

SUPPLEMENTARY SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	January 12, 2010
Time of Incident:	4:39 a.m.
Location of Incident:	██████████ Chicago IL, 60655
Date of COPA Notification:	January 12, 2010
Time of COPA Notification:	9:23 a.m.

This investigation originated on January 12, 2010, after Chicago Police Officers responded to Officer ██████████ residence for a call of a person shot. Upon arrival, emergency responders discovered ██████████ Jr. with a gunshot wound to the head. Officer ██████████ related that ██████████ shot himself with Officer ██████████ gun during a suicide attempt. ██████████ sustained traumatic brain injury because of the gunshot wound. ██████████ prognosis was poor. He was in a coma and spent two months in the hospital. Following his hospital stay, ██████████ spent the next two months at the Rehabilitation Institute of Chicago before returning home with his parents. When ██████████ regained consciousness, he was unable to speak and incapable of providing a statement regarding what occurred on the night in question. Shortly after the shooting, ██████████ uncle, ██████████ a self-professed handgun expert, expressed concerns regarding Officer ██████████ account of the incident, and stated that the model of gun involved would not have fired in the manner described by Officer ██████████

IPRA made seven (7) allegations of misconduct against Officer ██████████ regarding his actions the night of January 11, and early morning of January 12, 2010. The initial investigation closed at IPRA on August 8, 2012. IPRA sustained five (5) of those allegations² and reached a finding of not sustained for two of those allegations: whether Officer ██████████ shot ██████████ and whether Officer ██████████ gave false statements to investigating officers and detectives regarding the occurrence. One of the bases for the not sustained finding regarding whether Officer ██████████ shot ██████████ was ██████████ physical inability to provide a statement about the night in question and IPRA's inability to collect independent information regarding ██████████ recollection of the incident or any other evidence to refute or substantiate the allegation.

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

² The five (5) sustained allegations related to Officer ██████████ behavior while intoxicated the early morning of January 12, 2010. The original Summary Report of Investigation detailed the accounts of the CPD and paramedic witnesses who were present on scene after the shooting, nearly all of whom indicated that Officer ██████████ was belligerent, verbally and physically abusive, and clearly intoxicated.

██████████ family filed a civil lawsuit against the City of Chicago and Officer ██████████ in October 2010 regarding the incident.³ On October 26, 2017, the court entered a judgment against the City of Chicago after a jury returned a verdict in ██████████ favor.⁴ More than 95 depositions were taken during the civil suit’s pendency. After IPRA’s investigation closed, ██████████ regained some ability to communicate and reportedly started having memories of the incident—specifically, that he did not shoot himself and that he had not been suicidal prior to the incident.

COPA obtained new evidence from the City of Chicago’s and ██████████ attorneys and audited the original investigation. New evidence that developed during the civil litigation was directly relevant to the two allegations that were previously not sustained, accordingly COPA reevaluated these two allegations. During this reevaluation COPA reviewed the original summary report and the documents relied upon therein that served as a basis for the original findings. COPA also reviewed pertinent deposition and trial testimony, including that of Officer ██████████ ██████████ subject-matter experts regarding the physical evidence, and expert witnesses regarding ██████████ cognitive ability. Additionally, COPA interviewed ██████████ and re-interviewed Officer ██████████. The following COPA Supplemental Summary report does not repeat information contained in the original summary report, but only includes information and evidence obtained since the original investigation’s conclusion.

II. INVOLVED PARTIES

Involved Officer #1 ██████████ star # ██████████ employee ID # ██████████ DOA: ██████████
██████████ 2004, Police Officer, Unit of Assignment: ██████████ DOB: ██████████
██████████ male, white

Involved Individual #1 ██████████ Jr DOB: ██████████ white

III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████████	6. Shot ██████████	Sustained

³ The civil case was filed in the Law Division of the Circuit Court of Cook County with the caption of ██████████ v. *City of Chicago, et al.*, case no.: 10 L 11901. The case was subsequently removed to the U.S. Court for the Northern District of Illinois under the same caption, and with case number 14 cv 09665.

⁴ The verdict in the civil lawsuit does not impact COPA’s findings in this case. Officer ██████████ settled the claims that were pending against him in his personal capacity prior to trial, and thus no verdict was entered against him. In addition to the events of January 12, 2010, the allegations against the City of Chicago covered a broad range of topics beyond COPA’s jurisdiction in this case including: findings from the Department of Justice’s investigation into the Chicago Police Department, how the City handled eighteen (18) allegations of wrongdoing against Officer ██████████ in the five years prior to the shooting, and the adequacy of the Chicago Police Department’s investigation into the shooting. (See the Court’s September 29, 2017 Memorandum Opinion, Docket No. 405, ██████████ v. *City of Chicago, et al.*, 1:14-cv-09665). However, COPA has obtained transcripts of sworn testimony from this case and has considered relevant testimony from them.

	7. Provided false statements to investigating police officers and detectives regarding this incident when he indicated that [REDACTED] shot himself.	Sustained
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IV. APPLICABLE RULES AND LAWS

Rules

Rule 2: Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty

Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Rule 14: Prohibits making a false report, written or oral.

V. INVESTIGATION⁵

A. Testimony from new witness interviews and depositions

1. Accused Officer [REDACTED]

In a deposition on May 4, 2012, Officer [REDACTED] stated⁶ that, sometime after 10:00 p.m. on January 11, 2010, [REDACTED] picked him up and they went out for drinks at [REDACTED] Bar and later [REDACTED] Bar. Officer [REDACTED] stated that on occasions he carries his gun while off-duty, however on January 11, 2010, he did not have his service weapon with him.⁷ Officer [REDACTED] and [REDACTED] saw [REDACTED] cousin, [REDACTED] at [REDACTED] and [REDACTED] rode with [REDACTED] and Officer [REDACTED] from [REDACTED] to Officer [REDACTED] house. Officer [REDACTED] stated that [REDACTED] came in briefly, but then left to get cigarettes. Officer [REDACTED] got some beers from the kitchen and he and [REDACTED] talked. Officer [REDACTED] stated that he and [REDACTED] were fine and did not

⁵ COPA conducted a thorough and complete investigation. The following is a summary of new material evidence gathered and relied upon in our analysis. Additionally, the original investigation under this log number made sustained findings that Officer [REDACTED] was intoxicated while off duty, failed to secure his weapon, assaulted Sergeant [REDACTED] verbally abused Sergeant [REDACTED] in that he directed profanity at her and referred to her with a derogatory term, and brought discredit on the Department when he interfered with Chicago Fire Department personnel that were attempting to treat [REDACTED] and as a result he was subsequently arrested. As no evidence was brought to light in the course of the civil case that discredited any of the witnesses interviewed during IPRA’s original investigation, COPA has not re-opened an investigation into the first five allegations of that summary report.

