was opened, he did not see the gun at first, but could hear a sound, like a heavy metal object dropping down and sliding on plastic, that he believed to be the firearm.<sup>61</sup> When he did first see the firearm, it was on its slide upside down, which was in a different position from how it eventually ended up.<sup>62</sup> He explained that with the car doors opening and officers climbing in the vehicle, there would have been movement that shifted the weight of the vehicle causing the gun to fall over and end up on its side.<sup>63</sup> Officer Strazzante further recounted that he told people not to “touch the gun,” and wondered if there was “another gun.”<sup>64</sup>

Officer Strazzante was asked if he initially thought the gun was black, after describing it as “silver-ish” in his first COPA interview.<sup>65</sup> Officer Strazzante explained that he may have “picked up on the darker features” of the gun, such as the grip, aiming block, and rear sight aperture.<sup>66</sup> He acknowledged that at the scene he said, “I thought I saw a fucking black gun, too.”<sup>67</sup> Officer Strazzante further explained that it was obviously “a stressful event,” and he believed that there were “shadowing differences” between the outside of the vehicle and the inside of the vehicle, but that he was “still a human being at the end of the day and that’s how our brains work. Perhaps that was my initial impression of it... being darker in color, maybe black or blue steel.”<sup>68</sup> He noted that his subsequent description of the gun as silver may have been due to having seen the

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<sup>55</sup> Att. 113, pg. 16

<sup>56</sup> Att. 113, pgs. 20-21

<sup>57</sup> Att. 113, pgs. 17, 21, 24

<sup>58</sup> Att. 113, pg. 21; Att. 133, pg. 22

<sup>59</sup> Att. 113, pgs. 21-22

<sup>60</sup> Att. 113, pg. 22

<sup>61</sup> Att. 113, pgs. 22, 29

<sup>62</sup> Att. 113, pgs. 22-27

<sup>63</sup> Att. 113, pgs. 22-23, 27, 29, 64

<sup>64</sup> Att. 113, pg. 23

<sup>65</sup> Att. 113, pg. 30

<sup>66</sup> Att. 113, pg. 30

<sup>67</sup> Att. 113, pg. 30; see Att. 70

<sup>68</sup> Att. 113, pg. 32

gun at the scene after the door was opened, and observed that it was two-toned with black features and silver.<sup>69</sup> He further explained that he had had past experiences where arrestees have had more than one gun one, so he was concerned about that possibility in this case as well.<sup>70</sup>

Officer Strazzante stated that his attorney had informed him that ██████ was found to have had gunshot residue on his hands, which led to him to believe that ██████ did discharge his weapon. Officer Strazzante considered that the immediate ringing and pain he experienced in one ear was consistent with “a round crack[ing] by his head.”<sup>71</sup>

Officer Strazzante stated that he believed that they had reasonable, articulable suspicion to detain ██████ and that ██████ was detained at the point that he and Officer Borjas began yelling commands and identifying themselves with their guns drawn, although neither his vehicle, nor Officer Toliver’s vehicle was blocking the Journey from moving.<sup>72</sup>

Officer Strazzante described that the only de-escalation technique he used was the verbal commands of yelling police and ordering ██████ to show his hands. He said he did not have time to issue a warning before shooting.<sup>73</sup> He had no other option but to fire his weapon.<sup>74</sup> After the shooting, the officers gave commands to “drop the gun,” and “let me see your hands.”<sup>75</sup>

Officer Strazzante explained that they did not use a zone of safety (time, distancing, and shielding) because they hoped to use the element of surprise against ██████. He explained that the location where they and Officers McGrone and Toliver parked their vehicles could serve as a zone of safety because they could use it for cover and to establish a cordon.<sup>76</sup> He said their plan prior to approaching was to approach the car door and ask ██████ to roll down the window or open the door.<sup>77</sup> Typically, when offenders’ hands are up, the officers open the door and detain them while verifying their identity.<sup>78</sup> Normally, they would then transport the fugitive to the Area and notify the detectives.<sup>79</sup>

Officer Strazzante related that he had training and experience on how to approach a subject in a parked car from the police academy, the U.S. Marshals, and the military.<sup>80</sup> In that training, he was taught that if it was known that a person had a weapon, they would approach with the U.S. Marshalls and a shield, or utilize SWAT which has “a lot of armor and tools.”<sup>81</sup> Otherwise, a shield, which weighs 30 pounds, can be cumbersome in terms of reaction times if a subject runs (which is more typical), and can impede the ability to extract oneself from the shield if necessary.

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<sup>69</sup> Att. 113, pgs. 33-34

<sup>70</sup> Att. 113, pg. 34

<sup>71</sup> Att. 113, pgs. 35-37

<sup>72</sup> Att. 113, pgs. 40, 59-63, 71; Att. 75 at 18:52:46

<sup>73</sup> Att. 113, pg. 35

<sup>74</sup> Att. 113, pg. 39

<sup>75</sup> Att. 113, pg. 38

<sup>76</sup> Att. 113, pgs. 40-41

<sup>77</sup> Att. 113, pgs. 40-42

<sup>78</sup> Att. 113, pg. 42

<sup>79</sup> Att. 113, pg. 42

<sup>80</sup> Att. 113, pg. 44

<sup>81</sup> Att. 113, pgs. 44-45

A shield can also defeat the element of surprise.<sup>82</sup> Here, Officer Strazzante believed someone did call for SWAT while he and Officer Borjas were checking themselves for gunshot wounds.<sup>83</sup>

Ultimately, Officer Strazzante believed that deadly force was a necessary last resort and proportional:

“I -- I don’t want to shoot anybody, especially in the United States. Like, this is – it’s not right, it’s not normal, it doesn’t feel good, and it’s illegal, and I just don’t want that, but when you’re looking down the barrel of a gun, it’s -- I don’t know. ... If not, I would have been dead and [Officer Borjas] probably would have been.”<sup>84</sup>

Officer Strazzante denied that he discharged his firearm or seized [REDACTED] without justification, adding that:

“I don’t take this lightly. This is not anything that anybody wants to be involved in. I don’t think any logical person on this job, but, I mean, years of military, two combats, one to Afghanistan, one to Bosnia, and been shot at, I know that if I didn’t do what I did in response to that gun, like, I would have been shot and possibly killed, and the same thing with [Officer Borjas]. And it’s unfortunate and I don’t ever want that to happen, but I felt like there was no other option.”<sup>85</sup>

### **Officer Rogelio Borjas Jr.**

Officer Borjas was interviewed by COPA on June 3, 2019.<sup>86</sup> His statement was materially consistent with Officer Strazzante’s statements. Officer Borjas stated that he was assigned to Unit 606, the Fugitive Apprehension Team, which works hand-in-hand with detectives who have probable cause to issue investigative alerts for subjects.<sup>87</sup> Members of the team then do full work-ups of the subjects including: reviewing contact card history, conducting LEADS checks, contacting the State Terrorism Center, and attempting to identify social media accounts and previous employment.<sup>88</sup>

Officer Borjas had been searching for [REDACTED] for about a week.<sup>89</sup> He had identified [REDACTED] Facebook page, and drafted an order to monitor his Facebook account.<sup>90</sup> The U.S. Marshals provided tactical support and identified that [REDACTED] Facebook account had pinged at [REDACTED].<sup>91</sup> Officer Borjas believed that [REDACTED] was aware he was wanted and “on the run” because his co-offender had just been arrested.<sup>92</sup>

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<sup>82</sup> Att. 113, pgs. 44-46

