

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 2, 2018
Time of Incident:	1:03 pm
Location of Incident:	██████████
Date of COPA Notification:	August 2, 2018
Time of COPA Notification:	1:54 pm

Detective ██████████ who was off duty at the time, visited his father-in-law at the above address. The detective, his father-in-law, and two other men sat on folding chairs inside the garage facing the alley, when one unknown black male subject<sup>1</sup> walked by, greeted the group, and continued southbound. Approximately ten minutes later, the same individual re-appeared north of the garage and again walked southbound toward the garage, alerting Detective ██████████ something was wrong. The subject reached behind his back, pulled out a firearm, and entered the garage, yelling, “Get down! Get down!” The detective ran to the front of a vehicle parked across the garage entrance and drew his firearm. Detective ██████████ yelled, “Police,” and the subject ran southbound. As he ran, the subject bent his left arm, pointed his firearm over his left shoulder, and discharged the firearm. Detective ██████████ then discharged his firearm once, striking the windshield of his personal vehicle which was parked in the alley. Detective ██████████ pursued the subject on foot as he turned westbound and ran through a gangway, where the subject stopped and discharged his firearm again. The detective discharged his firearm twice in response. When the subject reached ██████████ Street, he turned around with his left arm extended straight and discharged his firearm once more. The detective did not discharge his firearm; instead, he ran back to the garage, checked on his group, and called 911.

COPA’s investigation concluded Detective ██████████ reasonably believed the subject posed an imminent threat to his life and to the lives of others. Accordingly, COPA finds Detective ██████████ use of deadly force was within policy as outlined by General Order G03-02, the relevant Illinois state statute, and the Fourth Amendment.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████████ employee ID# ██████████ Date of Appointment: ██████████, 1999, Detective, Unit ██████████ DOB: ██████████, 1958, Male, Black
----------------------	---

<sup>1</sup> This subject remains unidentified. On March 4, 2019, this case under RD# ██████████ was suspended “pending the discovery of new investigative leads.” (Att. #37, p. 10)

Involved Individual #1:

Unknown Black Male

### III. ALLEGATIONS

Any discharge of an officer's firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. Upon conclusion of the investigation, COPA determined there was insufficient evidence to support bringing allegations against Detective [REDACTED]

### IV. APPLICABLE RULES AND LAWS

---

#### General Orders

---

1. G03-02: Use of Force, effective October 16, 2017

---

#### Special Orders

---

1. U04-02: Department Approved Weapons and Ammunition, effective June 2, 2017

---

#### Federal Laws

---

1. U.S. Constitution, 4<sup>th</sup> Amendment

---

#### State Laws

---

1. 720 ILCS 5/7-5, Peace Officer's Use of Force in Making Arrest

---

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

#### a. Interviews<sup>3</sup>

In an **electronically recorded interview** to Chicago Police Department (CPD) Detectives [REDACTED] and [REDACTED] on August 2, 2018, the **witness**, [REDACTED]<sup>4</sup> stated he was sitting on a chair inside the garage of his residence, when he observed the subject pass the garage once. The same subject came back. [REDACTED] was unable to see him as he approached. [REDACTED] brother's vehicle blocked the front of the garage. The subject came into the garage from behind the vehicle and yelled, "Get down!" [REDACTED] son-in-law, Detective [REDACTED] ran past [REDACTED] toward the front of the vehicle. As [REDACTED] wondered what was going the subject fired one shot. [REDACTED] did not know if the bullet struck

---

<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> A canvass conducted by COPA investigators did not yield any witnesses or additional information. (Att. 7)

<sup>4</sup> Mr. [REDACTED] declined to be interviewed by COPA. (Att. #46)

anything. Detective ██████ discharged his firearm and continued shooting. The subject ran southbound to a yard where the subject shot at least three times. The detective shot back about three times. The subject ran to another yard and then westbound. ██████ called the police and the police responded to the scene. At approximately 1:00 pm, ██████ drank one beer and one shot of an alcoholic substance.<sup>5</sup>