⁶ This summary of Officer [REDACTED] deposition is limited to statements Officer [REDACTED] made regarding the events leading up to the shooting.

⁷ [REDACTED] ([REDACTED] Jr.’s mother) testified that on at least three occasions Officer [REDACTED] had left his service weapon at [REDACTED] while drunk and gone back the next day to retrieve it. (Attachment 229, [REDACTED] Deposition, pp. 126-127).

⁸ Hereinafter referred to only as “[REDACTED]”

argue or have a disagreement; however, ██████ mentioned to Officer ██████ at ██████ that he (██████) was upset because he was having problems with his girlfriend. According to Officer ██████ ██████ told him that sometimes he wanted to go to sleep and never wake up.

Officer ██████ stated that within fifteen minutes of arriving at his residence, ██████ went into Officer ██████ bedroom, where Officer ██████ gun was stored inside of a nightstand.⁹ Officer ██████ stated that he found it odd that ██████ went into his bedroom, so Officer ██████ went into the bedroom after ██████ walked past Officer ██████ quickly exiting the bedroom. Officer ██████ stated he turned around and ██████ was standing across the threshold of the bedroom door, in the living room facing Officer ██████ ██████ had Officer ██████ firearm in his left hand, holding the gun to his left temple. Officer ██████ heard the gun click once. Officer ██████ then went to grab the gun from ██████ and it discharged. Officer ██████ stated that his hand was within six inches of the gun when it discharged; Officer ██████ stated that he does not believe that his hand was on the gun when it discharged. Officer ██████ testified that he had never seen ██████ hold a pistol before, had never been to a shooting range with ██████ before, and could not recall if ██████ held a shotgun left or right handed.¹⁰

In a deposition on May 3, 2016, and in the subsequent civil trial, Officer ██████ invoked his Fifth Amendment right to remain silent.¹¹

2. Subject, ██████ "██████" ██████ Jr.

In a deposition on October 4, 2016, ██████ Jr. related that, on the day of his injury, he traveled from his home in Sandwich, Illinois (where he lived with his then-girlfriend, ██████) to his parents' house to celebrate his father's birthday. ██████ did not remember precisely what he did prior to going to his parents' home, but he believes he may have been goose hunting in the Sandwich/Plano, Illinois area; or perhaps doing something with ██████ dog. After accompanying his family to ██████ Restaurant, ██████ returned to his parents' house and watched a movie. Sometime after midnight ██████ left his parents' house to give his friend, ██████ vehicle a jump, and then went to ██████. ██████ believes that he went in his truck alone to ██████, where he met his cousin ██████. According to ██████ he stayed at ██████ for roughly one hour before he and ██████ and several others whose names ██████ could not recall, went to ██████. Once they ended the night at ██████ ██████ drove ██████ truck¹² and dropped off ██████ and Officer ██████ at Officer ██████ house.¹³ ██████ told ██████ he would leave ██████ truck at his (██████) parents' house.

Once at Officer ██████ house, ██████ stated that he and Officer ██████ got some beer. At some point, Officer ██████ began to punch and yell at his (Officer ██████) dog. ██████ praised the dog and told Officer ██████ to stop. ██████ and Officer ██████ argued about Officer ██████ treatment of the dog, and ██████ decided to leave. ██████ stated that he flinched as he prepared

⁹ Officer ██████ stated that he does not recall telling detectives that his gun was on rather than in the nightstand.

¹⁰ Attachment 207

¹¹ Attachment 225

¹² ██████ stated that ██████ drove ██████ vehicle because ██████ had consumed alcohol and ██████ was sober.

¹³ ██████ stated that he was unsure at what point he and ██████ met up with Officer ██████ ██████ did not recall seeing Officer ██████ at ██████.

to leave—which [REDACTED] demonstrated by closing his eyes and tucking his head in toward his chest—because he thought Officer [REDACTED] was going to “shoot something... like a wall or something like that.”¹⁴ [REDACTED] stated that he did not see the gun prior to being shot, but he knew that Officer [REDACTED] owned a gun and usually kept it in the waistband of his pants. Upon further examination, [REDACTED] stated that he did not know if he saw Officer [REDACTED] holding a gun prior to when he ([REDACTED] flinched or was shot. According to [REDACTED] his next memories are two or three years after the incident. [REDACTED] asserted that he did not shoot himself and stated that he never picked up or held Officer [REDACTED] gun. During the deposition, [REDACTED] was asked about a text message that he sent to [REDACTED] on January 11, 2010, stating, “but you’re not alone, and you make me alone and depressed.” [REDACTED] stated that he did not remember sending [REDACTED] that text message. He testified that when he held handguns, he used his right hand.