<sup>83</sup> Att. 113, pg. 46

<sup>84</sup> Att. 113, 48

<sup>85</sup> Att. 113, pgs. 70-71

<sup>86</sup> Atts. 4, 94, 109

<sup>87</sup> Att. 109, pg. 35

<sup>88</sup> Att. 109, pg. 35

<sup>89</sup> Att. 109, pgs. 34-35

<sup>90</sup> Att. 109, pg. 13

<sup>91</sup> Att. 109, pgs. 13, 36

<sup>92</sup> Att. 109, pg. 37

At about 7:00 a.m. on May 28, 2019, Officer Borjas and Officer Strazzante, who were not regular partners, set up surveillance of ██████████ from about 3 - 4 house down the street.<sup>93</sup> The officers had a description of ██████████ – 5’11”, 165-175 lbs., short hair, protruding ears, 20 years of age – and a color photograph of him.<sup>94</sup> They ran the Journey’s license plate number and learned that it belonged to Charnita Anderson, the mother of ██████████<sup>95</sup> Officer Borjas relayed that information to the other Team members (Officers McGrone and Toliver, and Sgt. Forberg).<sup>96</sup>

Officer Borjas recounted that at about 1:15 p.m., he learned that ██████████ had logged into his Facebook account from the target address.<sup>97</sup> Officer Borjas explained that based on that, and the mother’s vehicle parked in the driveway, Officer Borjas considered that there was a strong possibility that ██████████ would come out from that address.<sup>98</sup>

When the person now known to be ██████████ emerged from the residence, Officers Borjas and Strazzante considered his height, weight, protruding ears, and the photograph of ██████████ in the vehicle with them, and determined that the black male who exited the residence was ██████████<sup>99</sup> They relayed that information to the rest of the team and made their approach.<sup>100</sup>

As they drove up, ██████████ entered the Journey through the passenger door (there was damage on the driver’s side door making it inoperable), shimmied his way to the driver’s seat, and then made eye contact with the officers.<sup>101</sup> During their approach of the Journey on foot in a crouched position with weapons drawn, the officers yelled, “Chicago Police. Hands.”<sup>102</sup> Upon arrival at the passenger side of the Journey, Officer Borjas, now upright, went to open the front passenger side door to go “hands-on” when he “saw the barrel of the gun facings towards [he and Officer Strazzante],” “heard gunshots,” and “heard glass shatter right in front of [his] face.”<sup>103</sup> Officer Borjas instantly “pulled back” to get out of the line of fire, and saw Officer Strazzante to his right by the side-view mirror firing a round.<sup>104</sup> Officer Borjas looked back at ██████████ and saw that his gun was “still pointed at [Officer Strazzante] and I.”<sup>105</sup> Officer Borjas ran to take cover towards the rear of the Journey, and when he turned around, Officer Strazzante was running back towards him.<sup>106</sup>

Officer Borjas further explained that ██████████ body was facing them, positioned to the right towards the passenger side, with his right arm extended sideways.<sup>107</sup> Officer Borjas did not have a

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<sup>93</sup> Att. 109, pgs. 6-7, 10, 13-14, 42, 46

<sup>94</sup> Att. 109, pgs. 11-12

<sup>95</sup> Att. 109, pgs. 14-15

<sup>96</sup> Att. 109, pgs. 15, 44

<sup>97</sup> Att. 109, pg. 13

<sup>98</sup> Att. 109, pg. 14

<sup>99</sup> Att. 109, pg. 16

<sup>100</sup> Att. 109, pg. 17

<sup>101</sup> Att. 109, pgs. 17-19, 23

<sup>102</sup> Att. 109, pgs. 20, 22, 25-26, 46

<sup>103</sup> Att. 109, pgs. 20, 25-26, 28, 30-31, 40, 46-47

<sup>104</sup> Att. 109, pgs. 20-21, 28-29

<sup>105</sup> Att. 109, pg. 21

<sup>106</sup> Att. 109, pgs. 21, 33, 48

<sup>107</sup> Att. 109, pgs. 23-24, 27-28, 40, 47

chance to open the passenger car door and go “hands-on” as he had planned because he saw “the barrel of the gun what looked like right in my face.”<sup>108</sup> He described the gun as silver with a “big barrel” and a “really big hole.”<sup>109</sup>

Officer Borjas recounted that when he saw the gun, he yelled something to the effect of “Fuck, he’s got a gun,” while Officer Strazzante yelled the same, “Gun, gun.”<sup>110</sup> Officer Borjas remembered Officer Strazzante fired 1-2 times, a “succession of gunshots,” almost simultaneously as Officer Borjas seeing the gun.<sup>111</sup>

Officer Borjas related that after they took cover, they went on the radio to see if everyone was okay, called a “10-1,” asked for help, requested a shield to get control of the situation, and checked their bodies for gunshot wounds.<sup>112</sup> When the shield arrived a few minutes later, Officer Toliver took the lead, and together with Officers Borjas, McGrone, Strazzante, and Sgt. Forberg, they approached the passenger side of the Journey, repeating, “Chicago Police. Hands. Shows me your hands.”<sup>113</sup> When the passenger side door was opened, Officer Borjas observed the firearm between the door and the seat.<sup>114</sup> [REDACTED] was in the driver’s seat not moving; EMS had been called.<sup>115</sup>

Officer Borjas related that “to this day,” he did not know if [REDACTED] fired his weapon.<sup>116</sup> Immediately after the shooting, Officer Borjas went to the hospital for treatment of stress-related elevated blood-pressure.<sup>117</sup> He learned later at the Area that the subject that had been involved in the incident was [REDACTED] not [REDACTED].<sup>118</sup> In researching [REDACTED] [REDACTED] Officer Borjas did not learn that he had a brother.<sup>119</sup>

### **Officer Marcus McGrone**

On June 3, 2019, COPA interviewed Officer Marcus McGrone who gave a statement generally consistent with that of the other officers.<sup>120</sup> On the date and time of the incident, Officer McGrone, who was assigned to Unit 606, the Fugitive Apprehension Team, was on duty, in civilian dress, working with his partner, Jason Toliver in a covert Ford Explorer.<sup>121</sup> Officers McGrone and Toliver were assisting their team in a surveillance for a homicide investigation.<sup>122</sup> They were

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<sup>108</sup> Att. 109, pgs. 24-26, 40

<sup>109</sup> Att. 109, pg. 27

<sup>110</sup> Att. 109, pg. 29

<sup>111</sup> Att. 109, pgs. 28-30, 34, 39, 48

<sup>112</sup> Att. 109, pg. 32

<sup>113</sup> Att. 109, pgs. 32-33

<sup>114</sup> Att. 109, pgs. 33-34

<sup>115</sup> Att. 109, pg. 34

<sup>116</sup> Att. 109, pg. 49

<sup>117</sup> Att. 109, pg. 49

<sup>118</sup> Att. 109, pg. 51

<sup>119</sup> Att. 109, pg. 51

<sup>120</sup> Atts. 96, 111

<sup>121</sup> Att. 111, pgs. 4, 6-8

<sup>122</sup> Att. 111, pgs. 9-11

parked on the east side of Chappel, a few cars behind Officers Borjas and Strazzante when they were given word that the subject was coming out and to “move in.”<sup>123</sup>

Officer Toliver drove their car towards the back of the driver’s side of the target vehicle on a diagonal, and as Officer McGrone exited the vehicle, he heard, “Hands. Gun. Gun,” and “Police, police,” and “He’s got a gun,” being yelled.<sup>124</sup> He heard a gunshot and then retreated and ran for cover behind a parked car.<sup>125</sup>

Officer McGrone recalled that Officers Borjas and Strazzante were on the passenger side of the target vehicle, but could not say exactly where, and he did not know where they were after he took cover.<sup>126</sup> At that point, officers were asking each other if they were okay and going on the radio.<sup>127</sup>

When the shield arrived, his teammates lined up in a stacked formation behind it, approached the vehicle, and secured the subject.<sup>128</sup> Officer McGrone never saw the subject or the weapon.<sup>129</sup>

### **Officer Jason Tolliver**

In a statement to COPA on June 3, 2019, Officer Toliver provided essentially the same account as his partner Officer McGrone.<sup>130</sup> At the date and time of the incident, Officer Toliver was assisting his teammates in a homicide investigation.<sup>131</sup> He was on surveillance, parked a few cars behind Officers Borjas and Strazzante on Chappel, when he saw someone leaving the target residence and approach the Journey in the driveway.<sup>132</sup> Officer Borjas radio’d that the he believed it was the target and was going to approach.<sup>133</sup>

