

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	August 16, 2016
Time of Incident:	10:07 P.M.
Location of Incident:	10040 South Dauphin Avenue, Chicago, IL 60628
Date of IPRA Notification:	August 16, 2016
Time of IPRA Notification:	11:53 P.M.

On August 16, 2016, at 9:46 P.M., [REDACTED] called 911 from her residence at [REDACTED] and reported that her black Dodge Journey had just been carjacked by two men armed with guns. Within minutes, Chicago Police Department (“CPD”) Officers [REDACTED] and [REDACTED] assigned to Beat [REDACTED] spotted the stolen car driving nearby. The officers activated their patrol vehicle’s emergency equipment and attempted to stop the stolen vehicle, but the driver fled, and a vehicle pursuit was initiated. A second CPD patrol vehicle, Beat [REDACTED] occupied by Officer [REDACTED] and Probationary Police Officer [REDACTED] joined the pursuit shortly after it began. During the pursuit, the driver of the stolen vehicle fired a handgun in the direction of the pursuing officers, striking Officer [REDACTED] in the face. After Officer [REDACTED] was shot, Beat [REDACTED] took over as the primary unit in the pursuit, and the fleeing driver continued to shoot at the police. Both Officer [REDACTED] and Officer [REDACTED] returned fire at the fleeing driver, shooting through the windshield of their patrol vehicle. None of their shots struck the fleeing driver, who crashed into a parked car. The fleeing driver, later identified as [REDACTED] then threw his pistol out of the car and surrendered to police. This incident was recorded on the in-car-camera video recording systems (dash cams) of Beat [REDACTED] and Beat [REDACTED]. COPA investigated the officers’ use of deadly force and determined that it was Within Policy.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star # [REDACTED] Employee ID # [REDACTED] Appointed [REDACTED] 2014; Police Officer; Unit of Assignment [REDACTED] Date of Birth [REDACTED] 1980; Male; Black
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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. COPA also acknowledges that this investigation may have endured periods of delayed and/or no investigative activity prior to COPA. While there may be legitimate cause for the delay, no justification was noted in the file. Since launch, COPA has undertaken a concerted effort to facilitate the expeditious review of all cases initiated under IPRA while ensuring that each complaint has been subject to a full and thorough investigation prior to its closure.

Involved Officer #2:

██████████ Star # ██████ Employee ID # ██████
Appointed ██████ 2014; Police Officer; Unit of
Assignment ██████ Date of Birth ██████ 1992; Male;
Hispanic

Involved Officer #3:

██████████ Star # ██████ Employee ID # ██████
Appointed ██████ 2005; Police Officer; Unit of
Assignment ██████² Date of Birth ██████ 1970; Male;
Hispanic

Involved Officer #4:

██████████ Star # ██████ Employee ID # ██████ Appointed
██████████ 2015; Police Officer; Unit of Assignment ██████³
Date of Birth ██████ 1984; Male; American Indian/
Alaskan Native

Involved Individual #1:

██████████ Date of Birth ██████ 1991; Male;
Black

III. ALLEGATIONS

Any discharge of an officer’s firearm resulted in a mandatory notification to COPA’s predecessor IPRA. This investigation was initiated pursuant to such notification. However, COPA determined evidence did not exist which would require allegations of misconduct against Officers ██████ and ██████

IV. APPLICABLE RULES AND LAWS

General Orders

- 1. G03-02 Use of Force Guidelines⁴**
- 2. General Order G03-02-01 The Use of Force Model⁵**
- 3. General Order G03-02-02 Force Options⁶**
- 4. General Order G03-02-03 Deadly Force⁷**

² Officer ██████ was assigned to the ██████ District at the time of the incident under investigation. He has since been detailed to Unit ██████ the Field Services Section.

³ Officer ██████ was assigned to the ██████ District at the time of the incident under investigation. He has since been assigned to Unit ██████ the ██████ District. Officer ██████ was a probationary officer at the time of this incident but has since completed his probationary period.

⁴ Attachment 54. The version of General Order G03-02 referenced in this report became effective on October 1, 2002.

⁵ Attachment 55. The version of General Order G03-02-01 referenced in this report became effective on May 16, 2012.

⁶ Attachment 56. The version of General Order G03-02-02 referenced in this report became effective on January 1, 2016.

⁷ Attachment 60. The version of General Order G03-02-03 referenced in this report became effective on February 10, 2015.

5. General Order G03-03-01 Emergency Vehicle Operations – Pursuits⁸

Federal Laws

1. Fourth Amendment to the U.S. Constitution

State Laws

1. 720 ILCS 5/7-5 Peace officer's use of force in making arrest.**V. INVESTIGATION⁹****a. Interviews****1. Police Officer [REDACTED]**

Officer [REDACTED] was interviewed by COPA investigators on July 16, 2018. During his interview with COPA, Officer [REDACTED] viewed the in-car-camera video recording from his squad car depicting this incident, and Officer [REDACTED] identified where and when he observed the suspect firing a weapon at Officer [REDACTED] and his partner. Officer [REDACTED] recalled that on August 16, 2016, he was working Beat [REDACTED] with his partner, Officer [REDACTED] on the third watch, beginning at 2:00 P.M. Officer [REDACTED] was in uniform, and he was driving a marked CPD patrol vehicle equipped with emergency lights and a siren. At that time, Officer [REDACTED] had been Officer [REDACTED] regular partner for a few months. At about 10:00 P.M., the officers were patrolling near the intersection of 99th Street and Normal Avenue. Officer [REDACTED] explained that this intersection was outside of his assigned beat, but he drove there after hearing a “flash message” from the Office of Emergency Management and Communications (“OEMC”) regarding a vehicle hijacking that had just occurred nearby. Officer [REDACTED] further explained that OEMC had provided a description of the hijacked vehicle, including the vehicle’s license plate designation, along with notice that the alleged hijackers had been armed with a handgun.

Officer [REDACTED] estimated that six or seven minutes after hearing the flash message, he saw a vehicle matching OEMC’s description heading eastbound on 99th Street from Normal Avenue. As Officer [REDACTED] closed the distance between his patrol vehicle and the suspect vehicle, he saw that the suspect vehicle had a single occupant, the driver. Officer [REDACTED] began following the vehicle while he confirmed the license plate and the description of the vehicle, and he also requested an assisting unit. The suspect vehicle then went south on Eggleston from 99th Street, with Beat [REDACTED] following “maybe a couple of car lengths” behind. Beat [REDACTED] continued to follow the suspect vehicle south on Eggleston, and the driver signaled a left turn onto 103rd Street. When the suspect vehicle crossed the railroad tracks on 103rd Street, just east of Eggleston, Officer [REDACTED] spoke with Officer [REDACTED] and decided to attempt to stop the vehicle. Officer

⁸ Attachment 59. The version of General Order G-3-03-01 referenced in this report became effective on March 28, 2016.