[REDACTED] also testified about things that he did not have first-hand knowledge of, as they would have happened while he was unconscious or in surgery: namely that Officer [REDACTED] was inebriated and had a 0.2 or 0.220 blood alcohol level at 3:00 in the afternoon and that Officer [REDACTED] hit a lieutenant in the face.¹⁵

In an interview with COPA on January 25, 2018, [REDACTED] Jr. stated that, after he and his family celebrated his father’s birthday at [REDACTED], he went to 108th and Fairfield Avenue to give his friend [REDACTED]¹⁶ a jump. [REDACTED] then went to a bar with his cousin [REDACTED] where he and [REDACTED] first saw Officer [REDACTED]. [REDACTED] consumed one or two beers at the bar. At approximately 3:40 a.m., the bar closed, and [REDACTED] dropped off [REDACTED] at Officer [REDACTED] house. [REDACTED] stated that he is not certain if Officer [REDACTED] was in the car with him and [REDACTED] but he thinks Officer [REDACTED] may have rode with them to Officer [REDACTED] house.

[REDACTED] stated that he and Officer [REDACTED] had an argument because Officer [REDACTED] hit his dog, and the dog did nothing wrong. [REDACTED] praised the dog and told Officer [REDACTED] to stop hitting the dog. [REDACTED] stated that Officer [REDACTED] pushed him. [REDACTED] stated that he was not certain if he pushed Officer [REDACTED] back, but he told Officer [REDACTED] that he was leaving and to stop hitting the dog. [REDACTED] stated that Officer [REDACTED] was standing behind him when Officer [REDACTED] pushed him. [REDACTED] could not see Officer [REDACTED] hands; therefore, he does not know whether Officer [REDACTED] pushed him with one or two hands, or if Officer [REDACTED] had anything in his hands when he pushed [REDACTED]. [REDACTED] stated that he flinched because he thought Officer [REDACTED] was shooting on the wall, and he felt Officer [REDACTED] shooting. According to [REDACTED] the first cartridge did not fire, “because of the Sig, something. The second cartridge went off.”

[REDACTED] related that he did not see Officer [REDACTED] with a gun that night, but Officer [REDACTED] usually kept his gun on him, in the rear of his pants. When asked specifically if [REDACTED] knew where Officer [REDACTED] kept his gun, [REDACTED] stated that Officer [REDACTED] gun was in a safe in the bedroom. [REDACTED] added that he did not go into Officer [REDACTED] bedroom that morning. He did not know where Officer [REDACTED] put his gun, but the gun was either on Officer [REDACTED] or in a safe.

¹⁴ Attachment 206; page 88, lines 6 -11.

¹⁵ Attachment 205, 206

¹⁶ Phonetic spelling.

██████████ stated that his next memory is being in the hospital and feeling like his head had been in a car accident; he did not know initially that he had been shot. ██████████ stated that it was roughly one year before he could communicate, and he did not remember what happened to him until two or three years later. According to ██████████ the information he related are his own memories. ██████████ stated that prior to the incident, he was happy and never thought about suicide.

██████████ stated Officer ██████████ “blew”¹⁷ at 12:00 in the afternoon, that Officer ██████████ was four times the limit and had a blood alcohol level of 0.35. ██████████ had difficulty focusing on and answering questions at times during the interview. ██████████ repeated himself and could not answer specific questions about the moments leading up to the shooting.¹⁸

3. ██████████

In a deposition on January 18, 2016, ██████████ stated that, he was at ██████████ with friends when he ran into his cousin, ██████████ (██████████ was there with Officer ██████████ and others who ██████████ did not know. ██████████ stated that he knew of Officer ██████████ but that night was the first time he met Officer ██████████ ██████████ stated that he, ██████████ and Officer ██████████ left ██████████ together at approximately 3:30 a.m. Officer ██████████ drove ██████████ truck back to Officer ██████████ house. ██████████ stated that he did not go inside Officer ██████████ residence. ██████████ told ██████████ that he would take his truck to ██████████ father’s house and to call him in the morning. ██████████ stated that everyone seemed to be in a good mood and that ██████████ was his usual self. When asked at deposition if either ██████████ or ██████████ was drunk, ██████████ testified he saw both with drinks but stated he did not know if either was drunk that night. Finally, ██████████ stated that ██████████ was a happy person and never expressed thoughts about suicide.¹⁹

4. ██████████

One of ██████████ Jr.’s friends, ██████████ gave a deposition in the civil case on December 16, 2015. ██████████ was asked about statements attributed to him in the Detective Summary Report,²⁰ about whether ██████████ had made statements indicating suicidality prior to the incident. While under oath during his deposition, ██████████ testified that the detectives interviewed him less than a day after the shooting and told ██████████ that ██████████ had attempted suicide. At his deposition, ██████████ was adamant that he never told detectives that ██████████ said he “wanted to end it.” ██████████ testified that ██████████ had never talked about suicidal thoughts with him. ██████████ also testified that the he felt the detectives were trying to get him to agree that it was an attempted suicide, despite ██████████ repeated denial of this as a possibility.²¹

5. ██████████ nee ██████████

On June 17, 2016, ██████████ ██████████ girlfriend at the time of the shooting, gave a deposition in the civil case. ██████████ testified that she and ██████████ had disagreed about her drug

¹⁷ Referencing when Officer ██████████ took a breathalyzer blood alcohol test after the incident.

¹⁸ Attachment 204

¹⁹ Attachment 209

²⁰ Attachment 133

²¹ Attachment 227

use, specifically, that she had been dependent on Ambien, a sleeping pill, for several years prior to January 2010. She authenticated several text messages between [REDACTED] and herself that were sent in the days prior to January 12, 2010. The text messages highlighted several points of disagreement between the couple including: [REDACTED] having told [REDACTED] sister about her Ambien dependence; [REDACTED] use of hydrocodone, or Vicodin; and [REDACTED] not being invited to [REDACTED] family gatherings because her family disliked [REDACTED]. During an exchange of text messages between [REDACTED] and [REDACTED] specifically on the morning of January 11, 2010, approximately 14 hours before the shooting, [REDACTED] texted [REDACTED] "But you are not alone, and you make me alone and depressed."²² The couple exchanged multiple texts back and forth after this regarding [REDACTED] Ambien addiction and [REDACTED] needing to choose between [REDACTED] and the drugs. [REDACTED] also references his Vicodin use during the text exchange. [REDACTED] testified that [REDACTED] invited her to come to Chicago that night, but she declined because she had to work the next morning. She testified that she told him not to drive home that night because the roads were supposed to be bad due to inclement weather.