As Officer Tolliver drove up, he observed the subject enter the passenger side of the Journey and cross over the seat.<sup>134</sup> Officer Borjas passed the Journey a little bit and parked, while Officer Toliver pulled up to the rear driver’s side of the vehicle.<sup>135</sup> As he was exiting the driver’s door of his vehicle, Officer Toliver heard “police. Let me see your hands,” then heard shots and retreated to the back of his car.<sup>136</sup> He did not know where Officers Borjas and Strazzante were at

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<sup>123</sup> Att. 111, pgs. 9, 12

<sup>124</sup> Att. 111, pgs. 8-10, 13-14

<sup>125</sup> Att. 111, pgs. 10, 13-16

<sup>126</sup> Att. 111, pgs. 15, 17

<sup>127</sup> Att. 111, pgs. 17-18

<sup>128</sup> Att. 111, pgs. 19-20

<sup>129</sup> Att. 111, pgs. 20, 23

<sup>130</sup> Atts. 95, 115

<sup>131</sup> Att. 115, pgs. 8-9

<sup>132</sup> Att. 115, pgs. 8-13

<sup>133</sup> Att. 115, pgs. 8-14

<sup>134</sup> Att. 115, pgs. 14-15

<sup>135</sup> Att. 115, pg. 16

<sup>136</sup> Att. 115, pgs. 17, 19, 23-24

that time, but at some point, they all made it over to the east side of the street where he got on the radio and requested a shield and medical attention.<sup>137</sup>

When the shield arrived, he took it and approached the Journey with Sgt. Forberg, and Officers McGrone, Strazzante, and Borjas stacked behind him.<sup>138</sup> Sgt. Forberg opened the rear passenger side door and Officer Toliver saw ██████ leaning backwards in his seat on the driver's side.<sup>139</sup> When the front passenger door was opened, Officer Toliver saw a chrome handgun on the passenger floor right by the door.<sup>140</sup> The sergeant asked someone with a camera to document the gun, and then climbed inside the Journey and checked ██████ for vital signs.<sup>141</sup> EMS was called in from their staging location now that the scene was deemed safe.<sup>142</sup>

### **Sergeant Brian Forberg**

In an interview with COPA on June 4, 2019, Sergeant Brian Forberg stated that on the date of the incident, he was on duty in civilian dress.<sup>143</sup> Sgt. Forberg explained that his unit, the Fugitive Apprehension Unit is exempt from the body-worn camera provision.<sup>144</sup>

Having learned from the U.S. Marshall that their wanted target, ██████ had logged into Facebook at ██████ he directed his team to set up surveillance there.<sup>145</sup> A vehicle at the residence was also connected to ██████<sup>146</sup> Sgt. Forberg was parked in his Ford Explorer on 82<sup>nd</sup> Street, just west of Chappel.<sup>147</sup> He communicated with his team through radio and cell phone.<sup>148</sup>

Officer Borjas relayed that the subject walked out of the residence and that he was going to approach.<sup>149</sup> Sgt. Forberg then began his approach and, as he did, he heard 2-3 shots.<sup>150</sup> He "swung to the left and parked," and saw Officer Strazzante circling away from the front end of the target vehicle, while Officers McGrone and Toliver were retreating from it.<sup>151</sup> Sgt. Forberg took a position behind Officers Toliver's vehicle and yelled to Officers Strazzante and Borjas, asking if they were okay while they were continuing to give verbal instruction "to not get into the car."<sup>152</sup> Sgt. Forberg asked Officers Toliver and McGrone, who were behind him, if they were okay.<sup>153</sup> At

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<sup>137</sup> Att. 115, pgs. 19, 23, 25

<sup>138</sup> Att. 115, pgs. 25-27

<sup>139</sup> Att. 115, pgs. 27-28, 32-33

<sup>140</sup> Att. 115, pgs. 29, 31, 32

<sup>141</sup> Att. 115, pgs. 28, 31

<sup>142</sup> Att. 115, pg. 29-31

<sup>143</sup> Att. 110; Att. 114, pgs. 5-6

<sup>144</sup> Att. 114, pg. 7

<sup>145</sup> Att. 114, pg. 8-9

<sup>146</sup> Att. 114, pg. 8

<sup>147</sup> Att. 114, pg. 9

<sup>148</sup> Att. 114, pg. 9

<sup>149</sup> Att. 114, pgs. 10, 16, 21

<sup>150</sup> Att. 114, pgs. 10, 13, 22

<sup>151</sup> Att. 114, pg. 11

<sup>152</sup> Att. 114, pg. 11

<sup>153</sup> Att. 114, pg. 11

some point, Sgt. Forberg saw the person he now knows at [REDACTED] “moving up” and “elevating” in the front driver’s seat, and asked him to show his hands.<sup>154</sup>

When the shield arrived, Sgt. Forberg and Officer Toliver approached the Journey.<sup>155</sup> Sgt. Forberg opened the passenger door and saw a chrome color gun on the floorboard between the door and the seat.<sup>156</sup> He instructed the officers not to touch the gun and asked for someone to take a picture of it.<sup>157</sup> He then began to check [REDACTED] condition.<sup>158</sup> He asked about the ambulance; he had heard that it was told to stay back because “the scene [was] still hot.”<sup>159</sup> Shortly thereafter, a paramedic arrived and Sgt. Forberg popped the driver’s door open from the inside to allow them in because there was no door handle on the outside.<sup>160</sup>

### **B. Interviews – Civilians (pursuant to Canvass Conducted by COPA on May 30, 2019<sup>161</sup>)**

[REDACTED] of [REDACTED]

[REDACTED] agreed to speak with COPA but declined to be recorded.<sup>162</sup> [REDACTED] stated that he is the great uncle of [REDACTED] and is employed by Chicago Police Department (CPD) as a Detention Aide.<sup>163</sup>

[REDACTED] stated [REDACTED] had helped him since he returned home from the hospital following knee surgery. On the afternoon of May 28, 2019, [REDACTED] had just completed physical therapy and had taken his pain medicine. He was sitting in a chair in the first-floor bedroom, icing his knee when he drifted off to sleep. [REDACTED] woke [REDACTED] to tell [REDACTED] that he was leaving to pick up his mother from work. ([REDACTED] frequently drove his mother and other relatives around in the red SUV his mother purchased for him.)<sup>164</sup>

Approximately 1½ -2 minutes later, [REDACTED] heard 4 - 5 gunshots in rapid succession. [REDACTED] went to the front window and saw a white officer wearing a baseball cap crouched behind a blue SUV. A second white officer was crouched behind the first officer. Both officers were pointing their guns at [REDACTED] SUV in the driveway. [REDACTED] looked toward the SUV and saw [REDACTED] in the driver’s seat: his chest extended, and then appear to deflate, as though he had taken one huge inhale and then exhaled.<sup>165</sup>

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<sup>154</sup> Att. 114, pgs. 11, 13

<sup>155</sup> Att. 114, pg. 12

<sup>156</sup> Att. 114, pg. 12

<sup>157</sup> Att. 114, pg. 15

<sup>158</sup> Att. 114, pgs. 12, 14-15

<sup>159</sup> Att. 114, pg. 15

<sup>160</sup> Att. 114, pg. 15

<sup>161</sup> Att. 103; Additional individuals not discussed in this section either were not home at the time of the incident, heard gunshots but did witness the incident, and/or did not provide their names.

<sup>162</sup> Att. 86

<sup>163</sup> Att. 86

<sup>164</sup> Att. 86

<sup>165</sup> Att. 86

At the time of the shooting, [REDACTED] was in the house with Mr. [REDACTED]. Mr. [REDACTED] and [REDACTED] were both at the front window yelling at the officers to stop shooting. Mr. [REDACTED] stated that [REDACTED] wanted to run outside to help [REDACTED] but Mr. [REDACTED] stopped him, warning him that he might also get shot.<sup>166</sup>

[REDACTED] of [REDACTED]

[REDACTED] stated he was at home at the time of the shooting but did not hear anything. His friend posted about it on Facebook, so he went outside and observed police vehicles and an ambulance. [REDACTED] relayed that many videos of the aftermath of the incident had been posted on Facebook, and he provided the name of his Facebook page and offered to send COPA anything it was unable to view.<sup>167</sup> A review of [REDACTED] Facebook page did not reveal any relevant information that would assist with the investigation.

