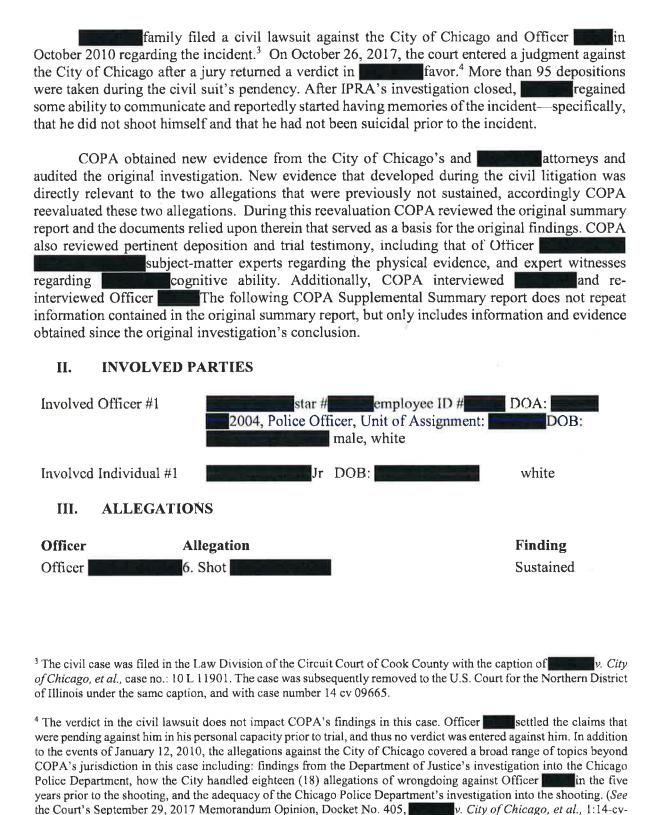
# SUPPLEMENTARY SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## 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.
shot himself with Office traumatic brain injury because of the coma and spent two months in the two months at the Rehabilitation. When regained conscious statement regarding what occurred uncle, a self-professional self-professi	d on January 12, 2010, after Chicago Police Officers responded for a call of a person shot. Upon arrival, emergency responders ith a gunshot wound to the head. Officer related that gunshot wound. prognosis was poor. He was in a hospital. Following his hospital stay, spent the next institute of Chicago before returning home with his parents. ness, he was unable to speak and incapable of providing a on the night in question. Shortly after the shooting, ressed handgun expert, expressed concerns regarding Officer a stated that the model of gun involved would not have fired in
the night of January 11, and early marked in IPRA on August 8, 2012. IPRA sunot sustained for two of those allegated gave false statements to invest of the bases for the not sustained	

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

<sup>&</sup>lt;sup>2</sup> 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.



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 shot himself.

## 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.

Rule14: Prohibits making a false report, written or oral.

# V. INVESTIGATION<sup>5</sup>

# A. Testimony from new witness interviews and depositions

1. Accused Officer

In a deposition on May 4, 2012, Officer stated <sup>6</sup> that, sometime after 10:00 p.m. on January 11, 2010, picked him up and they went out for drinks at Bar and later 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. Officer and saw cousin, at and officer stated that came in briefly, but then left to get cigarettes. Officer got some beers from the kitchen and he and stalked. Officer stated that he and stalked. Officer stated that he and swere fine and did not
Solution of the civil case that discredited any of the witnesses interviewed during IPRA's original investigation. COPA that not re-opened an investigation into the first five allegations of that summary report.  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 was intoxicated while off duty, failed to secure his weapon, assaulted Sergeant were bally abused Sergeant 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 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.  This summary of Officer deposition is limited to statements Officer made regarding the events leading up to the shooting.  The provided that on at least three occasions Officer had left his service weapon at while drunk and gone back the next day to retrieve it. (Attachment 229, Deposition, pp. 126-127).  The provided that on the first five allegations of the treatment of the provided that t

argue or have a disagreement; however, mentioned to Officer at that he (mentioned to Officer 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 bedroom, where Officer gun was stored inside of a nightstand. 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.				
In a deposition on May 3, 2016, and in the subsequent civil trial, Officer invoked his Fifth Amendment right to remain silent. <sup>11</sup>				
2. Subject, "Free Transfer of				
In a deposition on October 4, 2016,				
Once at Officer house, stated that he and Officer got some beer. At some point, Officer began to punch and yell at his (Officer day) dog. praised the dog and told Officer to stop. and Officer argued about Officer treatment of the dog, and decided to leave.				
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 stated that was unsure at what point he and stated that he was unsure at what point he and stated up with Officer did did not recall seeing Officer at stated.				