[REDACTED] testified that the morning after the shooting she came to Chicago to be with [REDACTED] family, and, while she was at [REDACTED] parents' house, she was interviewed by CPD detectives investigating the shooting. They showed her [REDACTED] cell phone and told her that they were aware of their texts and so she had better not lie to them. [REDACTED] uncle, [REDACTED] interrupted the interview after a few minutes and instructed [REDACTED] to stop speaking with the police. [REDACTED] had never indicated to her that he was suicidal, and she did not believe that he was suicidal. [REDACTED] testimony at deposition was materially consistent with the narrative of her interview memorialized in the detectives' report, with one exception. At deposition she stated that [REDACTED] had not told her he was going out with Officer [REDACTED] that night.²³

6. Testimony about [REDACTED] [REDACTED] Jr.'s right-handedness

In a deposition on January 15, 2016, [REDACTED] Jr.'s uncle, [REDACTED] testified that, his nephew [REDACTED] uses his right hand for throwing and writing. The one time the two went hunting together, [REDACTED] shot a shotgun right-handed.²⁴

In a deposition on February 23, 2012, [REDACTED] Jr.'s uncle, [REDACTED] testified that he went hunting approximately 20 times a year with [REDACTED] and that [REDACTED] used long guns and handguns right-handed. In fact, [REDACTED] shotgun for hunting could only be used right-handed as it ejected shells on the right side of the rifle. [REDACTED] also testified that he had never owned a Sig Sauer pistol, and that he had only fired one six or seven times in his life.²⁵

In a deposition on February 23, 2012, [REDACTED] Jr.'s father, [REDACTED] Sr., testified that [REDACTED] went through gun safety training when he was a teenager, more than a decade before the incident in question. The family had several guns which [REDACTED] used, including a

²² Attachment 228 ([REDACTED] AKA [REDACTED] Deposition, p. 100-101)

²³ See Attachment 133 and pg 14 of the IPRA Summary Report

²⁴ Attachment 231 ([REDACTED] Dep. p. 42-43)

²⁵ Attachment 232 ([REDACTED] Dep)

handgun. [REDACTED] ate and wrote left-handed but did everything else with his right hand. The two had been hunting together over 50 times, and [REDACTED] always shot right-handed.²⁶

In a deposition on December 3, 2015, [REDACTED] Jr.'s mother, [REDACTED] gave the following testimony about [REDACTED] being ambidextrous: "He shot with the right hand. He [used a] baseball-bat with the right hand. He shoveled with the right hand. He drove with the right hand. The only two things I've ever seen him do with his left was eat and write."²⁷

B. Additional physical evidence from medical records and expert testimony

1. Medical Records

According to [REDACTED] Jr.'s medical records from [REDACTED] Medical Center²⁸, per a toxicology screen taken on January 12, 2010 at 5:00 a.m., an hour or so after the incident, [REDACTED] had a blood alcohol content of 0.155. There were no positive findings for narcotics on the toxicology report.

2. Expert testimony regarding forensic evidence found at the scene

a. Expert witnesses retained by [REDACTED] family

In a deposition on November 22, 2016, **Doctor [REDACTED] [REDACTED]** a scientist and expert in biomechanics, and head and back injuries, was retained as an expert witness to determine whether Officer [REDACTED] description of the incident is consistent with the physical evidence. His testimony referenced the findings he made in his written report. Dr. [REDACTED] stated that the blood spatter observed in the photographs of the scene could not have been produced by a self-inflicted wound, and therefore [REDACTED] could not have shot himself. According to Dr. [REDACTED] based on the trajectory of the blood as depicted in the photographs, it would be unlikely for [REDACTED] to have been standing in the threshold of the doorway to the bedroom, contradicting Officer [REDACTED] version of events. The curvature of the blood pattern is consistent with [REDACTED] facing in a southwesterly direction, not facing north into the bedroom.²⁹ Additionally, in Dr. [REDACTED] report he concluded that based on the CT scans of [REDACTED] head, the path of the bullet appears to be at an angle, closer to the back of the head, as if the bullet were travelling more toward the back of his head. Given that, it would not be possible for [REDACTED] to shoot the gun with his right hand and achieve the trajectory consistent with the physical evidence. Dr. [REDACTED] stated that it would be unlikely for [REDACTED] to use his left hand at the time he was injured, because according to [REDACTED] mother and brother, [REDACTED] had right-handed gun handling habits.³⁰

In a deposition on November 9, 2016, **Doctor [REDACTED] [REDACTED]** a board-certified physician in Anatomical, Clinical, and Forensic Pathology, stated that, based on the radiological appearance of the gunshot wound, with extensive skull fractures, and the description of ejected brain tissue,

²⁶ Attachment 230 ([REDACTED] Sr. Dep)

²⁷ Attachment 229 ([REDACTED] Dep at pp. 150-151.)

²⁸ Att. 162, page 69

²⁹ Attachment 210

³⁰ Attachment 235

the gunshot wound that [REDACTED] sustained was a contact wound (the muzzle was in contact with the scalp at the time of discharge). According to Dr. [REDACTED] based on the location of the entrance wound, the contact nature of the wound, and the trajectory of the bullet through the brain, and assuming the gun, a Sig Sauer 226, was held in one hand, Dr. [REDACTED] opined that in all medical probability, [REDACTED] gunshot wound could not have been self-inflicted. In addition, Dr. [REDACTED] stated that the presence or absence of gunshot residue on the hands or clothing of an individual cannot be used to scientifically determine whether an individual shot himself or was shot by another.³¹ Dr. [REDACTED] report states facts consistent with his testimony at deposition.³²

b. Expert witnesses retained by the City of Chicago

In a deposition on March 21, 2017, **Doctor [REDACTED]** a forensic DNA expert, stated that, his office was retained to examine the pair of denim jeans recovered from Officer [REDACTED] and compare it to [REDACTED] DNA profile. Dr. [REDACTED] concluded that the red-brown (blood) stains on the left knee of the denim jeans are from [REDACTED]. Dr. [REDACTED] stated that he could not determine when the blood was found on the jeans, or how the blood got there. Dr. [REDACTED] stated that he did not have sufficient information to determine the distance between Officer [REDACTED] and [REDACTED] at the time of the shooting. Dr. [REDACTED] added that there could be more than one viable explanation as to how [REDACTED] blood came to be on Officer [REDACTED] jeans. Additionally, Dr. [REDACTED] tested a second red-brown stain from the right rear pocket of the denim jeans. Dr. [REDACTED] concluded that [REDACTED] was excluded as the contributor of the DNA profile for that stain.³³ Dr. [REDACTED] report specifies that [REDACTED] DNA was the only standard the two stain samples were compared to. Additionally, the report states facts consistent with his testimony at deposition.³⁴