[REDACTED] of [REDACTED]

[REDACTED] of [REDACTED] stated that she was sitting at a table by the front window when she heard approximately five gunshots in rapid succession. She looked outside and saw one black guy in a plaid shirt and two white guys with vests. She went to her bedroom and waited. When she returned, she saw approximately 50 police officers on the street.<sup>168</sup>

[REDACTED] of [REDACTED]

[REDACTED] was in her bedroom at the time of the incident and heard 4-6 shots that she thought were firecrackers.<sup>169</sup>

### C. Digital Evidence- Video Recordings

#### Third-Party Video

Video from a camera located at 8142 S. Chappel depicts a dark Ford Explorer, which appears to be that of Officers McGrone and Toliver, parked on the east side of the street in front of 8147 S. Chappel.<sup>170</sup> At about 1:45 p.m., the Explorer pulls forward, pauses for a second then drives north on Chappel.<sup>171</sup> About ten seconds later, another Ford Explorer, which appears to be that of Sgt. Forberg, arrives and parks on the west side of the street, in front of 8142 S. Chappel.<sup>172</sup> At about 1:49 p.m., three officers (apparently Brienzo, Pizzo, and Damato) are seen running north on Chappel.<sup>173</sup>

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<sup>166</sup> Att. 86

<sup>167</sup> Att. 103, pg. 2

<sup>168</sup> Att. 103, pg. 5

<sup>169</sup> Att. 103, pg. 6

<sup>170</sup> Att. 65 at 0:00-0:36. The camera is located on the southside of the building, facing towards Chappel. The timestamp on the video runs 7 minutes 10 seconds ahead of the timestamps of the responding officers' BWC.

<sup>171</sup> Att. 65 at 0:38-0:44.

<sup>172</sup> Att. 65 at 0:55-1:00. In between Officer Toliver's and Sgt. Forberg's vehicles driving through, a dark SUV drove north on Chappel, paused, and then reversed back to the south, at 0:37:0:45, 1:05-1:16; and a sedan drove north on Chappel, then reversed back to the south, at 3:33-3:55.

<sup>173</sup> Att. 65 at 4:25-4:45.

**Summary of BWC Video of Responding Officers**<sup>174</sup>

Officers Brienzo, Pizzo, and Damato were the first officers to respond at 1:48:41. They parked at approximately the intersection of 82<sup>nd</sup> and Chappel and approached on foot. As they approached, Sgt. Forberg was taking cover behind the rear of Officer Toliver's Explorer. Officers Strazzante, Borjas, and Toliver were behind cars on the east side of Chappel, directly across from [REDACTED]. Officer McGrone was taking cover behind a blue car on the west side of the street, just south of [REDACTED] before moving forward to the Explorer with Sgt. Forberg. Officers yelled, as well as called over the radio, that they needed a shield. At approximately 1:50:26, additional officers began arriving from the north.

Officer Toliver's Explorer was just behind the Journey, with both doors open and strobe lights flashing. Officers Borjas's vehicle was parked in the street, just north of [REDACTED] with both front doors open.

At 1:51:58, a shield arrived, and Officer Toliver grabbed it and approached the passenger side of the Journey followed in a stack by Sgt. Forberg, Officers McGrone, Borjas, and Strazzante, all crouching.<sup>175</sup> The stack behind the shield was out of view of all cameras until 1:52:42, when both passenger side doors are then seen to have been opened. Sgt. Forberg was entering the rear passenger door of the Journey, while Officers Strazzante and Borjas pointed their firearms at [REDACTED] through the front passenger side door.<sup>176</sup>

At 1:53:26, the officers looked for someone with BWC to take a picture of the firearm on the floor between the front passenger seat and door.<sup>177</sup> Officer Strazzante said, "it's right here, I kinda wanna leave the gun there though."<sup>178</sup> A moment later, Officer Strazzante said "he might have another gun on him as well. Be careful."<sup>179</sup> Officer Brienzi's BWC documented the gun's position, and [REDACTED] could be seen as well, slumped back in the driver's seat with his right arm extended out over the center console.<sup>180</sup>

At 1:54:17, an officer opened the rear driver side door.<sup>181</sup> Officer Strazzante, who had been near the front passenger's door, began moving to the driver's side. As the officer climbed in, another officer asked where the gun was, and Officer Strazzante responded "there's one on the floorboard to the right," then peered into the driver's window, before saying "dude, I thought I saw a fucking black gun too, so."<sup>182</sup> [REDACTED] was handcuffed and placed in custody.<sup>183</sup> At 1:55:10, a female officer climbed through the back driver's side door as Sgt. Forberg climbed from the passenger side. Sgt. Forberg opened the driver's door from the inside, while Officer Pizzo opened

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<sup>174</sup> Atts. 68-71, 73-76

<sup>175</sup> Atts. 70, 73

<sup>176</sup> Att. 73

<sup>177</sup> Att. 73

<sup>178</sup> Att. 71 at 3:07; Att. 73 at 5:16

<sup>179</sup> Att. 71 at 3:22

<sup>180</sup> Att. 73, the gun can also be seen at 9:05.

<sup>181</sup> Att. 70 at 5:56

<sup>182</sup> Att. 70 at 5:49; Att. 68 at 5:56

<sup>183</sup> Att. 70 at 6:22; Att. 68 at 6:18

it from the outside.<sup>184</sup> Officers checked ██████ but Sgt. Forberg said that they should wait for EMS to do the extraction.<sup>185</sup> At 1:57:10, EMS arrived and began treating ██████. Approximately ten seconds later, someone yelled to disengage, and officers cut off their BWC.

#### D. Digital Evidence – Audio Recordings

##### Office of Emergency Management and Communications (OEMC) Event Queries<sup>186</sup> and 911 Calls<sup>187</sup>

- At 1:46:05, a female caller from ██████ reported “a lot of shooting,” then noted the police were there.<sup>188</sup>
- At 1:46:11, a male caller reported police at 81<sup>st</sup> and Chappel, and indicated shots have been fired. He saw an off-duty officer jump out of his car and run with his gun. He did not know if anyone had been shot.<sup>189</sup>
- At 1:46:24, “Ms. ██████” of ██████ called and reported a shooting going on right in front of her house. She heard 4 - 5 shots, saw a black jeep in front, and was currently watching as a black male with blue jeans and a black vest with a gun holster was leaning over a car aiming a gun.<sup>190</sup>
- At 1:48:25, a male caller requested an ambulance at ██████<sup>191</sup>
- At 1:48:34 p.m., a male caller reported a police shooting at ██████ in front of his house. He can be heard asking, “Please don’t shoot him no more, man.”<sup>192</sup>
- At 1:48:47 p.m., 911 called back a male caller who indicated there was police out there, shooting was going on, and he was not going to outside.<sup>193</sup>
- At 1:55:41, a male caller reported that his dad called him to let him know that his cousin was just shot at 81<sup>st</sup> and Chappel. He requested an ambulance at ██████ and was informed they were already on scene.<sup>194</sup> At 2:24:55, a male caller indicated that his cousin had been shot by the police at ██████ and that the ambulance had pulled off without letting the family know what hospital to go to. He was informed it was the University of Chicago.<sup>195</sup>

##### Zone Radio Transmissions<sup>196</sup>

Just before 1:46 p.m., a male officer called in a 10-1 at ██████ indicating, “shots fired by police.” The officer stated the offender still had a gun in his hand inside the vehicle, and

<sup>184</sup> Att. 70 at 7:07; Att. 68 at 6:49

<sup>185</sup> Att. 70 at 7:40-8:04. Moments beforehand someone had told Sgt. Forberg that EMS was on scene and bringing a stretcher. At 1:56:07, the ambulance could be seen driving up Chappel Ave. from the north. Att. 73 at 7:47.