⁹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

¹⁰ Attachments 94, 106.

██████████ suggested that they should attempt to curb the vehicle to see if the suspect would stop. Beat ██████████ activated their emergency lights and siren.

The suspect vehicle briefly came to a stop after Beat ██████████'s emergency lights and siren activated but subsequently fled eastbound on 103rd Street. Officer ██████████ estimated the suspect vehicle's speed at between 50 and 60 miles per hour and noted that the suspect driver was driving erratically, disregarding traffic signals and stop signs, and swerving between the center of the road and the curb. The driver of the suspect vehicle, later identified as ██████████ was "constantly looking down at his lap area" and continued to look in his rear-view mirror.¹¹ Officer ██████████ observed that the weather was clear and that the streets were dry. Vehicular traffic on 103rd Street was light, but Officer ██████████ saw pedestrians in the area. As Beat ██████████ continued to pursue the suspect vehicle, Officer ██████████ maintained communications with OEMC and updated the dispatcher on his location at each passing intersection. As the pursuit continued eastbound on 103rd Street, Officer ██████████ noted other squad cars at various intersections. At some point – Officer ██████████ did not recall exactly when – one additional squad car, Beat ██████████ joined the pursuit behind Beat ██████████

The suspect vehicle made a left turn onto Eberhart from 103rd Street, heading north. Continuing north on Eberhart, just past 102nd Street, Officer ██████████ observed the suspect's hand come out of the front driver-side window, and the suspect fired one round from a handgun in Officer ██████████ direction. This was the first time that Officer ██████████ observed the suspect with a weapon, and he could not tell from where the suspect had retrieved the weapon. Officer ██████████ heard what he believed to be a bullet strike his vehicle and later observed a bullet hole in his vehicle's front bumper. Officer ██████████ estimated that Beat ██████████ was within one car-length from the suspect's vehicle when the suspect fired. Officer ██████████ described how the suspect turned, looked out of the window, and pointed a gun over his shoulder before firing, holding the gun in his right hand. Officer ██████████ perceived the weapon to be a black handgun, but he could not tell if it was a revolver or a semi-automatic.

Officer ██████████ explained that neither he nor Officer ██████████ unholstered their own firearms after the suspect had fired at them:

I believed it would've been too difficult for me to . . . try to retrieve my weapon, and based off of what I saw around me, I don't think it would've been safe for me to try to fire shots at a moving vehicle. . . . I observed . . . citizens on their porches . . . [a]nd . . . actually citizens pulling into their driveways, as I was approaching, as I was pursuing him. . . . I saw people on 103rd, that were actually entering their vehicle, or standing by their vehicle. A couple of people crossed the street, and I saw someone on Eberhart on their porch, out of my peripheral vision. And, I also saw someone on 100th Street that was . . . turning into a driveway.¹²

¹¹ ██████████ Tr. 24:9–12. Attachment 106.

¹² *Id.* at 31:18–32:10.

Officer [REDACTED] described the suspect vehicle continuing to flee north on Eberhart and turn right, heading east on 100th Street, with Beat [REDACTED] following approximately one-quarter block behind. Officer [REDACTED] explained that he had decided to allow a little bit more distance between vehicles after the suspect had fired at him and estimated that the suspect vehicle was traveling at 20 to 30 miles per hour after turning onto 100th Street. The suspect then appeared to slow down, and Officer [REDACTED] noticed that an assisting unit was now driving with its lights and sirens activated, approximately two car-lengths behind Beat [REDACTED]. Officer [REDACTED] also observed another squad car approaching westbound on 100th Street from the bridge just east of South Dauphin Avenue.

Officer [REDACTED] described the suspect vehicle pulling over to the right on 100th Street, and the suspect's hand coming out of his window, again holding the handgun. The suspect fired another round, which struck Beat [REDACTED]'s windshield. Officer [REDACTED] stopped his vehicle to see if Officer [REDACTED] had been struck. Officer [REDACTED] noticed broken glass on both himself and on Officer [REDACTED] and he began brushing off the glass. Officer [REDACTED] then realized that he had been struck on the left side of his face. Officer [REDACTED] initially believed that the injury had been caused by broken glass, but later realized that he had been grazed by a bullet. Officer [REDACTED] felt pain and burning on the inside of his cheek, and he observed blood on his shirt.

While Beat [REDACTED] was stopped, the assist unit that had been following behind swerved around Beat [REDACTED] and took over as the lead vehicle in the pursuit. Officer [REDACTED] later learned that the assisting unit was Beat [REDACTED] occupied by Officers [REDACTED] and [REDACTED]. After checking his wound, Officer [REDACTED] continued driving east on 100th Street. Officer [REDACTED] noticed that one vehicle had turned into a driveway in front of the suspect's vehicle, but Officer [REDACTED] did not notice any other civilians outside on 100th Street. Between the time that Beat [REDACTED] stopped after Officer [REDACTED] was shot and the time that Beat [REDACTED] pulled up behind Beat [REDACTED] on Dauphin, neither Officer [REDACTED] nor Officer [REDACTED] used their police radios to communicate the fact that shots had been fired at the police or that Officer [REDACTED] had been struck.

Approximately 30 to 45 seconds after Beat [REDACTED] had stopped, Officer [REDACTED] heard gunfire in the distance but was not sure how many shots were fired or if more than one gun was firing. Officer [REDACTED] briefly lost sight of both Beat [REDACTED] and the suspect's vehicle, but then saw that both had turned south onto Dauphin and stopped. Officer [REDACTED] saw both officers from Beat [REDACTED] outside of their vehicle, approaching the suspect's vehicle with their guns drawn. The officers appeared to be checking the vehicle to determine if there were any additional occupants, and the suspect driver was lying face-down on the street next to his vehicle. Officer [REDACTED] approached and checked for additional occupants in the suspect's vehicle. Finding none, Officer [REDACTED] assisted the officers from Beat [REDACTED] in handcuffing the suspect, picking him up, and taking him back to Officer [REDACTED] squad car. While clearing the suspect vehicle and handcuffing the suspect, many additional Chicago police officers arrived, along with officers from the Cook County Sheriff's Police.

Officer [REDACTED] said that he had watched the in-car-camera video recordings of the pursuit and shooting several times, and he now believes that he should have positioned his squad car differently. When the suspect fired the round that struck him, Officer [REDACTED] "should have

stayed directly behind [the suspect's] vehicle, and not have been angled from the other side of the street.”¹³ Officer ██████ explained that when he moved his vehicle to the left to get a better view of the suspect, it gave the suspect a clearer shot at Officer ██████

2. Police Officer ██████

Officer ██████ was interviewed by COPA investigators on July 25, 2018. During his interview with COPA, Officer ██████ viewed the in-car-camera video recording from his squad car depicting this incident, and Officer ██████ identified the path of the pursuit and where and when he observed the suspect firing a weapon. Officer ██████ recalled that on August 16, 2016, he was working Beat ██████ with his partner, Officer ██████ on the third watch, beginning at 2:00 P.M. Officer ██████ was in uniform, and he was the passenger in a marked CPD patrol vehicle equipped with emergency lights and a siren.