In a deposition on April 6, 2017, **Doctor [REDACTED]** a forensic scientist and criminalist, was retained to look at crime scene photographs and evaluate the bloodstain patterns. Dr. [REDACTED] stated that based on his analysis of the bloodstain patterns, the exact position and placement of [REDACTED] when he was shot cannot be determined; nor can it be determined who shot [REDACTED]. Dr. [REDACTED] added that the bloodstain patterns depicted in the photographs could be produced if either person, [REDACTED] or Officer [REDACTED] shot [REDACTED].³⁵

In a deposition on May 1, 2017, **Doctor [REDACTED] [REDACTED]** a forensic scientist specializing in crime scene reconstruction and supervisor for the Washington State Patrol crime laboratory. Dr. [REDACTED] stated that, in this case he reviewed Dr. [REDACTED] [REDACTED] reports, CPD's incident report and scene photographs, Officer [REDACTED] statements, [REDACTED] medical reports, and Illinois State Police crime laboratory reports. Dr. [REDACTED] concluded that since the bullet did not exit and there are no photographs of the wound immediately after the event, the position/orientation of the firearm and the trajectory of the bullet into [REDACTED] head cannot be determined. According to Dr. [REDACTED] the damage to [REDACTED] skull and an apparent hair or scalp fragment on the south window frame of the residence is consistent with a contact or near contact shot. However, Dr. [REDACTED] could not render an opinion about the trajectory of the shot based on the skull fragments'

³¹ Attachment 212

³² Attachment 234

³³ Attachment 211

³⁴ Attachment 236

³⁵ Attachment 213

location. Dr. ██████ stated that the operation of the firearm involved in this incident, a Sig Sauer P226 DAK, is consistent with Officer ██████ account that the gun clicked and then fired. This firearm is equipped with a double-action only trigger system, which requires approximately half the effort to fire than the standard Sig Sauer P226 model in double-action mode. According to Dr. ██████ pulling the trigger when placed against the head is easily accomplished under a number of wrist angles. Dr. ██████ stated that the “out of battery” safety on the firearm prevents the weapon from firing when the muzzle of the firearm is pressed against a surface. In some instances, the firing mechanism will function, creating an audible click, but will not fire a cartridge. Additionally, Dr. ██████ stated that if the frame of the firearm is unsupported during firing, i.e. held loosely, or the slide is restricted, it is possible that the fired cartridge case will remain in the chamber. Dr. ██████ added that this occurrence is commonly observed in case of suicide, or if there is a struggle for the firearm at the time of firing. Dr. ██████ stated that based on his analysis of the evidence and the firearm that he examined, the evidence in this case is “not inconsistent with a suicide;” however, there is no direct evidence for Dr. ██████ to conclusively say whether Officer ██████ or ██████ pulled the trigger.³⁶ Dr. ██████ conclusions are contained in his written reports which is consistent with the facts he testified to at his deposition.³⁷

c. Expert testimony regarding ██████ memory, cognitive, and linguistic abilities after the injury

In a deposition on May 2, 2016, **Speech Pathologist** ██████ ██████ stated that, she began overseeing therapy sessions with ██████ in the Fall of 2012. The therapy sessions were intended to help ██████ with his ability to express his basic ideas, needs, and wants. ██████ stated that she learned from a combination of sources including ██████ his mother, and news reports that ██████ and a friend had been drinking heavily when a gun went off—resulting in ██████ injury. When asked specifically what information she learned from ██████ ██████ stated that she had very limited conversations with ██████ regarding his injury. ██████ did, however, recall a session where ██████ mother informed ██████ that ██████ was going to be featured on a Dave Savini news report, and ██████ said, “I didn’t shoot myself.” ██████ stated that she cannot offer any opinions regarding ██████ ability to recollect what happened with respect to the injury he sustained in January 2010.³⁸

In a deposition on May 31, 2016, ██████ stated that, she provided physical therapy to ██████ stated that ██████ was not communicative or expressive when he first began treatment in 2010, but he was able to follow commands. ██████ stated that in 2012, ██████ started having short conversations and answering yes/no questions. ██████ documented in her notes dated January 16, 2015 that ██████ spoke about the incident, and related that he had been drinking with his friend and his friend shot him. In her deposition, ██████ acknowledged that there was a discrepancy in her notes, because on the same date, a separate section of the notes documents that ██████ claimed he did not remember the incident, or anything after the incident up until January 2012. When asked to explain, ██████ stated that ██████ first brought up the incident between one year to one-and-a-half years prior to January 16, 2015; and that her notes are a culmination of old

³⁶ Attachment 214 (“not inconsistent with a suicide” at pg. 231)

³⁷ Attachment 233

³⁸ Attachment 215

evaluations and information obtained from both [REDACTED] and his parents. [REDACTED] stated that when she confronted [REDACTED] about the discrepancies in his statements, [REDACTED] responded that he blacked out. [REDACTED] stated that family members have mentioned to her that [REDACTED] had amnesia for a long period of time and does not have recollection of the incident.³⁹