In an **electronically recorded interview** to CPD Detectives ██████ and ██████ on August 2, 2018, **witness**, ██████<sup>6</sup> stated he was sitting on a chair in the garage. Detective ██████ was sitting next to him. A black male, wearing dark-colored jeans and a light-colored T-shirt, walked past and spoke to the group in ██████ garage. Approximately five to ten minutes later, the same individual came up again, from the same direction and said, "Get down! Get down!" The subject held a black gun and pointed it at ██████ Detective ██████ came around the front of the truck and fired his weapon. The subject fired back, ran southbound, in the alley, and entered a gangway. The detective ran to the gangway and fired his weapon, and the subject fired back. According to ██████ the detective fired a total of three or four shots and the subject fired a total of three or four shots.<sup>7</sup>

In an **electronically recorded statement** to CPD Detectives ██████ and ██████ on August 2, 2018, **witness**, ██████ stated he was sitting between ██████ and ██████ when the subject walked southbound and exchanged greetings with the group. ██████ described the subject as wearing a black baseball cap, gray shirt, and dark pants. ██████ pickup truck was parked, facing north, in front of the garage and as a result, he was not able to view the subject walk up the second time. ██████ did see the subject, at the back of the truck, pointing a gun at them and ordering them to get down. ██████ complied and observed Detective ██████ pass him on his way to the front of the truck. ██████ advised he then heard three or four shots. Both the detective and the subject ran southbound in the alley. ██████ lost sight of them and did not know the direction they went. Detective ██████ returned to the garage and made a phone call.<sup>9</sup>

In an **audio-recorded statement to COPA** on October 12, 2018, the **involved member**, **Detective** ██████ ██████ stated after finishing work on August 2, 2018, he visited his father-in-law, ██████ at ██████ residence. Detective ██████ was wearing civilian clothing at the time. Also present were ██████ brother, ██████ and a friend, ██████ Detective ██████ parked his personal vehicle, a gold Cadillac, in the alley and joined them. According to Detective ██████ the four of them sat on folding chairs inside the garage and socialized. Detective ██████ drank two beers over the course of approximately 40 minutes but did not feel intoxicated.<sup>10</sup> Approximately half an hour after Detective ██████ arrived at ██████ residence, an unknown subject passed the garage coming southbound and asked the group how they were doing. Detective ██████ did not believe the subject saw him. ██████ Ford Explorer was parked across the garage opening and that may have blocked the subject's view

---

<sup>5</sup> Att. 28

<sup>6</sup> Mr. ██████ declined to be interviewed by COPA. (Att. #46)

<sup>7</sup> Att. #28

<sup>8</sup> Mr. ██████ declined to be interviewed by COPA. (Att. #46)

<sup>9</sup> Att. #28

<sup>10</sup> Att. #10. Detective ██████ was administered a breath test at 5:38 pm and the BAC result was .000.

of the detective. The detective did not pay too much attention to the subject at that time; there is a multi-unit building at █ Street and █ and residents frequently use the alley to walk to a store on █ Street. However, when the detective saw the same subject walk southbound again approximately ten minutes later, he was alerted. Detective █ expected the subject to walk in a northbound direction, if the subject returned from the store on █ Street. Instead, the subject appeared again north of the garage and walked southbound again.