Officer ██████ described receiving information from OEMC about a vehicular hijacking that had just occurred. The suspects in the hijacking were described as two or three male blacks, each armed with a handgun, and the hijacked vehicle was described as a black Dodge Journey. Officer ██████ recalled encountering a vehicle that matched the description of the hijacked vehicle near 99th Street and South Normal Avenue, and Officer ██████ provided an account of the path of the subsequent pursuit that was consistent with Officer ██████ account.

Officer ██████ recalled that the suspect vehicle fled at speeds between 50 and 60 miles per hour on 103rd Street, and Officer ██████ saw the suspect vehicle nearly miss striking a pedestrian who was attempting to enter a parked vehicle. Traffic was light, the weather was dry and warm, and the road was dry. Officer ██████ described the suspect firing at Beat ██████ once near Eberhart and 102nd Street and again on 100th Street east of Eberhart, consistent with Officer ██████ statement. Officer ██████ saw one vehicle turn into a driveway in front of the suspect's vehicle when the suspect was traveling east on 100th Street after shooting Officer ██████ but Officer ██████ did not remember seeing any pedestrians or residents on sidewalks or porches. Officer ██████ described 100th Street as being bounded by a highway on the south side, with houses on the north side. Officer ██████ did not recall if he ever removed his handgun from its holster at any point during this incident. Officer ██████ was sure that Officer ██████ had not unholstered his firearm, as Officer ██████ was concentrating on driving. Officer ██████ explained that he considered drawing his firearm both the first and second time that the suspect fired at Beat ██████ but he ultimately decided not to draw:

[I]t wasn't safe and visible for me to do so, due to all the – the street was very narrow. . . . I couldn't tell if there's gonna, somebody coming out of the vehicle. . . . The street was super narrow, bumpy, so it wouldn't have been smart of me to do so.

And the second time he did, the vehicle had cut him off, kinda brought doubt to my mind.

...

¹³ *Id.* at 50:12–14.

¹⁴ Attachments 103, 109.

There might be another person around. I mean, as soon as he cut him off, that showed me there's still people out. It was early, it's 10:00. People are probably barely getting home from work, or you know, from wherever, for everything they do, you know. Therefore, I know there's gonna be somebody else, and I didn't wanna place them in harm. I mean, the time would've been great, the street was open. There wasn't a lot of people, like on the other, uh, narrow street. But . . . the shot that hit my partner totally put us off the fight.¹⁵

Officer [REDACTED] heard gunfire as Beat [REDACTED] rejoined the pursuit after Officer [REDACTED] was struck, but Officer [REDACTED] could not tell where the shots were coming from. As Beat [REDACTED] continued east on 100th Street, Officer [REDACTED] lost sight of the assisting unit that had taken over the pursuit, but he surmised that the pursuit had turned south on Dauphin because he could see additional police vehicles coming west from the railroad bridge. Once Beat [REDACTED] turned south on Dauphin, Officer [REDACTED] saw both the assisting unit and the suspect vehicle stopped and described clearing the suspect vehicle and taking the suspect into custody. As the suspect was being escorted to Beat [REDACTED]'s vehicle, the suspect spontaneously said that he had not been alone in the vehicle and that the other occupant had jumped out.

Officer [REDACTED] explained that he had watched the in-car-camera video recording of the pursuit and shooting after the incident to see if he could have done anything differently. Officer [REDACTED] believes that Beat [REDACTED] should have stayed directly behind the suspect's vehicle, denying the suspect the advantage of a clear shot. Officer [REDACTED] could not recall receiving any training from the CPD regarding the exchange of gunfire between moving vehicles.

3. Police Officer [REDACTED]

Officer [REDACTED] was interviewed by COPA investigators on July 24, 2018. During his interview with COPA, Officer [REDACTED] viewed the in-car-camera video recording from his squad car depicting this incident, and Officer [REDACTED] identified where and when he observed the suspect firing a weapon and where and when he and his partner returned fire. Officer [REDACTED] recalled that on August 16, 2016, he was working Beat [REDACTED] with his partner, Probationary Police Officer [REDACTED] having started their shift at 9:00 P.M. Officer [REDACTED] was in uniform, and he was driving a marked CPD patrol vehicle equipped with emergency lights and a siren. August 16, 2016, was the first time that Officer [REDACTED] had met Officer [REDACTED] who was rotating between partners as a probationary officer. At about 10:00 P.M., the officers were on patrol when they heard Beat [REDACTED] on the police radio announce that a car was fleeing from them on 103rd Street. Officer [REDACTED] drove to the intersection of 103rd and Michigan Avenue to intercept the fleeing vehicle.

Officer [REDACTED] did not recall having any information about the fleeing vehicle other than the fact that its driver had failed to stop for police. Officer [REDACTED] did not recall receiving a description of the vehicle's occupants, and he did not recall hearing a flash message from OEMC regarding a vehicular hijacking. Officer [REDACTED] saw a mid-size, dark, four-door sedan traveling at a high rate of speed east on 103rd Street from Michigan Avenue with a single marked CPD

¹⁵ [REDACTED] Tr. 43:8–15, 43:23–44:9. Attachment 109.

¹⁶ Attachments 102, 108.

vehicle in pursuit, lights and sirens activated, approximately two car lengths behind the fleeing vehicle. Based on what he had heard on the police radio, Officer ██████ believed that the marked vehicle was Beat ██████. As soon as the fleeing vehicle passed Officer ██████ vehicle, Officer ██████ activated his lights and sirens and joined the pursuit as the second unit, behind Beat ██████. Officer ██████ also recalled that he operated the police radio during the ensuing pursuit; his partner did not. This was unusual, as the passenger officer would normally operate the radio, but Officer ██████ had never worked with Officer ██████ before, and they had not established any regular approach to dividing their tasks.

The pursuit continued north onto Eberhart from 103rd Street. When the pursuit reached the area of either 101st or 102nd Street, Officer ██████ was approximately two car-lengths behind Beat ██████ when he heard a gunshot – and he heard Beat ██████ on the radio saying that they were being shot at. Officer ██████ then used his police radio to clarify that shots were being fired *at* the police – not *by* the police. The pursuit then continued east onto 100th Street from Eberhart, and Officer ██████ heard another gunshot. Officer ██████ was still just a few car-lengths behind Beat ██████ and he could tell that the officers in Beat ██████ were not shooting, so he concluded that the suspect had shot at them. Immediately after that gunshot, Officer ██████ saw Beat ██████ swerve to the right and stop. Officer ██████ did not hear anything over the police radio indicating what had happened to Beat ██████ but he surmised that one of the officers may have been struck by gunfire based on their sudden stop.