In a deposition on May 5, 2016, **Doctor [REDACTED]** a practicing physician at [REDACTED] Medical Center with a specialty in physical rehabilitation and treatment, stated that, he manages a variety of musculoskeletal and other pain problems that arise with [REDACTED]. In December 2015, Dr. [REDACTED] performed a Mini Mental Status Examination on [REDACTED] to address [REDACTED] current cognitive status. Dr. [REDACTED] opined that [REDACTED] sustained severe, traumatic, lifelong brain injury. The entire left hemisphere of [REDACTED] brain was significantly injured, and he had very significant atrophy (shrinking) on the left side of his brain, from the back to the front. Dr. [REDACTED] stated that the injuries [REDACTED] sustained resulted in his slower processing of information, and [REDACTED] has difficulty at times in finding words.⁴⁰

In a deposition on May 5, 2016, **Radiologist [REDACTED]** stated that, he could not offer any opinions to a reasonable degree of medical certainty as to what effect [REDACTED] injury had on his memory. He could not tell the trajectory, other than that the bullet traveled from left to right and front to back. He could not give an opinion as to whether the gunshot wound was self-inflicted. Dr. [REDACTED] added that the left parietal lobe and the right high post occipital regions of [REDACTED] brain suffered brain death; however, he does not have an opinion as to what effect death to those parts of the brain had on [REDACTED].⁴¹

In a deposition on April 28, 2016, **Doctor [REDACTED]** stated that, he is a licensed physician who practices in plastic surgery and hand surgery. Dr. [REDACTED] stated that he performed multiple surgical procedures on [REDACTED] in 2010. Dr. [REDACTED] stated that he could not offer any opinions regarding [REDACTED] cognitive function; and he never assessed whether [REDACTED] gunshot wound was self-inflicted. Dr. [REDACTED] stated that loss of oxygen could affect someone's memory, but Dr. [REDACTED] could not speak to the impact [REDACTED] brain injury had on his memory.⁴²

In a deposition on May 6, 2016, **Doctor [REDACTED]** the neurosurgeon who operated on [REDACTED] following his injury, stated that, [REDACTED] sustained a gunshot wound to the left parietal region of his brain. Dr. [REDACTED] stated that it was not possible for him to determine whether the gunshot wound was self-inflicted.⁴³

In a deposition on April 12, 2016, **Doctor [REDACTED]**, Trauma Director at [REDACTED] Medical Center, stated that the traumatic brain injury that [REDACTED] sustained can cause significant cognitive dysfunction that would also affect memory function. He testified that "[i]n an injury as severe as this one, it is very possible that long-term memory may be seriously

³⁹ Attachment 216

⁴⁰ Attachment 217

⁴¹ Attachment 218

⁴² Attachment 219

⁴³ Attachment 220

impaired,” and that “[a] prolonged period of unconsciousness is a symptom of the severity of the injury—which would lend to the possibility that the injured person would have memory issues.”⁴⁴ Dr. ██████ further stated that, “based on the severity of ██████ brain injury and his hospital course, it is highly unlikely that he has regained full neurologic function.”⁴⁵

In a deposition on September 12, 2016, Doctor ██████ ██████ stated that, he performed an analysis of ██████ medical records, medical history, and physical exam for the purpose of life care planning and future medical needs. Dr. ██████ stated that he never spoke to ██████ about how he was injured, in part because he did not think ██████ would remember due to posttraumatic amnesia. Dr. ██████ stated that based on his review of the records, his opinion is that ██████ did not shoot himself because of the angle of the gunshot wound. Dr. ██████ acknowledged, however, that he was not retained to give an opinion regarding whether the gunshot wound was self-inflicted.⁴⁶

In a deposition on April 3, 2017, Doctor ██████ ██████ board-certified in neurology and physical medicine and rehabilitation, stated that based on his review of ██████ medical records, ██████ receptive and expressive abilities are impaired. Dr. ██████ stated that given the nature of ██████ injury and his cognitive residuals, he cannot see how ██████ could have possibly remembered what happened at the time of his injury.⁴⁷

In a deposition on April 14, 2017, Doctor ██████ ██████ a clinical neuropsychologist, opined that ██████ report of what transpired on January 12, 2010 is unreliable. Dr. ██████ stated that the effects of the brain injury, as well as alcohol intoxication, might affect ██████ accurate recall of that information. He observed that the trauma from the gunshot wound affected multiple regions of the brain—including those regions responsible for memory storage. Additionally, Dr. ██████ stated that ██████ memory, particularly the memories of events surrounding the time in which the gunshot was sustained, was affected. Dr. ██████ stated that suggestibility and misattribution are two of many errors that can affect accuracy of recall and recollection. Dr. ██████ questioned the degree to which other people talking about the events of January 12, 2010 could have intruded on ██████ recollection and recall of the events, such that they may have become part of his own recall, but the source of which was not from his own experience. According to Dr. ██████ suggestibility happens to a higher degree in people with brain damaged, as they are more susceptible to the influence and the information provided by others, that they then incorporate into their own memories. For instance, if ██████ heard others talking or hypothesizing about what transpired on the date of the injury and began to incorporate it into his own mind, that would affect the accuracy of his own independent memory of the event. Dr. ██████ report concludes, “empirical evidence suggests that recall of events close in time to the cerebral injury are less likely to be encoded/ consolidated into long-term storage, and therefore less likely to be recalled at some point in the future.” Further, he concluded that it would be extremely rare and highly improbable for ██████ to recall events almost immediately up to the moment in time which the injury

⁴⁴ Attachment 221, p. 30:4-16.

⁴⁵ Attachment 221, p. 43:19-24.