The detective observed the subject approach from approximately one garage-length away from █ residence maintaining visual as he walked southbound past █ Ford Explorer. As the subject approached the back of the vehicle, Detective █ saw the top of his head. When the subject emerged from behind the vehicle, he reached with his left hand and pulled a black semi-automatic handgun from his waist. The detective immediately ran to the front of the vehicle, to create distance between himself and the subject. Detective █ pulled out his firearm as he ran and heard the subject say, "Get to the ground!" The detective also heard what he believed was one gunshot and believed the subject shot at him. When he reached the front of the Ford Explorer, Detective █ turned around, yelled, "Police!" and observed the subject, who was now behind the Ford Explorer, run southbound, in the alley. As the subject ran, he bent his left arm at the elbow and discharged his firearm once over his left shoulder. The detective stood still and fired one shot, striking the windshield of his Cadillac. The detective pursued the subject southbound in the alley. The subject again bent his elbow backwards. Detective █ believed the subject would fire again and discharged his firearm a second time. The subject ran past two garages and turned westbound in a gangway. About halfway down the gangway, the subject turned to his left, extended his left arm and shot once at Detective █. The detective stopped in the alley and fired two more times. The subject ran to █ Street, turned around and again fired his weapon one time at Detective █. The detective did not have a clear view to return fire, due to the parked vehicles in the street. He was also concerned his friends had been injured by the subject's discharge into the garage. After the subject ran southbound on █ the detective re-holstered his firearm and returned to the garage, where he called 911.

According to Detective █ his weapon was fully loaded, which contains fifteen rounds in the magazine and one round in the chamber. He did not believe any of his bullets struck the subject. Detective █ reported that he sustained scratches to his left shoulder when he ran through the gap between the garage and the Ford Explorer. He added, his father-in-law has been in the neighborhood for about fifty years and was not aware of a history of robberies in the area.<sup>11</sup>

#### **b. Digital Evidence**

**Third-Party Surveillance Video**<sup>12</sup> was obtained from a residential video surveillance system at █, which shares an alley with █ home at █. It depicts, in the background, a garage with its overhead door open (█ residence), a dark-colored SUV (█ Ford Explorer) parked across the front of the garage and a gold Cadillac (Detective █ vehicle) parked across the front of the garage next door. A black male subject wearing a baseball cap comes into view from the right of the screen, along the rear quarter panel of the parked SUV; the subject appears to pull an object from his

---

<sup>11</sup> Att. #25

<sup>12</sup> The video recording is not equipped with audio.

clothing and turns to the rear of the parked SUV. The subject walks to the apron, of the open garage, near the threshold, and he suddenly runs away from the open garage headed southbound. As the subject runs, the outline of a firearm appears in the subject's left hand (see Figure 1 below). The subject bends his left elbow and appears to point the firearm, back over his left shoulder (see Figure 2 below). The subject runs out of view, and it appears a bullet strikes the front windshield of the Cadillac. A second black male, now known as Detective [REDACTED] emerges from the right of the screen and appears to point a firearm southward as he runs. The detective runs out of view.<sup>13</sup>



Figure 1. The outline of a firearm appears to be in the subject's left hand.



Figure 2. The subject's left elbow appears bent with what appears to be a firearm pointed back over his left shoulder. The photo contains a red circle added by COPA.

---

<sup>13</sup> Att. #21

Additional **Third-Party Surveillance Video** was obtained from two commercial establishments at [REDACTED] Street and [REDACTED], and two residences at [REDACTED] and [REDACTED]. The video recordings from these locations did not contain significant evidentiary value.<sup>14</sup>

### c. Physical Evidence

A **Crime Scene Processing Report** indicates seven fired cartridge cases located at various locations: four WIN 9 mm Luger +P in the alley and three F-C 9 mm Luger in the alley, and the gangway and on [REDACTED]. Specifically, Crime Scene Markers #'s 1, 2, 4 and 5 marked the WIN 9 MM Luger +P cartridges cases found in the alley; Crime Scene Markers #3, 6 and 9 marked the F-C 9 mm Luger cartridge cases that were found in the alley, on the street pavement in front of [REDACTED] [REDACTED] and the south gangway of [REDACTED] [REDACTED] respectively. Moreover, the report indicates that one live WIN 9 mm Luger +P round was recovered from the chamber of Detective [REDACTED] firearm,<sup>15</sup> and eleven live WIN 9 mm Luger +P rounds were recovered from the magazine of the detective's firearm.<sup>16</sup>

A **Plat of the Crime Scene** indicates the locations of Crime Scene Markers #1-5 in the alley. Crime Scene Marker #1 is positioned north of the Ford Explorer, while Crime Scene Marker #2 is placed farther south between the Ford Explorer and the Cadillac. Crime Scene Marker #3 is just southeast of the Cadillac, and Crime Scene Markers #4 and 5 are near the south gangway of [REDACTED]. Crime Scene Marker #7 depicts the fired bullet that was recovered from inside the detective's Cadillac.<sup>17</sup>

---

<sup>14</sup> Att. #'s 22-23.