Officer ██████ drove around Beat ██████ and continued the pursuit as the primary unit, approximately six to seven car-lengths behind the suspect. At that time, the suspect began shooting at Beat ██████ firing three or four shots. Officer ██████ described seeing the muzzle flash from the suspect's gun as the suspect turned his body and fired back at Officer ██████ through the driver's side window. There were houses on the right-hand side of the street and the expressway to the left, and the pursuit was heading towards the Metra train tracks at 100th Street and Dauphin. Officer ██████ did not see any other vehicular or pedestrian traffic on 100th Street and did not see any people outside the houses on the right.

Officer ██████ feared for his life and fired back at the suspect, initially firing three or four shots while heading east on 100th Street past Saint Lawrence Avenue. Officer ██████ described drawing his firearm and holding it with his right hand while he used his left hand to steer. Officer ██████ used his front and rear sights to aim at the suspect, firing three or four rounds through the windshield of his patrol vehicle. Officer ██████ said that he was able to see the suspect in the driver's seat of the fleeing vehicle and that he did not see any other occupants in the vehicle. "I think training just took over. When I saw the shots being fired at me. When I realized I already had my weapon out, I was trying to aim at the driver, 'cuz he kept shooting, so I shot back."¹⁷ Officer ██████ considered the location of the houses on the right-hand side of the street but determined he could safely aim at the suspect without firing towards the houses. The suspect turned south onto Dauphin Avenue and continued to shoot at Beat ██████ through his own back window while turning. Officer ██████ said, "[H]e turned and started shooting. Oh, he turned to his right, to the back of the window, and started shooting. I could see the mirror, the back of his windshield, I mean, the back window pop out and the muzzle flash."¹⁸ Officer ██████ said he had closed the

¹⁷ ██████ Tr. 38:11–14. Attachment 108.

¹⁸ *Id.* at 49:16–19.

distance between vehicles to approximately two car-lengths. He could see the suspect and was again able to aim at the suspect. Officer [REDACTED] returned fire:

I kept shooting, at that point, because it was a safe area, next to the bridge.¹⁹ When he hit the corner, he went to the right. There's like the grassy area of the houses, kind of inward. At that point, I stopped shooting. He kept shooting.

He kept, uh, traveling. He . . . I wanna say he shot again, and I think that's when . . . I heard . . . two or three shots, I'm not sure. And, that was my partner who had shot. Uh, at that point, the car kept going, he struck . . . a parked vehicle. I saw as he tossed the gun out the window. At that point, I said, "Okay, he, there's no more," you know, "he can't fire the person that just threw the gun out."²⁰

Officer [REDACTED] said that he initially stopped shooting both because the suspect had turned towards houses that might be occupied and because Officer [REDACTED] had exhausted the ammunition in his first magazine. Officer [REDACTED] was unable to reload immediately because he was still driving, and then the suspect crashed into a parked vehicle and surrendered. Officer [REDACTED] later learned that his partner had also fired at the offender, but Officer [REDACTED] had not noticed his partner firing at the time of the incident because he was so focused on his own actions and the actions of the suspect.

Officer [REDACTED] exited his patrol vehicle and yelled at the suspect to get on the ground while Officer [REDACTED] reloaded his handgun. The suspect complied, and Officer [REDACTED] placed his foot on the suspect's back while visually checking the interior of the suspect's car for any additional occupants. Officer [REDACTED] explained that he placed his foot on the suspect because he was not sure if the suspect had a second handgun and needed to secure the suspect while he looked inside the suspect's car. After quickly making sure there were no other occupants in the car, Officer [REDACTED] knelt with his knee on the suspect's back, re-holstered his firearm, and handcuffed the suspect with the assistance of other officers. Officer [REDACTED] had no more interaction with the suspect after that time.

Officer [REDACTED] did not recall receiving any training that explicitly addressed the issue of engaging in gunfire while in a patrol vehicle. When asked what factors he considered when deciding to return fire towards a suspect in a moving vehicle, Officer [REDACTED] replied:

When he was shooting at us, trying to kill us, and others, at that point, I said, I'm gonna shoot back, I'm gonna fight back. I mean, the reason being that you, you fear for your life. I mean, this guy is just shooting. He's trying to kill me, and you gotta survive. And, even after I shot, I had to stop the threat. That's what we're taught, always. If you have someone that's fighting back, or shooting at you,

¹⁹ Later in the interview, Officer [REDACTED] stated that he knew it was safe to fire as he approached Dauphin because the railroad bridge and viaduct in front of the suspect's vehicle was "pure cement" and because there were no residences on that side of the roadway. *Id.* at 48:2-8.

²⁰ *Id.* at 29:5-22.

you gotta try to stop the threat. And, even after I kept shooting, he kept shooting back.²¹

After the suspect was in custody, other officers walked the suspect away from Officer [REDACTED]. Officer [REDACTED] then started to feel chest pains and a ringing in his ears, and an ambulance transported Officer [REDACTED] to the hospital for treatment. Officer [REDACTED] was diagnosed with tinnitus after this incident, and he reported that he continues to suffer from ringing in his ears and that he now uses hearing aids.

4. Police Officer [REDACTED]

Officer [REDACTED] was interviewed by COPA investigators on July 18, 2018. During his interview with COPA, Officer [REDACTED] viewed the in-car-camera video recording from his squad car depicting this incident, and Officer [REDACTED] identified the path of the pursuit and where and when he observed the suspect firing a weapon. Officer [REDACTED] account of the pursuit was consistent with the account provided by his partner, Officer [REDACTED]. Officer [REDACTED] recalled that on August 16, 2016, he was working Beat [REDACTED] with his partner, Officer [REDACTED]. Officer [REDACTED] was in uniform and was the passenger in a marked CPD patrol vehicle equipped with emergency lights and a siren. The date of the incident was the first time that Officer [REDACTED] had worked with Officer [REDACTED]. Officer [REDACTED] explained that he was still a probationary officer at the time of this incident and was rotating between partners. At about 10:00 P.M., the officers were on patrol near 104th Street and Michigan Avenue when they heard over the police radio that a pursuit originating in the [REDACTED] District was entering the [REDACTED] District. Officer [REDACTED] saw the suspect's vehicle and the [REDACTED] District patrol vehicle heading east on 103rd Street from Michigan Avenue. Beat [REDACTED] joined the pursuit behind Beat [REDACTED]. Officer [REDACTED] view of the suspect vehicle was obscured by Beat [REDACTED]'s vehicle.