⁴⁶ Attachment 222

⁴⁷ Attachment 223

occurred. Dr. ██████ proposed that ██████ would more likely than not be unable to remember events immediately before the gun discharged.^{48 49}

VI. ANALYSIS⁵⁰

A. Applicable Rules and Standards

Officer ██████ allegedly shot ██████ Jr. in violation of Rules 2, 8, and 9 of the Rules and Regulations of the Chicago Police Department. Rules 8 and 9 together “prohibit the use of any excessive force by any member. These rules prohibit all brutality, and physical or verbal maltreatment of any citizen while on or off duty, including any unjustified altercation of any kind.”^{51, 52} Rule 2 “applies to both the professional and private conduct of all members” and applies to not only all unlawful acts, but all acts which would degrade or bring disrespect upon the member or the Department.⁵³ Further, it is alleged that Officer ██████ knowingly made false statements regarding the incident in violation of Rule 14, which prohibits “making a false report, written or oral.” For a false statement to violate Rule 14, the accused officer must make a knowingly false statement about a material fact.

When making investigative findings, COPA uses a preponderance of the evidence standard.⁵⁴ “A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.” *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005).

B. Allegation 1 – Officer ██████ shot ██████ Jr.

Based on a review of the available evidence, it is more probably true than not that Officer ██████ shot ██████ Jr., without justification on January 12, 2010, in violation of the Chicago Police Department’s Rules and Regulations. As discussed below, while ██████ Jr.’s condition post-injury has affected his memory about the moments leading up to the shooting, COPA finds his testimony about not being suicidal to be credible. Officer ██████ multiple objectively false statements about the events of the night coupled with his intoxication make him not credible. Moreover, the physical evidence and testimony regarding various circumstances surrounding the shooting contradict Officer ██████ version of events sufficiently enough to

⁴⁸ Attachment 224

⁴⁹ Attachment 237

⁵⁰ While this supplemental Summary Report of Investigation does not re-state all of the evidence contained in the original Summary Report of Investigation, the analysis, by necessity, takes all of that evidence into consideration when reaching the following conclusions. This analysis should not be interpreted as relying on the evidence contained in the investigative section of this document alone.

⁵¹ Official Comment to Rule 9, Rules and Regulations of the Chicago Police Department (as of April 1, 2010)

⁵² As noted above, Mr. ██████ and his family’s lawsuit was filed pursuant to 42 U.S.C. §1983, and alleged that Mr. ██████ injury was a violation of Mr. ██████ 4th Amendment rights. However, COPA does not need to reach a conclusion as to whether Officer ██████ was attempting to act in his official capacity when and if he shot Mr. ██████ as Rules 8 and 9 apply equally to off-duty misconduct as they do to on-duty misconduct.

⁵³ Official Comment to Rule 2, Rules and Regulations of the Chicago Police Department.

⁵⁴ COPA Rules and Regulations, Article IV, §4.1.1 Investigative Outcomes (effective April 13, 2018)

support a sustained finding by a preponderance of the evidence.⁵⁵ The following findings of fact support this conclusion.

1. There are issues affecting the reliability of both [REDACTED] and Officer [REDACTED]

[REDACTED] regained his ability to speak and began reporting memories of the night in question at least three years after the incident. While he has maintained that he did not see Officer [REDACTED] with a gun he also stated he flinched just prior to hearing the gun go off. Based on the severe nature of the traumatic brain injury [REDACTED] sustained, it is difficult to give much weight to his version of events that led up to the shooting. Most troubling, however, is how often [REDACTED] mixes his version of events with facts he learned after he was shot. For example, he has testified about multiple events that occurred while he was unconscious: the results of Officer [REDACTED] blood alcohol content test; that Officer [REDACTED] assaulted a sergeant;⁵⁶ and that the first cartridge did not discharge from the gun due to the Sig Sauer's out-of-battery feature. As Dr. [REDACTED] explained, individuals who have endured the type of trauma [REDACTED] suffered are susceptible to misattribution and suggestibility. [REDACTED] statements at deposition and to COPA are consistent with Dr. [REDACTED] explanation. Undoubtedly, people talked about facts of the case and hypothesized about what happened in [REDACTED] presence. To this day, [REDACTED] has confusion about where he learned some of the information about what occurred. In every statement that [REDACTED] has given, there are pieces of information throughout indicating his testimony about what occurred on January 12, 2010, are not his memories, but things he must have learned since then.

Both parties were objectively intoxicated at the time of the shooting. The medical records from [REDACTED] Hospital reflect that [REDACTED] BAC at 5:00 a.m. was .155.⁵⁷ His cousin [REDACTED] also described [REDACTED] as being intoxicated when they left [REDACTED].⁵⁸ Officer [REDACTED] BAC was .093 when the breathalyzer was administered nearly 7 hours after the shooting.⁵⁹ A back extrapolation by Dr. [REDACTED] determined his BAC at the time of the shooting to be between .169 and .246.⁶⁰ Therefore, each parties' recollection of the events would likely have been influenced by their respective levels of intoxication.

Additionally, COPA found that Officer [REDACTED] provided false statements about other parts of the incident under investigative log number 1087256. In sum, Officer [REDACTED] false statements to investigators and in the civil proceedings, the physical evidence (discussed below), and his

⁵⁵ Because COPA acknowledges that our investigation may not have uncovered all of the circumstances surrounding the minutes leading up to and including the shooting itself, COPA is not and will not make findings of fact pertaining to each of these circumstances. COPA's determination that Officer [REDACTED] shot [REDACTED] does not rely on or revolve around such determinations.

⁵⁶ Actually, [REDACTED] testimony during deposition was that Officer [REDACTED] "hit a Lieutenant in the face." (Attachment 206, p. 81:2-3). As there is no record of Officer [REDACTED] punching anyone in the face and no record of a lieutenant being attacked, we assume Mr. [REDACTED] was referencing Officer [REDACTED] aggressive conduct towards Sergeant [REDACTED] after the shooting, which is thoroughly detailed in the initial summary report filed in this log number. This further illustrates Mr. [REDACTED] confusion about the events of the night in question.

⁵⁷ See Attachment 162

⁵⁸ Attachments 30, 63.

⁵⁹ Attachments 44, 53

⁶⁰ Attachment 60.

inherent bias as an accused party, COPA finds Officer ██████ statements about what happened at the time of the shooting not credible.

2. ██████ was not suicidal during the early morning hours of January 12, 2010.