<sup>186</sup> Att. 58

<sup>187</sup> Atts. 42-50

<sup>188</sup> Att. 43

<sup>189</sup> Att. 44

<sup>190</sup> Att. 47

<sup>191</sup> Att. 42

<sup>192</sup> Att. 48

<sup>193</sup> Att. 46

<sup>194</sup> Att. 49

<sup>195</sup> Att. 50

<sup>196</sup> Atts. 51-57

shields were requested.<sup>197</sup> A TAC car was told to stay back.<sup>198</sup> SWAT was ordered.<sup>199</sup> Officers were told to stay away from the vehicle if the male was armed.<sup>200</sup> Police cars were told to block off the streets in the area.<sup>201</sup> EMT was responding.<sup>202</sup> All officers were reported to be uninjured.<sup>203</sup> The shield arrived on scene.<sup>204</sup> EMS was on scene staging at 80<sup>th</sup> and Jeffrey; they could not go closer, the scene was still active.<sup>205</sup> At about 1:54 p.m., it was announced the male inside the vehicle was in custody.<sup>206</sup> A weapon was reported to have been found inside the vehicle and the Crime Lab was requested.<sup>207</sup>

The dispatcher on Zone 6 related that officers calling in “shots fired” at [REDACTED] were on the wrong zone and that Zone 8 was aware of the 10-1 there: someone was still holding a gun in their hand, schools were locked down, and there was a homicide offender inside a vehicle.<sup>208</sup>

### ShotSpotter

Audio recordings and a forensic report reflect that at 1:45:17 pm, two gunshots were fired in rapid succession at 8139 S. Chappel; and at 1:45:18, one gunshot was located near 8139 S. Chappel.<sup>209</sup>

### **E. Physical Evidence**

#### Photographic Evidence

CPD Evidence Technicians (ETs) photographed, *inter alia*: the scene of the shooting from various angles; the covert vehicles driven by the officers; the exterior and interior of the red Dodge Journey; the firearm found inside the Journey (to be discussed in detail below); and [REDACTED] at the hospital.<sup>210</sup>

#### Firearms Evidence

- 1) **A COLT Defender series 90 .45 automatic 4-inch barrel stainless steel handgun with a defaced serial number** was recovered by ETs from inside the Journey (as depicted below) with the magazine in the firearm containing 10 live .45

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<sup>197</sup> Att. 54 at 5:39-7:50 (the recording appears to begin at 1:40 pm)

<sup>198</sup> Att. 54 at 7:50

<sup>199</sup> Att. 54 at 8:07-8:52

<sup>200</sup> Att. 54 at 8:32

<sup>201</sup> Att. 54 at 9:15

<sup>202</sup> Att. 54 at 9:50

<sup>203</sup> Att. 54 at 10:10

<sup>204</sup> Att. 54 at 11:05

<sup>205</sup> Att. 54 at 13-50- 14:30

<sup>206</sup> Att. 54 at 14:39

<sup>207</sup> Att. 54 at 15:30

<sup>208</sup> Att. 52

<sup>209</sup> Att. 9-18

<sup>210</sup> Att. 7, pgs. 2-4; Att. 19; Att. 119

caliber cartridges<sup>211</sup>; the chamber loaded with one live .45 caliber round with an intact primer<sup>212</sup>; and the hammer cocked back with the safety off.<sup>213</sup>



Figure 1. Picture of where the gun was located inside the Dodge Journey.<sup>214</sup>

- 2) **Two 9mm Luger +P fired cartridge casings** were recovered by the ETs; one from the driveway outside the front passenger seat, the other from the sidewalk in front of [REDACTED]<sup>215</sup>
- 3) **Two bullet holes in the Dodge Journey**; one through the windshield just above the passenger side windshield wiper, and one through the driver's side door just above where the door handle would be.<sup>216</sup>
- 4) **Officer Strazzante's Glock 17 Winchester 9mm semiautomatic pistol** was processed by ETs and found to have thirteen live rounds in the magazine and one live round in the chamber. The capacity of the magazine is 17 +1.<sup>217</sup>

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<sup>211</sup> Att. 41, pg. 1

<sup>212</sup> Att. 7, pg. 2

<sup>213</sup> Att. 104; Att. 20, pg. 16

<sup>214</sup> Att. 19

<sup>215</sup> Att. 7, pg. 2; Att. 6, pg. 2; Att. 19

<sup>216</sup> Att. 19

<sup>217</sup> Atts. 79, 104

- 5) **Three fired bullets** were recovered from the body of ██████████ during the autopsy: one from the left chest, one from the abdomen, and an oxidized bullet from the left thigh from a remote gunshot wound.<sup>218</sup>

The Illinois State Police Forensic Science Center (ISPFSC) conducted testing on Officer Strazzante's weapon and determined that it fired both fired cartridge cases recovered from the scene.<sup>219</sup> Testing of the three fired bullets recovered from ██████████ body revealed that a .22 caliber bullet was not fired by the Colt .45 found the Journey or Officer Strazzante's weapon; the two 9mm bullets were not fired from the Colt .45; but it could not be determined whether the two 9mm bullets were fired from Officer Strazzante's firearm.<sup>220</sup>

### **Gun Shot Residue Evidence**

A Gun Shot Residue Collection Kit was administered on ██████████ at the hospital.<sup>221</sup> ISPFSC conducting testing that revealed that ██████████ hands tested positive for gunshot residue.<sup>222</sup>

### **Fingerprint Evidence**

ISPFSC identified ██████████ fingerprint on the side of the magazine recovered from the Colt .45 handgun found in the Journey.<sup>223</sup>

### **DNA Evidence**

ISPFSC identified ██████████ DNA on the Colt. 45 handgun.<sup>224</sup>

### **Medical Evidence**

Once **EMS** paramedics were allowed to enter the scene, they were escorted by the police to the Journey where ██████████ showed no signs of life: he had a gunshot wound to the chest, no pulse, no eye movement, was unresponsive, and was not breathing. He was placed on a stretcher and brought to the ambulance where CPR was initiated. Upon further assessment, it was determined that he had two gunshot wounds to the chest. He was placed on a ventilator and transported to the University of Chicago Hospital.<sup>225</sup>

Upon arrival at the **University of Chicago Hospital** at 2:30 p.m. on May 28, 2019, ██████████ was found to have multiple gunshot wounds to the chest. He was unresponsive, had no palpable central pulse, and no cardiac activity. EMS reported downtime of 25 minutes and no signs of life. The time of death was marked at 2:33 pm.<sup>226</sup>

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<sup>218</sup> Att. 3, pgs. 2-4, 13

<sup>219</sup> Att. 40

<sup>220</sup> Att. 40

<sup>221</sup> Att. 7, pg. 5

<sup>222</sup> Att. 5

<sup>223</sup> Att. 41

<sup>224</sup> Att. 117

<sup>225</sup> Att. 77

<sup>226</sup> Att. 105, pgs. 3, 6, 7-8; Att. 119

An **autopsy** performed on ██████████ on May 29, 2019, reflected that ██████████ sustained two gunshot wounds, one to the upper right chest and the other to the upper right abdomen. Two intact deformed bullets were recovered from those wounds. ██████████ also sustained a graze gunshot wound to the left forearm. Additionally, an oxidized bullet from a remote gunshot wound unrelated to this incident was recovered from ██████████ right knee. The cause of death was multiple gunshot wounds, and the manner of death was Homicide.<sup>227</sup>

The results of a **breathalyzer test** administered to Officer Strazzante at 5:33 pm on May 28, 2019, showed that Officer Strazzante's breath alcohol concentration (B.A.C.) was .000, and a urine drug test submitted on the same date at 5:20 pm revealed negative results.<sup>228</sup>

### **Documentary Evidence**

CPD provided COPA with a **Detectives' file** comprised of 147 pages of reports and memos related to RD #JC281960 Aggravated Assault Police Officer with handgun.<sup>229</sup> The **Supplementary Reports and General Progress Reports (GPRs)** included summaries of detective interviews with Officers Toliver, McGrone, Borjas, and Sgt. Forberg, in which they related essentially the same account of the incident they provided to COPA.<sup>230</sup> Interviews of civilian witnesses are as follows:

██████████ the uncle of ██████████ relayed essentially the same account he gave to COPA, except he added that moments after ██████████ left the residence, he heard "shouting going on in front of the residence followed by gunshots."<sup>231</sup> He then looked out the window and saw police officers taking cover and shouting, "Let me see your hands!"<sup>232</sup> ██████████ also stated that he never knew ██████████ to carry a pistol.<sup>233</sup>

██████████, the mother of ██████████ was interviewed briefly at the University of Chicago hospital by detectives in the presence of COPA. She related that ██████████ lives with his uncle at ██████████ and was leaving to pick her up from work when the incident occurred. ██████████ older brother "██████████" was present for the interview and added that ██████████ was not the type to pick up a gun. However, the detectives included in their file a picture from social media depicting ██████████ with a gun.<sup>234</sup>

██████████, who resides at ██████████, stated that he was inside his basement when he heard three gunshots. ██████████ ran upstairs, and from his front window, he observed a red van (Journey) facing westbound in his neighbor's driveway just south of him. He observed three officers taking cover behind their vehicles. ██████████ heard an officer shouting, "Let me see your hands." ██████████ observed ██████████ inside the vehicle.<sup>235</sup>

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<sup>227</sup> Att. 3

<sup>228</sup> Att. 112

<sup>229</sup> Att. 20

<sup>230</sup> Att. 20, pgs. 27-29, 30-32, 93-94, 98-102, 105

<sup>231</sup> Att. 20, pgs. 30-31

<sup>232</sup> Att. 20, pg. 30

<sup>233</sup> Att. 20, pg. 30

<sup>234</sup> Att. 20, pgs. 34, 68, 92

<sup>235</sup> Att. 20, pgs. 29-20, 109

During their canvass of the area, detectives spoke to additional civilian witnesses who did not witness the incident, but heard gunshots.<sup>236</sup> One witness, however, ██████████ of ██████████, added that she heard an officer shout, “don’t shoot.”<sup>237</sup>

Also included in the detectives’ file, was a criminal history report for ██████████ and an undated printout of the investigative alert related to ██████████ indicating he was positively identified as driving the vehicle which was used in the underlying homicide.<sup>238</sup>

**Officer Borjas’ Tactical Response Report (TRR)** reflected that he was on-duty, in civilian dress, and with a partner at the time of the incident. Officer Borjas was assaulted by ██████████ when ██████████ pointed a handgun at Officer Borjas. ██████████ did not follow verbal direction, posed an imminent threat of a battery with a weapon, and used force likely to cause death or great bodily harm. According to the TRR, ██████████ was armed with a semiautomatic pistol with which he held a member at gunpoint. Officer Borjas did not sustain any injuries in the incident and did not use force.<sup>239</sup>

**Officer Strazzante’s TRR** reflected that he was on-duty, in civilian dress, and with a partner at the time of the incident. Officer Strazzante was assaulted by ██████████ when ██████████ pointed a handgun at Officer Strazzante. ██████████ did not follow verbal direction, posed an imminent threat of a battery with a weapon, and used force likely to cause death or great bodily harm. According to the TRR, ██████████ was armed with a semiautomatic pistol with which he held a member at gunpoint. Officer Strazzante responded with member presence, verbal direction/control techniques, movement to avoid an attack, tactical positioning, additional unit members, and four discharges of his weapon. In the reviewing supervisor’s comments, Lt. Costello noted that Officer Strazzante was transported to the hospital for rapid heart rate, headache, and ringing in the ears.<sup>240</sup>

A **Civil Suit** No. 19-cv-█████████ was filed on behalf of ██████████ as the Special Administrator of the estate of ██████████ by Attorneys Erickson & Oppenheimer. The parties reached an agreement to settle this matter and all the claims were dismissed without prejudice on June 14, 2021.<sup>241</sup>

Prior to the dismissal of the he civil lawsuit, **Shan Mei Jones and Tracy Konior**, both of ISPFSC, gave **depositions** wherein they both testified consistently with their respective reports that gunshot residue was found on ██████████ hands, and that none of the three bullets recovered from ██████████ body were fired by the Colt .45, but that the results for the two bullets recovered from the torso were inconclusive.<sup>242</sup>

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<sup>236</sup> Att. 20, pgs. 46-47

<sup>237</sup> Att. 20, pg. 46

<sup>238</sup> Att. 20, pgs. 69-78, 107-08

<sup>239</sup> Att. 88

<sup>240</sup> Att. 89

<sup>241</sup> Att. 145

<sup>242</sup> Atts. 125, 134, 5, 40, 124

## VI. ANALYSIS

### a. Legal Standard

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.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>243</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**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>244</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>245</sup>

### b. Allegation #2 – There is clear and convincing evidence that Officer Strazzante’s seizure of ██████████ was reasonable.

COPA finds that the allegation that Officer Strazzante seized ██████████ without justification is **Exonerated**.

### *Fourth Amendment*

The Fourth Amendment protects, “[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures.”<sup>246</sup> As noted by the United States Supreme Court, “[n]o right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person,

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<sup>243</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>244</sup> See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036.

<sup>245</sup> *Id.* at ¶ 28.

<sup>246</sup> U.S. Const. amend. IV.

free from all restraint or interference of others, unless by clear and unquestionable authority of law.”<sup>247</sup> “[T]he ultimate touchstone of the Fourth Amendment is ‘reasonableness.’”<sup>247</sup> But, “[t]o be reasonable is not to be perfect, and so the Fourth Amendment allows for some mistakes on the part of government officials, giving them ‘fair leeway for enforcing the law in the community’s protection.’”<sup>248</sup>

There are three tiers of police-citizen encounters: (1) the arrest of a citizen, which must be supported by probable cause. Probable cause exists when the facts and circumstances known by the arresting officer are sufficient to warrant a reasonable person’s belief that the arrested individual has committed an offense; (2) a temporary investigative seizure conducted under the standards set forth by the United States Supreme Court in *Terry v. Ohio*, which allows officers to conduct a brief, investigatory stop of a citizen when the officer has a reasonable, articulable suspicion of criminal activity, and such suspicion amounts to more than a mere “hunch”; and (3) consensual encounters which involve no coercion or detention and therefore do not involve a seizure, and do not implicate the fourth amendment.<sup>249</sup>

For purposes of the fourth amendment, an individual is “seized” when an officer “by means of physical force or show of authority, has in some way restrained the liberty of a citizen.”<sup>250</sup> A seizure does not occur simply because a law enforcement officer approaches an individual. So long as a reasonable person would feel free to disregard the police and go about his business, the encounter is consensual and no reasonable suspicion is required.<sup>251</sup> However, when the conduct of the police would lead a reasonable innocent person under identical circumstances to believe that he or she was not “free to decline the officers’ requests or otherwise terminate the encounter,” that person is seized.<sup>252</sup>

“[W]hen the police have probable cause to arrest one party, and when they reasonably mistake a second party for the first party, then the arrest of the second party is a valid arrest.”<sup>253</sup> “By the same token, if officers with probable cause to arrest a suspect mistakenly arrest an individual matching the suspect’s description, neither the seizure nor an accompanying search of the arrestee would be unlawful.”<sup>254</sup>

Further, “[w]hen law enforcement officers are in communication regarding a suspect, the knowledge of one officer can be imputed to the other officers under the collective knowledge doctrine.”<sup>255</sup> This is so because “effective law enforcement cannot be conducted unless police officers can act on directions and information transmitted by one officer

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<sup>247</sup> *Riley v. California*, 573 U.S. 373, 381 (2014) (citations omitted).

<sup>248</sup> *Heien v. North Carolina*, 574 U.S. 54, 60-61 (2014).

<sup>249</sup> *People v Gherna*, 203 Ill. 2d 165, 176 (2003).

<sup>250</sup> *Florida v. Bostick*, 501 U.S. 429, 434 (1991), quoting *Terry v. Ohio*, 392 U.S. 1, 19 (1968).