Officer [REDACTED] recalled hearing at least one shot fired by the suspect while the pursuit headed north on Eberhart and one more shot after the suspect turned right and headed east on 100th Street. After hearing the shot on 100th Street, Officer [REDACTED] saw Beat [REDACTED] pull suddenly to the right and stop. This led Officer [REDACTED] to believe that the offender may have shot one of the officers in Beat [REDACTED]. At that point, Beat [REDACTED] passed Beat [REDACTED] and took over the pursuit. As they pursued the suspect east on 100th Street, Officer [REDACTED] heard multiple gunshots. Officer [REDACTED] could not see the suspect firing, but he believed the suspect was firing at his vehicle based on what he could hear. As Beat [REDACTED] approached the railroad overpass at 100th Street and Dauphin, Officer [REDACTED] removed his firearm from its holster. Officer [REDACTED] could not recall when his partner, Officer [REDACTED] unholstered his firearm, but Officer [REDACTED] believed that Officer [REDACTED] fired first. Officer [REDACTED] first shots were fired while traveling east on 100th Street, after Officer [REDACTED] perceived the suspect firing at Beat [REDACTED]. Again, Officer [REDACTED] could not see the suspect fire, but he heard shots and saw a puff of dust rise from the pavement just in front of his patrol vehicle, as if the pavement had just been struck by a bullet.

Officer [REDACTED] saw Officer [REDACTED] fire at the suspect through the windshield of their patrol car on 100th Street. Officer [REDACTED] continued to fire at the suspect when the suspect turned right onto Dauphin. Officer [REDACTED] was surprised when Officer [REDACTED] fired his first shot, as Officer [REDACTED]

²¹ *Id.* at 63:17–64:2.

²² Attachments 100, 107.

had been concentrating on the suspect and had not noticed Officer [REDACTED] unholstering his weapon. Officer [REDACTED] had not unholstered his own weapon at that time because he was anticipating that the suspect might stop his vehicle and attempt to flee on foot, and Officer [REDACTED] did not want to be holding his firearm if he needed to quickly jump out of the patrol car and run after the suspect.

After the suspect turned onto Dauphin, Officer [REDACTED] saw the suspect drive up onto the curb, fire at the officers again, and then drive back onto the street. At that time, Officer [REDACTED] saw only one person in the fleeing vehicle, the driver, who he described as male and African-American. Officer [REDACTED] then had a clear view of the suspect and fired twice at the suspect in rapid succession, shooting through his own vehicle's windshield. Officer [REDACTED] said that he held his firearm with both hands and that he used the front and rear sights. Officer [REDACTED] recalled being cognizant of the houses on the right side of the street, which he described as being separated from the road by both a parkway and a sidewalk and recalled waiting until the suspect had veered off the sidewalk and back onto the street before firing to avoid placing residents in danger. Officer [REDACTED] described attempting to keep his body behind the engine block of the patrol vehicle, using the vehicle as cover. Officer [REDACTED] explained that he had received training in using the engine block for cover during a tactical medical class that he had taken, at his own expense, once per year beginning in 2015. During that training, Officer [REDACTED] was taught that "[t]he safest spot to take cover in a vehicle is behind the engine block when you have an active imminent threat," and that "[w]ith the risk of immediate life or death . . . the safest way to take cover and return fire."²³ Officer [REDACTED] added, "At this point, based upon where we were at and the situation we had at hand, the safest way to fire, return fire, was through the windshield and at the offending vehicle and at the driver who was actively shooting at us."²⁴ Officer [REDACTED] further explained why he fired through the windshield of his patrol vehicle:

And like when I fired, the vehicle was straight in front of me, I was able to line my sights up and it was straight ahead. That way it stayed away from the houses that were off to the right when I fired, and then it's not appropriate to hang out of a car doing however many miles an hour, you can lose your gun. You lose your gun in a gunfight, you lost the gunfight.²⁵

Officer [REDACTED] also recalled training that he received at the CPD Academy, using a virtual-reality simulator, in a scenario where he was sitting in a parked vehicle and was suddenly confronted by a gunman. But Officer [REDACTED] did not find the simulation to be very realistic, as he was just sitting in a chair to simulate a vehicle, and he did not remember being taught any specific tactics.

Immediately after Officer [REDACTED] fired two shots at the suspect, the suspect crashed into a parked vehicle on Dauphin Avenue and surrendered. Officer [REDACTED] provided an account of taking the suspect into custody, consistent with the available video evidence and the statement of Officer [REDACTED]. Officer [REDACTED] also said that he briefly suffered from tinnitus after this incident, but he has

²³ [REDACTED] Tr. 40:8–14. Attachment 107.

²⁴ *Id.* at 40:16–20.

²⁵ *Id.* at 72:5–10.

since recovered. Officer [REDACTED] stated that prior to the incident his weapon was fully loaded with 16 rounds – one live round in the weapon’s chamber and a full 15-round magazine.

b. Digital Evidence

1. Office of Emergency Management Audio Recordings²⁶

In a recorded **911 telephone call** made at 9:46 P.M. on August 16, 2016, a person who identifies herself as [REDACTED] tells the dispatcher that two Black male subjects just stole her black Dodge Journey at gunpoint outside of 9600 South Wallace Street. A person who identifies himself as [REDACTED] son joins the telephone call, provides the license plate number of the Journey, and informs the dispatcher that the suspects drove east.²⁷

In **transmissions made on police radio Zone 9²⁸** beginning at 9:53 P.M. on August 16, 2016, the dispatcher broadcasts information about the armed vehicular hijacking that just occurred at 9600 South Wallace, with a description of the offenders, a description of the stolen Dodge Journey, and the offenders’ last known direction of travel. Approximately seven minutes later, Beat [REDACTED] informs the dispatch that they see the Journey going south on Eggleston from 100th Street. Beat [REDACTED] requests another car for backup and updates OEMC on the location of the stolen vehicle. When Beat [REDACTED] reaches 103rd Street, they announce that the stolen car is fleeing eastbound, and a siren is audible on the recording. Beat [REDACTED] announces the cross-streets they are passing and then announces that the vehicle is heading north on Eberhart. Beat [REDACTED] announces, “shots fired at the police,” but the radio transmission is clipped, and the dispatcher first announces that the offender is fleeing on foot and then announces that shots have been fired *by*, rather than *at*, the police. A different voice, later identified as Officer [REDACTED]²⁹ transmits clearly that shots have been fired *at* the police and that the stolen vehicle is now fleeing east on 100th Street. Officers broadcast that the offender is still firing, and the pursuit is continuing east on 100th Street. The radio transmissions become garbled as multiple officers and the dispatcher speak at the same time. Approximately three-and-a-half minutes after the pursuit begins, Beat [REDACTED] broadcasts that the offender is in custody at 661 East 100th Place at Dauphin.

2. In-Car Camera Video Recordings³⁰

In-car-camera video recordings from Beat [REDACTED] and Beat [REDACTED] were turned over to COPA by CPD.

recording from Beat [REDACTED] depicts the squad car driving behind a black Dodge Journey for approximately one minute before the patrol vehicle’s emergency lights and siren

²⁶ Attachment 35.