like that." stated that he did not see the gun prior to being shot, but he knew that Officer owned a gun and usually kept it in the waistband of his pants. Upon further examination, stated that he did not know if he saw Officer holding a gun prior to when he flinched or was shot. According to his next memories are two or three years after the incident. asserted that he did not shoot himself and stated that he never picked up or held Officer gun. During the deposition, was asked about a text message that he sent to an January 11, 2010, stating, "but you're not alone, and you make me alone and depressed." stated that he did not remember sending that text message. He testified that when he held handguns, he used his right hand.
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 was inebriated and had a 0.2 or 0.220 blood alcohol level at 3:00 in the afternoon and that Officer hit a lieutenant in the face. 15
In an interview with COPA on January 25, 2018, Jr. stated that, after he and his family celebrated his father's birthday at then went to a bar with his cousin where he and first saw Officer consumed one or two beers at the bar. At approximately 3:40 a.m., the bar closed, and dropped off at Officer house.  Stated that he is not certain if Officer was in the car with him and but he thinks Officer may have rode with them to Officer house.
stated that he and Officer had an argument because Officer to stop hitting the dog. Stated that Officer pushed him. Stated that he was not certain if he pushed Officer back, but he told Officer that he was leaving and to stop hitting the dog. Stated that Officer was standing behind him when Officer pushed him. Could not see Officer hands; therefore, he does not know whether Officer pushed him with one or two hands, or if Officer had anything in his hands when he pushed stated that he flinched because he thought Officer was shooting on the wall, and he felt Officer shooting. According to the first cartridge did not fire, "because of the Sig, something. The second cartridge went off."
related that he did not see Officer with a gun that night, but Officer usually kept his gun on him, in the rear of his pants. When asked specifically if knew where Officer kept his gun, stated that Officer gun was in a safe in the bedroom. Added that he did not go into Officer bedroom that morning. He did not know where Officer put his gun, but the gun was either on Officer or in a safe.

<sup>Attachment 206; page 88, lines 6 -11,
Attachment 205, 206
Phonetic spelling.</sup> 

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 Officer "blew" <sup>17</sup> 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. The repeated himself and could not answer specific questions about the moments leading up to the shooting. <sup>18</sup>
3.
In a deposition on January 18, 2016, stated that, he was at with friends when he ran into his cousin, 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, 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 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

<sup>19</sup> Attachment 209 20 Attachment 133

<sup>21</sup> 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 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: having told sister about her Ambien dependence; use of hydrocodone, or Vicodin; and not being invited to family gatherings because her family disliked During an exchange of text messages between and specifically on the morning of January 11, 2010, approximately 14 hours before the shooting, texted "But you are not alone, and you make me alone and depressed." The couple exchanged multiple texts back and forth after this regarding Ambien addiction and needing to choose between and the drugs. also references his Vicodin use during the text exchange. testified that 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.
testified that the morning after the shooting she came to Chicago to be with family, and, while she was at parents' house, she was interviewed by CPD detectives investigating the shooting. They showed her cell phone and told her that they were aware of their texts and so she had better not lie to them. interrupted the interview after a few minutes and instructed to stop speaking with the police. had never indicated to her that he was suicidal, and she did not believe that he was suicidal. 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 had not told her he was going out with Officer that night. <sup>23</sup>
6. Testimony about "I and "I and I and I are I a
In a deposition on January 15, 2016, Jr.'s uncle, testified that, his nephew uses his right hand for throwing and writing. The one time the two went hunting together, shot a shotgun right-handed. <sup>24</sup>
In a deposition on February 23, 2012, Jr.'s uncle, testified that he went hunting approximately 20 times a year with and that used long guns and handguns right-handed. In fact, shotgun for hunting could only be used right-handed as it ejected shells on the right side of the rifle. 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, Jr.'s father, Sr., testified that 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 used, including a

<sup>&</sup>lt;sup>22</sup> Attachment 228 (AKA Deposition, p. 100-101)
<sup>23</sup> See Attachment 133 and pg 14 of the IPRA Summary Report
<sup>24</sup> Attachment 231 (Dep. p. 42-43)
<sup>25</sup> Attachment 232 (Dep)