<sup>251</sup> *United States v. Drayton*, 536 U.S. 194 (2002); *Florida v. Royer*, 460 U.S. 491, 497 (1983); *Bostick*, 501 U.S. at 434.

<sup>252</sup> *Bostick*, 501 U.S. at 436.

<sup>253</sup> *Hill v. California*, 401 U.S. 797, 802 (1971) (citation omitted).

<sup>254</sup> *Heien*, 574 U.S. at 61.

<sup>255</sup> *United States v. Sawyer*, 224 F.3d 675, 680 (7<sup>th</sup> Cir. 2000), citing, *United States v. Hensley*, 469 U.S. 221, 232-33 (1985).

to another.”<sup>256</sup> Therefore, “the police who actually make the arrest need not personally know all the facts that constitute probable cause if they reasonably are acting at the direction of another officer or police agency. In that case, the arrest is proper so long as the knowledge of the officer directing the arrest, or the collective knowledge of the agency he works for, is sufficient to constitute probable cause.”<sup>257</sup>

### *Application of facts*

Here, Officers Strazzante and Borjas had probable cause to arrest ██████████ based on the collective knowledge doctrine, as noted above. Neither officer need have personally known all the facts that constituted the probable cause supporting the arrest of ██████████ because they reasonably acted at the direction of the detectives who did.”<sup>258</sup>

Too, under the fourth amendment, if Officers Strazzante and Borjas reasonably believed ██████████ was ██████████ an arrest of ██████████ would have also been proper. But here, ██████████ was not arrested. The officers first sought to detain him to confirm his identity before an arrest would take place.<sup>259</sup> Officer Strazzante acknowledged that ██████████ was detained at the moment he and Officer Borjas began approaching ██████████ with their guns drawn while identifying themselves as police and yelling out commands to show his hands.<sup>260</sup> So, as also stated above, if Officers Strazzante and Borjas reasonably believed ██████████ was ██████████ such detention of ██████████ was also proper under the fourth amendment.

Here, COPA finds that it was reasonable under the totality of the circumstances for the officers to have believed that ██████████ was ██████████. The officers had photographs and a description of ██████████ showing he was a black male, 5’ 11” in height, with a thin build, approximately 160-175 pounds, with short hair and protruding ears, and in his late teens or early 20s.<sup>261</sup> The Medical Examiner’s report that listed ██████████ as a male black, 169 pounds and 72 inches (6’0”), and appeared to be his reported age of 21 years old.<sup>262</sup> The hospital pictures show ██████████ has short hair and protruding ears.<sup>263</sup> Pictures from previous arrests of both ██████████ and ██████████ also show their similar, distinctive ears.<sup>264</sup>

In addition to the physical similarities, the officers had information that ██████████ was currently at the location of ██████████ (his Facebook account had been logged into there the night before the surveillance and during the surveillance), and they saw ██████████ matching ██████████ description, enter a car registered to ██████████ mother.<sup>265</sup>

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<sup>256</sup> *Hensley*, 469 U.S. at 231 (citation omitted)

<sup>257</sup> *United States v. Nafzger*, 974 F.2d 906, 913 (7<sup>th</sup> Cir. 1992)

<sup>258</sup> Att. 109, pg. 35; see also, Atts. 20, pgs. 69-70, for the investigative alert for ██████████ with probable cause to arrest indicating that he had been positively identified as the driver in the homicide of the 15-year-old victim.

<sup>259</sup> Att. 133, pg. 16

<sup>260</sup> Att. 113, pgs. 59-63, 71

<sup>261</sup> Att. 13, pgs. 48-49, 51-52, 56; Att. 133, pgs. 15-16, 27, 39; Att. 109, pgs. 11-12

<sup>262</sup> Att. 3

<sup>263</sup> Att. 119

<sup>264</sup> Att. 20, pgs. 66, 71

<sup>265</sup> Att 109, pgs, 13-15; Att. 133, 14-15, 38

Therefore, COPA finds that under the totality of these circumstances in that moment, where the officers viewed ██████ from several houses away, it was reasonable for the officers to detain ██████ to determine his identity. See, *Catlin v. City of Wheaton*, 574 F.3d 361, 365 (7<sup>th</sup> Cir. 2009) (it was reasonable to mistake the arrestee for the subject of the arrest warrant where the arrestee physically resembled the subject, was observed in the precise area where the officers expected to find the subject and was driving the same distinctive sort of motorcycle as the subject).

Accordingly, COPA finds Allegation #2, that Officer Strazzante seized ██████ without justification, to be **Exonerated** as to Officer Strazzante.

### c. Credibility Assessment

The credibility of an individual relies primarily on two factors:

- 1) the individual's truthfulness, and
- 2) the reliability of the individual's account.

The first factor addresses the honesty of the individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory.

This investigation did not reveal any evidence that caused COPA to question the truthfulness of any of the individuals (sworn or unsworn) who provided statements, including Officer Strazzante. While it is true that Officer Strazzante's reliability could be implicated by his inaccurate belief just after the shooting that the gun he saw ██████ pointing at him was primarily black, rather than primarily silver with some black features, COPA will consider that Officer Strazzante's overall account of the incident was corroborated by eyewitness accounts, scientific evidence, and circumstantial evidence. See, *King v. Hendricks Cty. Comm'rs*, 954 F.3d 981, 985 (7<sup>th</sup> Cir. 2020) (recognizing that a court does not merely accept what may be a self-serving account of an officer, but instead will scrutinize all the evidence, including circumstantial evidence, to determine whether the officer's story is consistent with other known facts).

First, Officer Borjas' account substantially and materially corroborates Officer Strazzante's account that ██████ pointed a gun at them through the window of the Journey. Officer Borjas described in detail the gun that ██████ was pointing directly at Officer Strazzante and him the moment they reached the front passenger door of the Journey, leading them both to yell out, "Gun!"<sup>266</sup> Officer Borjas further detailed how ██████ was positioned to the right towards the passenger side with his arm outstretched and the gun pointing sideways.<sup>267</sup> COPA has no evidence upon which to question Officer Borjas's credibility.

Second, Officer McGrone, of whom COPA has also found no evidence to question his credibility, heard his partners yelling, "Hands. Gun gun," and "He's got a gun," as he began to exit his vehicle just south of the Journey.<sup>268</sup>

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<sup>266</sup> Att. 109, pgs. 24-27, 29, 40

<sup>267</sup> Att. 109, pgs. 23-24, 27-28, 40, 47

<sup>268</sup> Att. 111, pgs. 8-10, 13-14

Third, a defaced Colt. 45 was found within ██████ arms' reach fully loaded, with one live round in the chamber, and the hammer cocked back with the safety off. Forensic testing later determined that ██████ DNA was on the gun, and his fingerprint was on the magazine.<sup>269</sup> COPA will also consider the evidence that ██████ was on his way to pick up his mom from work.<sup>270</sup> Based on the location of where this gun was found on the floor between the front passenger seat and the front passenger door in a ready-to-shoot posture, it is reasonable to infer that the gun was not placed there intentionally, unrelated to this incident. Instead, the reasonable inference is that it landed there after being released from ██████ grip after he was shot.

Finally, the actions taken by Officers Strazzante and Borjas subsequent to the shooting (as documented in witness interviews, radio transmissions, and BWC) were consistent with having just been confronted by an armed gunman in the driver's seat of the Journey pointing a firearm directly: they both immediately yelled out some form of "gun"<sup>271</sup>; they both immediately ran for cover away from the armed gunman, and checked themselves for gunshot wounds<sup>272</sup>; they called a "10-1" over the police radio reporting that the offender still had a gun in his hand and requested a shield<sup>273</sup>; Officer Strazzante warned a TAC car coming down the street to turn back because the offender may still be armed;<sup>274</sup> and they waited for a shield before approaching the armed gunman.<sup>275</sup>

Accordingly, due to the corroborating evidence supporting Officers Borjas and Strazzante's account of the incident, COPA will rely on that account in analyzing its propriety. See, *King*, 954 F.3d at 985 (granting summary judgment in favor of the officers where deadly force was used noting that even though the decedent was right handed and the officers testified the knife was in the decedent's left hand, a graze wound suffered by one of the officers was consistent with the knife being held in the left hand, and it was found on the ground to decedent's left).