²⁷ Additional recorded 911 telephone calls regarding a dispute among members of Ms. [REDACTED] family, along with a telephone call between a Cook County dispatcher and an OEMC dispatcher regarding scene security in the aftermath of this incident are included in Attachment 35, but not summarized in this report.

²⁸ Zone 9 is used by OEMC to communicate with police personnel in both District [REDACTED] and District [REDACTED]

²⁹ See [REDACTED] Tr. 28:18–20. Attachment 108.

³⁰ Attachment 36.

activate. The Journey then drives at a higher speed east on 103rd Street,³¹ driving through red traffic signals and stop signs. The Journey turns north on Eberhart from 103rd Street, slows down briefly, and then picks up speed while swerving from the center of the road to the right curb. The patrol vehicle's spotlight appears to be positioned on the fleeing vehicle, partially illuminating the interior and showing one occupant, the driver. A hand holding what appears to be a firearm protrudes from the driver-side front window of the Journey, and the driver appears to fire a single shot from a handgun in the direction of the pursuing squad car. One of the officers in Beat [REDACTED] repeatedly says, "Shots fired at the police." The Journey continues north on Eberhart before turning right, heading east, on 100th Street. Beat [REDACTED] drives towards the left-hand side of the street while the fleeing vehicle drives towards the right-hand side. The fleeing vehicle separates farther from the pursuing squad car, and another apparent gunshot is audible. Beat [REDACTED] suddenly turns towards the right curb and stops. Another patrol car with its emergency equipment activated pulls around Beat [REDACTED] from the left and continues the pursuit, heading out of Beat [REDACTED]'s camera's range east on 100th Street. One officer says, "Shots fired again at us," and another officer says, "I'm fuckin' shot, I'm hit, I'm hit." The officers briefly discuss whether one of them has been shot or if he has been struck by flying glass as they pull away from the curb and begin driving east on 100th Street, turning right onto Dauphin, where two officers can be seen exiting a patrol car that is parked in the street and advancing forward on foot. Multiple officers can be seen running north past the parked car. Officers then escort a handcuffed subject back towards Beat [REDACTED] and a male voice repeatedly says words to the effect of, "It wasn't me," and, "Didn't y'all see him get out."

recording from Beat [REDACTED] depicts the squad car approaching 103rd Street from Michigan Avenue. A black vehicle passes in front of the squad car, heading east on 103rd Street, with one marked CPD squad car in pursuit, emergency lights and sirens activated. Beat [REDACTED] then activates their emergency lights and sirens, turns onto 103rd Street, and joins the pursuit as the second squad car. The pursuit heads north on Eberhart from 103rd Street, with the pursued vehicle partially obstructed by the lead squad car. Shortly after turning onto Eberhart, one apparent gunshot is audible. The pursuit continues north on Eberhart before turning east onto 100th Street. Shortly after the turn onto 100th Street, the lead squad car moves into the left lane, but then suddenly slows and pulls to the right.

Beat [REDACTED] takes over as the primary unit, now driving directly behind the fleeing vehicle. An officer says, "He keeps firing," as the pursuit continues east on 100th Street. Fourteen apparent gunshots are audible as the fleeing vehicle approaches the railroad overpass at 100th and Dauphin. The first two shots happen in succession, the second approximately one second after the first. As the fleeing vehicle turns right onto Dauphin at the overpass, the remaining twelve shots are audible in rapid succession, all fired within approximately 4 seconds. Flashes of light are also visible from inside the fleeing vehicle as the vehicle makes the turn. The fleeing vehicle drives up and onto the sidewalk on the west side of Dauphin, then moves further west across a lawn towards a garage before veering back onto the street. As the fleeing vehicle drives on the sidewalk, a puff of dust rises from the pavement immediately in front of Beat [REDACTED]. Two more gunshots are audible after the fleeing vehicle returns to the street, one immediately before the vehicle crashes into the back

³¹ Street designations and direction of travel are not readily discernible from the in-car-camera video recording alone. The path of the pursuit described in this report is based on the in-car-camera video, the statements of the involved officers, and COPA investigators' later visit to the locations where these events occurred, including re-tracing the path of the pursuit.

of a car parked on the west side of Dauphin. After the crash, a handgun is seen being thrown from the front driver-side window of the suspect's car, landing several feet away on the road. Both of the suspect's arms, hands empty, protrude from the window. An officer shouts, "Get the fuck on the ground!" The suspect opens his door and lays belly-down on the street immediately next to his car, with his head facing Beat [REDACTED]. Officer [REDACTED] and Officer [REDACTED] approach the suspect and place him in custody, as described in their later statements to COPA. No other occupants are visible in the suspect vehicle.

3. Evidence Technician Photographs³²

Two-hundred-and-fifty-nine photographs taken by CPD evidence technicians depict an injury to the face of Officer [REDACTED], spent rounds, spent casings, and broken glass on the road surface and inside the involved vehicles; crash damage to the involved vehicles; a driver's license and other property belonging to vehicular hijacking victim [REDACTED]; damage to the windshield and front bumper of Beat [REDACTED]'s patrol vehicle, a Beretta pistol and a red baseball cap on the road surface, a pistol magazine on the floorboard of a patrol vehicle, and an overview of the scene at Dauphin and East 100th Place.

c. Physical Evidence³³

1. Illinois State Police ("ISP") Forensic Services Laboratory Report – Latent Prints³⁴

The ISP forensic laboratory Latent Print Section documented processing the 9mm Beretta pistol recovered from [REDACTED] along with a standard magazine, an extended capacity magazine, expended cartridges, and live cartridges. No latent impressions suitable for comparison were found on any of this evidence, and the evidence was forwarded to the laboratory's Firearms Section for further processing.

2. ISP Forensic Services Laboratory Report – Firearms³⁵

The ISP forensic laboratory Firearms Section documented processing the 9mm Beretta pistol recovered from [REDACTED], the associated magazines, live rounds, and fired cartridge cases. Four live rounds were found in the magazine at the time the firearm was recovered. One live round was found in the ejection port of the firearm, causing a stove-pipe malfunction. Twenty-three live rounds were found in an extended magazine documented as having been recovered from the driver-seat floor of the Dodge Journey. Five fired cartridge cases that the laboratory determined had been fired by the weapon were found underneath the driver's side front seat of the Journey;

³² Attachments 40 & 70. These photographs are also documented in CPD Crime Scene Processing Reports that were obtained by COPA and made part of this investigation. Attachments 23 & 24.

³³ The ISP laboratory reports summarized below do not document where each individually numbered piece of evidence was recovered but do associate an "exhibit" number with each piece of evidence. The exhibit number can then be cross-referenced with the associated inventory reports, crime scene processing reports, and evidence-technician photographs, which refer to specific crime-scene-marker ("CSM") numbers. The location where each piece of evidence was recovered can then be verified. *See* Attachments 23, 27, 73–78, 80–85.