<sup>&</sup>lt;sup>28</sup> Att. 162, page 69
<sup>29</sup> Attachment 210
<sup>30</sup> Attachment 235

the gunshot wound that sustained was a contact wound (the muzzle was in contact with the scalp at the time of discharge). According to Dr. 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. opined that in all medical probability, gunshot wound could not have been self-inflicted. In addition, Dr. 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. Dr. 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, <b>Doctor</b> a forensic DNA expert, stated that, his office was retained to examine the pair of denim jeans recovered from Officer and compare it to DNA profile. Dr. concluded that the red-brown (blood) stains on the left knee of the denim jeans are from Dr. stated that he could not determine when the blood was found on the jeans, or how the blood got there. Dr. stated that he did not have sufficient information to determine the distance between Officer and at the time of the shooting. Dr. added that there could be more than one viable explanation as to how blood came to be on Officer jeans. Additionally, Dr. tested a second red-brown stain from the right rear pocket of the denim jeans. Dr. concluded that was excluded as the contributor of the DNA profile for that stain. Dr. report specifies that DNA was the only standard the two stain samples were compared to. Additionally, the report states facts consistent with his testimony at deposition. The concluded that the pair of denim jeans are given by the pair of denim jeans. Dr. profile for that stain.
In a deposition on April 6, 2017, <b>Doctor</b> a forensic scientist and criminalist, was retained to look at crime scene photographs and evaluate the bloodstain patterns.  Dr. stated that based on his analysis of the bloodstain patterns, the exact position and placement of when he was shot cannot be determined; nor can it be determined who shot Dr. added that the bloodstain patterns depicted in the photographs could be produced if either person, or Officer shot and
In a deposition on May 1, 2017, <b>Doctor</b> a forensic scientist specializing in crime scene reconstruction and supervisor for the Washington State Patrol crime laboratory. Dr. stated that, in this case he reviewed Dr. reports, CPD's incident report and scene photographs, Officer statements, medical reports, and Illinois State Police crime laboratory reports. Dr. 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 head cannot be determined. According to Dr. the damage to 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. could not render an opinion about the trajectory of the shot based on the skull fragments'

<sup>&</sup>lt;sup>31</sup> Attachment 212

<sup>32</sup> Attachment 234 33 Attachment 211

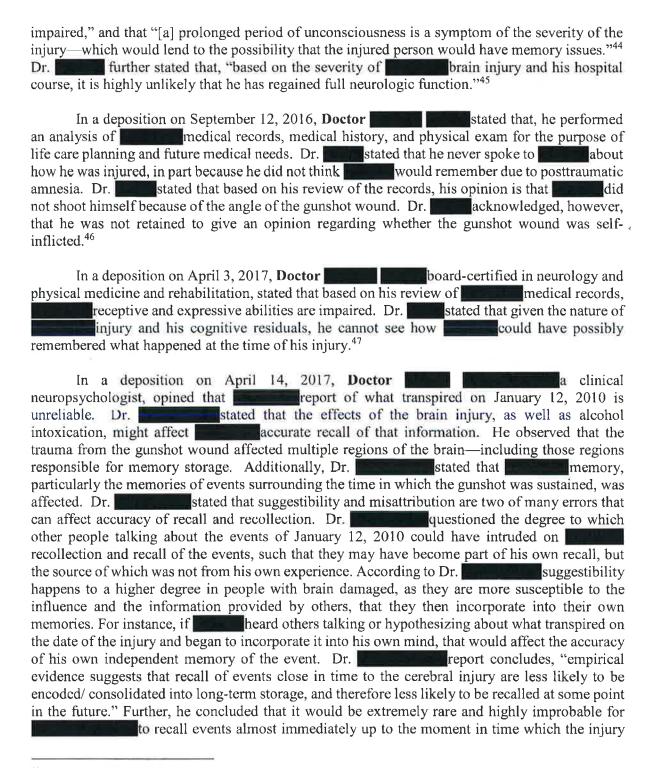
<sup>&</sup>lt;sup>34</sup> Attachment 236