COPA does find ██████ testimony about not being suicidal credible. ██████ reported in multiple forums, including to COPA, that he has always been a happy person. In fact, he stated convincingly that even in his current condition, he continues to be a happy person with no desire to end his life. Additionally, his former girlfriend, ██████ (formerly ██████ testified that ██████ never discussed being suicidal with her, and she never thought he seemed suicidal. Despite Detectives Reports indicating ██████ ██████ heard ██████ make comments about ending his life, ██████ testified at deposition that he never made those statements to detectives and further, did not believe ██████ was suicidal.⁶¹ The only person to maintain that ██████ was suicidal that morning is Officer ██████ himself. There has been no corroborating evidence discovered to support Officer ██████ statements. For reasons stated both above and below this section, we do not find Officer ██████ to be reliable as to this issue.

3. The gunshot wound suffered by ██████ was not self-inflicted.

The physical evidence in this case is generally inconclusive with respect to who fired the round, however the evidence established several facts. First, it should be noted that the investigation was not treated as a homicide from the outset and because ██████ was still alive, life saving measures took precedent over maintaining evidence. In sum, experts agreed that the shot was a close contact wound based on skull fragments found inside the residence. Additionally, the CT scans show the bullet moved from left to right. However, while three experts opined that the wound could not be self-inflicted, several experts opined that the evidence is inconclusive as to who took the shot. The experts did agree that it would be nearly impossible to fire the weapon with the right hand. Finally, based on his blood spatter analysis, Dr. ██████ concluded that ██████ was not facing into the bedroom as described by Officer ██████

4. ██████ used his right hand to shoot firearms.

The uncontested testimony is that with the exceptions of eating and writing, ██████ was right-handed for everything else, specifically shooting weapons. ██████ had been shooting handguns and shotguns for over a decade by January 12, 2010 and went hunting multiple times a year. Officer ██████ testified that ██████ would show him shotguns that he had purchased for hunting. ██████ Jr regularly kept the family's pistol. Additionally, ██████ Sr. and ██████ all maintain that ██████ shot all firearms right-handed. There has been no evidence, other than Officer ██████ version of the events to imply ██████ ever fired a firearm with his left hand. Moreover, the physical evidence suggests it would be nearly impossible for ██████ to use his right hand to shoot himself that night. Dr. ██████ testified it would not be possible for ██████ to shoot the gun with his right hand and achieve the

⁶¹ The only reference to the possibility of ██████ being suicidal came from Chicago Police Department detectives' supplemental reports. These reports claimed to reference interviews with ██████ and ██████ (nee ██████) to support this theory. However, the content of those interview summaries were directly contradicted by the depositions of those same witnesses.

trajectory consistent with the physical evidence. COPA does not find it convincing that the shooting occurred the way Officer [REDACTED] described: where [REDACTED] walked into Officer [REDACTED] bedroom without provocation, grabbed Officer [REDACTED] service weapon with his non-dominant hand, walked out to Officer [REDACTED] living room and used his non-dominant hand to shoot himself in the head. Due to the location and angle of the gunshot wound, for it to even be remotely possible for this wound to be self-inflicted, [REDACTED] would have had to use his left hand to accomplish holding this gun and pulling the trigger. This fact makes it nearly impossible to come to any other conclusion except that the gunshot wound was not self-inflicted.⁶²

In sum, COPA finds by a preponderance of the evidence that Officer [REDACTED] shot [REDACTED]. First, Officer [REDACTED] is not credible based on his intoxication at the time of the incident, the physical evidence and the numerous inconsistent statements he made to investigators and at deposition. In contrast to Officer [REDACTED] account, COPA finds sufficient evidence that [REDACTED] was not suicidal. The physical evidence significantly contradicts Officer [REDACTED] version of events. Specifically, the blood spatter showed that at the time of the shot [REDACTED] was not facing into the bedroom. Additionally, experts agree it would be nearly impossible to fire the gun with the right hand, and [REDACTED] was a known right-hand shooter.

- C. Allegation 2 – Officer [REDACTED] provided false statements to investigating police officers and detectives regarding this incident when he indicated that [REDACTED] shot himself.

As stated above, for a false statement to violate Rule 14, the accused officer must know that the statement is false at the time he or she makes it and it must be about a material fact of the investigation. Clearly whether Officer [REDACTED] observed [REDACTED] shot himself is material to CPD's and then-IPRA's investigations. Based on the analysis in the previous section, COPA has determined it is more probably true than not that [REDACTED] did not shoot himself. It is unclear if Officer [REDACTED] whose severe intoxication has been documented and discussed in other reports related to this investigation, knows what happened that night. However, if that were the case, he had an obligation to tell investigators that he could not remember what happened due to his impairment. Based on a preponderance of the evidence, either Officer [REDACTED] does know what happened and has made multiple false statements regarding the events, or he does not recall what happened and has falsely claimed that he does. Either way, the allegation that he violated Rule 14 is sustained.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer [REDACTED]

i. Complimentary and Disciplinary History

COPA has taken into account the Complimentary and Disciplinary History of Officer [REDACTED]

⁶² Of course, COPA is determining each of the findings of fact only by applying the preponderance of the evidence standard.

ii. Recommended Penalty, by Allegation

1. Allegation No. 6

Based on the egregious nature of the allegation, COPA recommends that Officer [redacted] be separated from the Chicago Police Department.

2. Allegation No. 7

Based on the egregious nature of the allegation, COPA recommends that Officer [redacted] be separated from the Chicago Police Department.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer [redacted]	6. Shot [redacted]	Sustained
	7. Provided false statements to investigating police officers and detectives regarding this incident when he indicated that [redacted] shot himself.	Sustained

Approved:

[Redacted Signature]

Sydney Roberts
Chief Administrator

9/20/18
Date

Appendix A

Assigned Investigative Staff

Squad#:	Four
Investigator:	████████ Davis
Supervising Investigator:	████████████████████
Deputy Chief Administrator:	Andrea Kersten