³⁴ Attachment 31.

³⁵ Attachment 30.

one fired cartridge case from the same gun was found on the street near 10030 South Dauphin; and one additional fired cartridge case from the same gun was found on the street near 10014 South Dauphin.

The Firearms Section also processed Officer [REDACTED] firearm, a .40 caliber Glock Model 23. The report documents that a 13-round-capacity magazine containing 12 live rounds was found inserted in the firearm, with one additional live round in the chamber. Fourteen fired cartridge cases recovered from the interior of Beat [REDACTED]'s patrol vehicle were found to have been fired by Officer [REDACTED] firearm.

The Firearms Section also processed Officer [REDACTED] firearm, a 9mm Glock Model 19. The report documents that 14 live rounds were in the firearm: 13 in the magazine and one in the chamber. One fired cartridge case recovered from the street near 10030 South Dauphin and one additional fired cartridge case recovered from inside Beat [REDACTED]'s patrol vehicle were found to have been fired by Officer [REDACTED] firearm.³⁶

3. ISP Forensic Services Laboratory Report – Gunshot Residue³⁷

The ISP Forensic Services Laboratory processed a gunshot residue evidence collection kit taken from [REDACTED] hands. The results of the test were negative for gunshot residue.

d. Documentary Evidence³⁸

1. CPD Original Case Incident Report, RD # [REDACTED]

This report documents an aggravated vehicular hijacking that occurred near 9600 South Wallace Street at 9:45 P.M. on August 16, 2016. The victim of the hijacking was [REDACTED] and the vehicle that was taken was a 2013 Dodge Journey 4-door hardtop, black in color, Illinois license plate [REDACTED]. The report narrative documents that responding officers answered a call reporting an aggravated vehicle hijacking. The victim said that while parked in front of her address with the car running, one offender announced robbery and said, “Bitch give me that car,” and then pointed a gun at the victim.⁴⁰ A second offender then appeared carrying a gun and jumped into the driver seat. The first offender grabbed victim and threw her to the ground while the second offender drove off in the vehicle southbound on Wallace. The first offender then ran to a different vehicle that was parked nearby. Two purses, one beige and one black, with the victim’s credit cards and identification remained in the hijacked vehicle. The victim’s son, Zachary Lampkin, called police.

³⁶ This ammunition count is consistent with Officer [REDACTED] statement to COPA that prior to the incident his weapon was administratively loaded with one round in the chamber and a full 15-round magazine in the weapon.

³⁷ Attachments 25, 111.

³⁸ COPA obtained OEMC event queries related to this incident. The event queries were consistent with the recorded telephone calls, radio transmissions, and police reports. Attachment 20.

³⁹ Attachment 8.

⁴⁰ The victim, [REDACTED] also provided a statement to CPD detectives, which the detectives documented in a Case Supplementary Report. [REDACTED] statement to detectives is consistent with her statement to the original responding officers. See Attachment 47.

2. CPD Original Case Incident Report, RD # [REDACTED]

This report documents an aggravated assault and battery using a handgun. The victims listed are Police Officers [REDACTED] and [REDACTED]. The suspect is [REDACTED]. The incident occurred at 10:01 P.M. near 10200 South Eberhart Avenue. The report narrative documents that officers responded to an assist request for a vehicle taken in a vehicular hijacking under RD# [REDACTED] shot at the pursuing police vehicles, striking one of the police vehicles and striking Officer [REDACTED] then crashed into a parked vehicle and was arrested. Officer [REDACTED] was hospitalized for a graze wound to the left cheek. Officer [REDACTED] was hospitalized for overnight evaluation and "blood pressure issues."

3. Arrest Report, [REDACTED] CB # [REDACTED]

The arrest report documents that [REDACTED] who was armed with a handgun, was arrested on August 16, 2016, at 10:07 P.M., on the street near 10040 South Dauphin Avenue. After OEMC broadcast a flash message regarding a vehicle taken in a hijacking, Beat [REDACTED] located and pursued the suspect vehicle. The driver, [REDACTED] fired multiple times at officers striking their patrol car and striking Officer [REDACTED] was placed into custody after striking a parked car. Officers [REDACTED] and [REDACTED] are listed as the first and second arresting officers, and Officers [REDACTED] and [REDACTED] are listed as assisting arresting officers. Charges against [REDACTED] are listed as multiple counts of attempted murder, aggravated battery, vehicular hijacking, possession of a stolen vehicle, aggravated fleeing of police, and a weapons offense.

4. Tactical Response Report ("TRR") and Officer's Battery Report ("OBR"), Officer [REDACTED]

Officer [REDACTED] TRR documents that on August 16, 2016, at 10:02 p.m., near 10200 South Eberhart Avenue, [REDACTED] fled from police in a vehicle and assaulted Officer [REDACTED] by firing a handgun at Officer [REDACTED] striking him. Officer [REDACTED] classified [REDACTED] as an "active resister" and as an "assailant" in the "deadly force" category. The report documents that Officer [REDACTED] responded to [REDACTED] actions by activating the lights and sirens of his patrol vehicle and by his presence. The report was reviewed by Deputy Chief [REDACTED] who commented, "The officer was shot by an offender with a handgun, and the officer was within department guidelines and policies."

The corresponding OBR documents that Officer [REDACTED] was shot by an offender using a semi-automatic firearm while Officer [REDACTED] was working a patrol assignment with a partner and engaged in a traffic stop or pursuit. The report further documents that Officer [REDACTED] suffered an unspecified minor injury.

⁴¹ Attachment 7.

⁴² Attachment 9.

⁴³ Attachments 15, 16.

5. Tactical Response Report and Officer's Battery Report, Officer [REDACTED]

Officer [REDACTED] TRR and OBR are substantially similar to Officer [REDACTED] TRR and OBR, with the exception that the reports document [REDACTED] fired at Officer [REDACTED] but did not hit him.

6. Tactical Response Report and Officer's Battery Report, Officer [REDACTED]

Sgt. [REDACTED] completed a TRR on Officer [REDACTED] behalf.⁴⁶ The report documents that on August 16, 2016, at 10:04 p.m., near 10000 South Dauphin Avenue, [REDACTED] assaulted Officer [REDACTED] through an imminent threat of battery, attack with a weapon, use of force likely to cause death or great bodily harm, and use of a firearm. Based on the checkboxes selected by Officer [REDACTED] was classified as an "assailant" in the "assault," "battery," and "deadly force" categories. The report documents that Officer [REDACTED] responded to [REDACTED] actions by discharging his firearm 13 times and then reloading with 14 cartridges using an emergency reload.⁴⁷ Officer [REDACTED] weapon is listed as a Glock Model 23 with a four-inch barrel, caliber .40 S&W. The report also documents that [REDACTED] fired the first shot, that Officer [REDACTED] was wearing his handgun on his right side at his waist, and that he drew using a strong-side draw and fired from a sitting position. The report documents that Officer [REDACTED] used his squad car as protective cover, that he used the sights on his handgun, and that he was over 15 feet from [REDACTED] when the first shot was fired. The report was reviewed by Deputy Chief [REDACTED] who concluded that Officer [REDACTED] response to [REDACTED] actions was "within department policy and guidelines."