<sup>35</sup> Attachment 213

<sup>&</sup>lt;sup>36</sup> Attachment 214 ("not inconsistent with a suicide" at pg. 231)
<sup>37</sup> Attachment 233
<sup>38</sup> Attachment 215

evaluations and information obtained from both and his parents. Stated that when she confronted about the discrepancies in his statements, responded that he blacked out. Stated that family members have mentioned to her that for a long period of time and does not have recollection of the incident. The stated that when responded that he blacked out.
In a deposition on May 5, 2016, <b>Doctor</b> 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 In December 2015, Dr. performed a Mini Mental Status Examination on to address current cognitive status. Dr. opined that sustained severe, traumatic, lifelong brain injury. The entire left hemisphere of 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. stated that the injuries sustained resulted in his slower processing of information, and has difficulty at times in finding words. 40
In a deposition on May 5, 2016, <b>Radiologist</b> stated that, he could not offer any opinions to a reasonable degree of medical certainty as to what effect 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. added that the left parietal lobe and the right high post occipital regions of brain suffered brain death; however, he does not have an opinion as to what effect death to those parts of the brain had on
In a deposition on April 28, 2016, <b>Doctor</b> licensed physician who practices in plastic surgery and hand surgery. Dr. stated that he performed multiple surgical procedures on in 2010. Dr. stated that he could not offer any opinions regarding cognitive function; and he never assessed whether gunshot wound was self-inflicted. Dr. stated that loss of oxygen could affect someone's memory, but Dr. could not speak to the impact brain injury had on his memory. 42
In a deposition on May 6, 2016, <b>Doctor</b> the neurosurgeon who operated on following his injury, stated that, sustained a gunshot wound to the left parietal region of his brain. Dr. stated that it was not possible for him to determine whether the gunshot wound was self-inflicted. <sup>43</sup>
In a deposition on April 12, 2016, <b>Doctor</b> Medical Center, stated that the traumatic brain injury that 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

<sup>&</sup>lt;sup>39</sup> Attachment 216
<sup>40</sup> Attachment 217
<sup>41</sup> Attachment 218
<sup>42</sup> Attachment 219
<sup>43</sup> Attachment 220



<sup>&</sup>lt;sup>44</sup> Attachment 221, p. 30:4-16.

<sup>&</sup>lt;sup>45</sup> Attachment 221, p. 43:19-24

<sup>&</sup>lt;sup>46</sup> Attachment 222

<sup>&</sup>lt;sup>47</sup> Attachment 223

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

## VI. ANALYSIS<sup>50</sup>

# A. Applicable Rules and Standards

Officer allegedly shot Ir. 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." 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. 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.<sup>54</sup> "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

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

<sup>48</sup> Attachment 224

<sup>&</sup>lt;sup>49</sup> Attachment 237

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

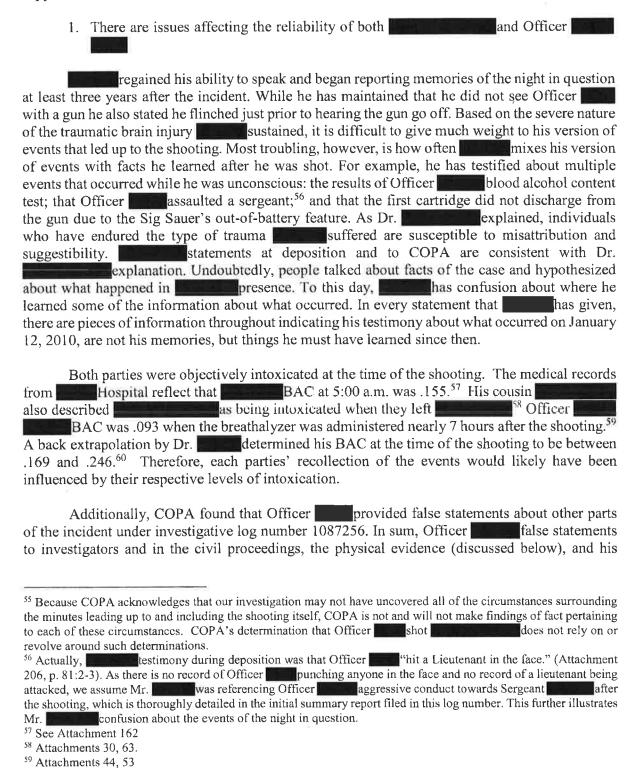
<sup>51</sup> Official Comment to Rule 9, Rules and Regulations of the Chicago Police Department (as of April 1, 2010)

As noted above, Mr. and his family's lawsuit was filed pursuant to 42 U.S.C. §1983, and alleged that 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.