<sup>15</sup> The firearm's capacity is fifteen rounds in the magazine and one round in the chamber.

<sup>16</sup> Att. #8

<sup>17</sup> Att. #18



Figure 3. This part of the crime scene plat includes the evidence markers placed in the alley. Crime Scene Markers #6 and 9, which are not included in this portion of the plat, were placed on the street pavement in front of [REDACTED] and in the south gangway of [REDACTED] respectively.

An **Illinois State Police Laboratory Report** determined the four WIN 9 mm Luger +P cases were discharged from Detective [REDACTED] firearms. In addition, the report determined that the three FC 9mm Luger cartridge cases were not discharged from the detective's firearm.<sup>18</sup>

#### d. Documentary Evidence

According to Detective [REDACTED] **Tactical Response Report (TRR)**, the detective discharged his semi-automatic pistol after the offender, who was armed with a semi-automatic pistol, fired first. The subject posed an imminent threat of battery with a weapon and used force likely to cause death or great bodily harm. The detective responded with verbal direction/control techniques, movement to avoid attack and tactical positioning. The detective discharged his firearm four times, striking a vehicle.<sup>19</sup>

## VI. 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;

<sup>18</sup> Att. #44

<sup>19</sup> Att. #5

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 the conduct occurred and violated Department policy. *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). 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. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

## VII. ANALYSIS

The applicable Chicago Police Department order is General Order G03-02, III-C-3, which states that the "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. Consistent with this requirement, a sworn Department member may use deadly force only when such force is necessary to prevent:

- a. death or great bodily harm from an imminent threat posed to the sworn member or to another person.
- b. 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."

The Order defines a threat as "imminent" where 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.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

"[a] peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance



or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person..."

Finally, determinations regarding the potential use of excessive force - deadly or not - in the course of an arrest, investigatory stop, or other "seizure" are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). Moreover, the reasonableness calculation "must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham*, at 396–97. Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 683 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (en banc) and omitting emphasis).

Based on the totality of the circumstances, it was objectively reasonable to believe that the subject presented an imminent threat of death or great bodily harm to both Detective [REDACTED] as well as his three companions. Detective [REDACTED] fired no shots until after the subject first fired, which is clearly an imminent threat of harm as it demonstrated that the subject had not just the means and opportunity to cause death or great bodily harm, but that he was willing to do so. He also did not fire his additional volleys until after the suspect continued to shoot at him. He also ceased firing once he no longer had clear line of sight at the suspect. Thus, Detective [REDACTED] was justified to use deadly force against the subject. Therefore, COPA finds that an officer with similar training and experience as Detective [REDACTED] would reasonably believe that the armed subject posed an imminent threat to his or her safety. The use of deadly force by Detective [REDACTED] was objectively reasonable and within policy as outlined by the Use of Force Model; the Illinois State statute; and the Chicago Police Department's General Order 03-02.

**VIII. CONCLUSION**

Based upon the analysis set forth above, COPA concludes that Detective [REDACTED] use of deadly force was Within Department Policy.

Approved:

[REDACTED]

July 30, 2019

\_\_\_\_\_  
Andrea Kersten  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

[REDACTED]

July 30, 2019



\_\_\_\_\_  
Sydney Roberts  
*Chief Administrator*

\_\_\_\_\_  
Date

Appendix A

Assigned Investigative Staff

---

<b>Squad#:</b>	1
<b>Major Case Specialist:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	Andrea Kersten #7