**d. Allegation #1 - There Is Clear and Convincing Evidence that Officer Strazzante's Use of Force Was Lawful and Proper.**

COPA finds that the allegations that Officer Strazzante discharged his firearm at or in the direction of ██████ in violation of GO03-02 without justification is **Exonerated**.

***CPD's Directive on Use of Deadly Force***

CPD "members may only use force that is objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape."<sup>276</sup> The primary concern in assessing the use of force is whether the amount of force the officer used was objectively reasonable in light of the totality

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<sup>269</sup> Att. 41, pg. 1; Att. 7, pg. 2; Att. 104; Att. 20, pg. 16; Att. 117

<sup>270</sup> Att. 86; Att. 20, pg. 34

<sup>271</sup> Att. 109, pgs. 24-27, 29, 40; Att. 133, pg. 19; Att. 113, 20; Att. 111, pgs. 8-10, 13-14

<sup>272</sup> Att. 133, pgs. 19-21, 31, 40, 44-47; Att. 109, pgs. 20-21, 28-29, 32, 48

<sup>273</sup> Att. 109, pg. 32; Att. 54 at 5:39-7:50

<sup>274</sup> Att. 54 at 7:50; Att. 133, pg. 21

<sup>275</sup> Att. 109, pg. 32-33; Att. 133, pg. 21

<sup>276</sup> G03-02(III)(B) Use of Force (Eff. Oct. 16, 2017 – February 29, 2020)

of the circumstances faced by the officer.<sup>277</sup> Factors determinative of whether use of force is reasonable include but are not limited to: (1) whether the subject is posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; and (3) the subject's proximity or access to weapons.<sup>278</sup>

The discharge of a firearm in the direction of a person constitutes the use of deadly force under CPD policy.<sup>279</sup> The use of deadly force is permitted only as a "last resort" when "necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."<sup>280</sup> A CPD member may use deadly force in only two situations: (1) to prevent "death or great bodily harm from an imminent threat posed to the sworn member or to another person"; (2) 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>281</sup>

A threat is considered 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>282</sup>

During all use of force incidents, CPD members will strive to use **de-escalation techniques** to prevent or reduce the need for force, based on the totality of the circumstances.<sup>283</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."<sup>284</sup>

The concepts of force mitigation include but are not limited to establishing and maintaining verbal communication; using verbal control techniques and persuasion, advice, and warning prior to the use of physical force; using time distance and cover to isolate and contain a subject; and creating a zone of safety for security of officers and the public.<sup>285</sup>

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<sup>277</sup> G03-02(III)(B)(1)

<sup>278</sup> G03-02(III)(B)(1)

<sup>279</sup> G03-02(III)(C)(1)(a)

<sup>280</sup> G03-02(III)(C)(3)

<sup>281</sup> G03-02(III)(C)(3); 720 ILCS 5/7-5 (Eff. Prior to July, 2021)

<sup>282</sup> G03-02(III)(C)(3)(2)(emphasis added).

<sup>283</sup> G03-02-01(II)(B), Response to Resistance and Force Options (eff. October 16, 2017 – February, 2020)

<sup>284</sup> G03-02-01(II)(F)

<sup>285</sup> G03-02-01(III)

CPD Policy recognizes that CPD members must make “split-second decision” in “tense, uncertain, and rapidly evolving” circumstances.<sup>286</sup> As such, their decisions must be “judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable [CPD] member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”<sup>287</sup>

### *Application of Facts*

Here, Officer Strazzante’s decision to discharge his weapon was objectively reasonable based on the totality of the circumstances.

First, the evidence supports Officer Strazzante’s reasonable belief that [REDACTED] actions were immediately likely to cause death or great bodily harm to him and/or Officer Borjas. The evidence establishes that [REDACTED] had the means, opportunity, and ability to cause death or great bodily harm to either of them where he pointed a firearm at them from a short distance away. It was reasonable to believe that [REDACTED] did so because he intended to shoot the officers, and thus it was necessary for Officer Strazzante to shoot to protect and defend himself and his partner. The intent to shoot is also supported by the evidence that a loaded, cocked, and ready to fire gun was found within in reach of [REDACTED] when officers first opened the passenger side door.<sup>288</sup>

Second, Office Strazzante also reasonably believed that action had to be taken quickly as a “last resort.”<sup>289</sup> COPA finds that based on the “seriousness of the situation,” an immediate response was required as it was not feasible to de-escalate the situation or employ other force options or Force Mitigation Principles.<sup>290</sup> Officers Strazzante and Borjas had yelled, “Police,” and “Show me your hands,” multiple times as they approached the Journey, but [REDACTED] ignored the commands and pointed his firearm directly at the two officers. Attempting more communication (verbal control or persuasive techniques) at this point was not a safe or reasonable option. Nor was immediately attempting to establish time and distance given the officers’ vulnerable position and lack of immediate cover.

It should be noted however, that after Officer Strazzante fired his gun, when he still did not know whether [REDACTED] had been struck by gunfire or not, he did employ de-escalation techniques: distance – tactical positioning by finding cover across the street – and time, calling for a shield and waiting for it to arrive, before attempting to approach [REDACTED] again.

In sum, this was a case of split-second decision-making in “tense, uncertain, and rapidly evolving” circumstances” where members lives were on the line.<sup>291</sup> As such, COPA finds that

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<sup>286</sup> G03-02(II)(D)

<sup>287</sup> G03-02(II)(D)

<sup>288</sup> Att. 41, pg. 1; Att. 7, pg. 2; Att. 104; Att. 20, pg. 16; Att. 117

<sup>289</sup> G03-02(III)(C)(3)

<sup>290</sup> G03-02-01(II)(F)

<sup>291</sup> G03-02(II)(D), see also *Plumhoff v. Rickard*, 572 U.S. 765, 775 (2014) (“We analyze this question from the perspective “of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. We thus ‘allo[w] for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense,

under the totality of the circumstances known to Officer Strazzante at the time, and from the perspective of a reasonable CPD member on the scene in the same or similar circumstances without the benefit of 20/20 hindsight, Officer Strazzante’s discharge of his firearm was objectively reasonable, necessary, and proportional to the threat he reasonably believed he faced. COPA has therefore determined by clear and convincing evidence that Officer Strazzante complied with CPD deadly force policy when he discharged his weapon at [REDACTED]. For these reasons, Allegation #1 is **Exonerated** against Officer Strazzante.

**VII. CONCLUSION**

Officer	Allegation	Finding
Officer Philip Strazzante #8496	<p>It is alleged that on or about May 28, 2019, at approximately 1:46 pm, at or near [REDACTED] Avenue, Officer Philip Strazzante committed misconduct through the following acts or omissions, by:</p> <ul style="list-style-type: none"> <li>3. Discharging his firearm at or in the direction of [REDACTED] in violation of G03-02, without justification; and</li> <li>4. Seizing [REDACTED] without justification.</li> </ul>	<p>Exonerated</p> <p>Exonerated</p>

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uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation” (internal citations omitted)).

Approved:



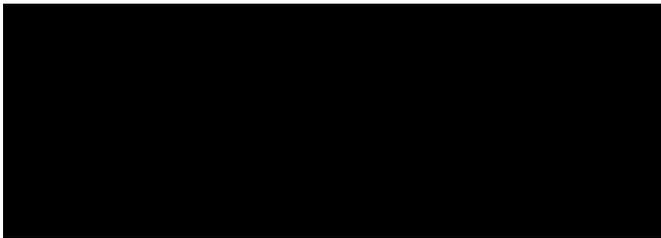
1/31/2022

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Mathew Haynam  
*Deputy Chief Administrator – Chief Investigator*

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Date



1/31/2022

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Andrea Kersten  
*Chief Administrator*

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Date