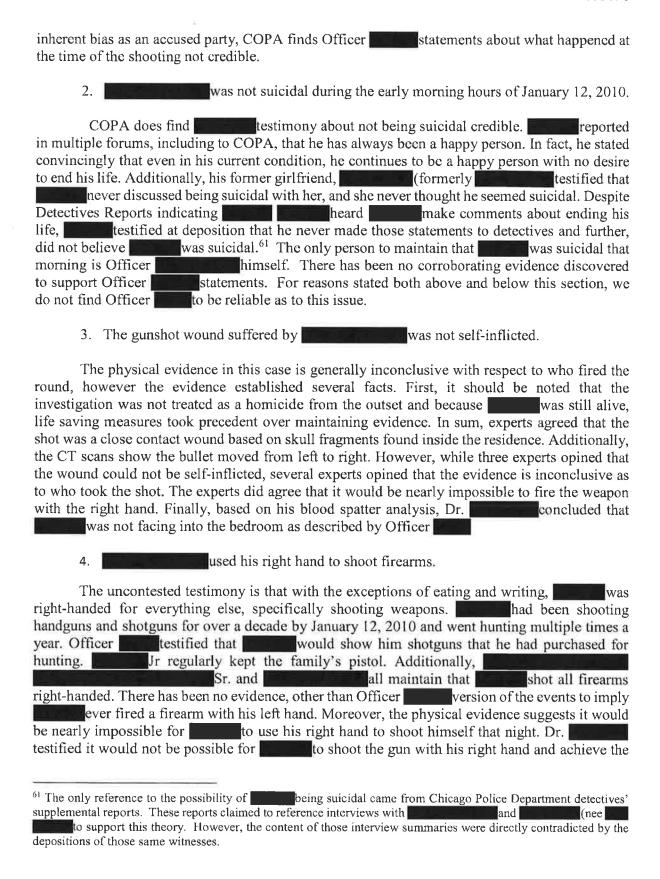
<sup>&</sup>lt;sup>53</sup> Official Comment to Rule 2, Rules and Regulations of the Chicago Police Department.

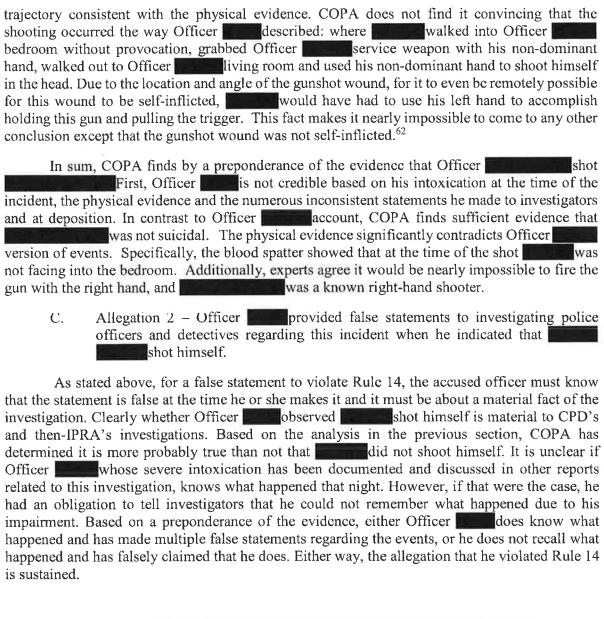
<sup>&</sup>lt;sup>54</sup> COPA Rules and Regulations, Article IV, §4.1.1 Investigative Outcomes (effective April 13, 2018)

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



<sup>60</sup> Attachment 60.





#### VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer

## i. Complimentary and Disciplinary History

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

<sup>&</sup>lt;sup>62</sup> 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 be separated from the Chicago Police Department.

# 2. Allegation No. 7

Based on the egregious nature of the allegation, COPA recommends that Officer 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	6. Shot	Sustained
	7. Provided false statements to investigating police officers and detectives regarding this incident when he indicated that shot himself.	Sustained

Approved:

Sydney Roberts
Chief Administrator

Date

# Appendix A

Assigned Investigative Staff

Squad#:	Four
Investigator:	Davis
Supervising Investigator:	1 - 1 - 2 - 1 - 1 - 1 - 1 - 1
Deputy Chief Administrator:	Andrea Kersten