Officer [REDACTED] Officer's Battery Report, also completed on Officer [REDACTED] behalf by Sgt. [REDACTED] documents that Officer [REDACTED] was shot at by an offender using a semi-automatic firearm while Officer [REDACTED] was working a patrol assignment with a partner and engaged in a traffic stop or pursuit. The report further documents that Officer [REDACTED] suffered an unspecified non-fatal major injury.

⁴⁴ Attachments 17, 18.

⁴⁵ Attachments 11, 12.

⁴⁶ At the time of the incident under investigation, CPD policy required that the assigned supervisor complete a TRR on behalf of an officer who could not complete the report himself or herself due to injury. Officer [REDACTED] medical treatment following this incident, as documented elsewhere in this summary report, rendered him unable to complete the TRR. See CPD General Order G03-02-05, § II.B.6, issued October 30, 2014. Attachment 110.

⁴⁷ When questioned about the discrepancy between the number of shots he fired (14) and the number of shots documented on the TRR (13), Officer [REDACTED] explained that the TRR was authored by a supervisor because Officer [REDACTED] had been injured during the incident. Officer [REDACTED] speculated that the supervisor who completed the TRR on his behalf may have entered the number "13" in the "shots fired" box because Officer [REDACTED] magazine held 13 rounds, failing to account for the round that was in the chamber of Officer [REDACTED] firearm. [REDACTED] Tr. 14:2-15:22. Attachment 108.

7. Tactical Response Report and Officer's Battery Report, Officer [REDACTED]

Officer [REDACTED] TRR documents that on August 16, 2016, at 10:04 p.m., near 10000 South Dauphin Avenue, [REDACTED] assaulted Officer [REDACTED] through an imminent threat of battery, attack with a weapon, use of force likely to cause death or great bodily harm, and use of a firearm. Based on the check-boxes selected by Officer [REDACTED] was classified as an assailant in the "assault," "battery," and "deadly force" categories. The report documents that Officer [REDACTED] responded by discharging his firearm twice. Officer [REDACTED] weapon is listed as a Glock Model 19 with a four-inch barrel, caliber 9mm. The report also documents that [REDACTED] fired the first shot, that Officer [REDACTED] was wearing his handgun on his right side at his waist, and that he drew using a strong-side draw and fired from a sitting position. The report documents that Officer [REDACTED] used his vehicle as protective cover, that he used the sights on his handgun, and that he was over 15 feet from [REDACTED] when the first shot was fired. The report was reviewed by Deputy Chief [REDACTED] who concluded that Officer [REDACTED] response to [REDACTED] actions was "within department policy and guidelines."

The corresponding OBR documents that Officer [REDACTED] was shot at by an offender using a semi-automatic firearm while Officer [REDACTED] was working a patrol assignment with a partner and engaged in a traffic stop or pursuit. The report further documents that Officer [REDACTED] suffered an unspecified minor injury.

8. Detective Supplementary Reports

A **Case Supplementary Report**⁴⁹ filed by Detective [REDACTED] on August 26, 2016, documents Detective [REDACTED] and his partner Detective [REDACTED] response to the scene of this incident and their roles in collecting evidence and interviewing witnesses, including the involved police officers. The detectives' summaries of those interviews are documented in separate supplementary reports. The detectives also requested that a gunshot residue test be administered on [REDACTED] who had already been transported to the Area South Detective Division offices.⁵⁰ The detectives arranged to have the in-car-camera video recordings from Beat [REDACTED] and Beat [REDACTED] preserved and arranged to preserve OEMC radio and telephone recordings.

A **Case Supplementary Report**⁵¹ filed by Detective [REDACTED] on August 31, 2016, documents a canvass of the residences surrounding the location where the pursuit ended. The canvass was conducted on August 16, 2016, immediately after the incident. Witnesses reported hearing gunshots and seeing (or hearing) a crash. Witnesses also reported seeing the driver of the crashed vehicle exiting with his hands up, laying on the road, and being arrested by police.

⁴⁸ Attachments 13, 14.

⁴⁹ Attachment 44.

⁵⁰ A **Crime Scene Processing Report** submitted by Evidence Technician [REDACTED] documents that a gunshot residue evidence collection kit was completed on [REDACTED] at 1:10 A.M. on August 17, 2016, at the Area South Detective Division offices. Attachment 25.

⁵¹ Attachment 45.

A **Case Supplementary Report**⁵² filed by Detective [REDACTED] on September 26, 2016, documents Detective [REDACTED] interview of Officer [REDACTED] which occurred on September 24, 2016. Officer [REDACTED] reported version of events is consistent with his later statement to COPA summarized above in this report.

A **Case Supplementary Report**⁵³ filed by Detective [REDACTED] on September 26, 2016, documents statements given to Detective [REDACTED] by Officer [REDACTED] Officer [REDACTED] and Officer [REDACTED] Officers [REDACTED] and [REDACTED] spoke with the detective while still at the scene of this incident, while Officer [REDACTED] spoke with the detective at the Area South Detective Division offices later that evening after returning from the hospital.⁵⁴

Officer [REDACTED] reported version of events are substantially consistent with his later statement to COPA summarized above in this report.

Officer [REDACTED] reported version of events are substantially consistent with his later statement to COPA summarized above in this report.

Officer [REDACTED] reported version of events are substantially consistent with his later statement to COPA summarized above in this report.

A **Case Supplementary Report**⁵⁵ filed by Detective [REDACTED] on September 28, 2016, documents a statement given by [REDACTED] to Detective [REDACTED] and Detective [REDACTED] on August 17, 2016.⁵⁶ [REDACTED] said that he went to the neighborhood near 9600 South Wallace with two friends, intending to steal a car to use in a drive-by shooting to avenge his friend's cousin, who had been killed in June of 2016. [REDACTED] admitted to taking a black SUV at gunpoint from a woman who was cleaning the car's windows. [REDACTED] then fled the scene in the stolen vehicle, while his two friends drove away in a different vehicle. [REDACTED] got lost and became separated from his friends, and then [REDACTED] noticed that a police vehicle was driving behind him. [REDACTED] fled when the police activated their emergency lights. [REDACTED] also described shooting in the direction of the pursuing officers, first by holding his gun out of the driver-side window and then by turning his body and shooting through the stolen vehicle's rear window. [REDACTED] did not remember how many times he fired, but he believed it was more than five shots. [REDACTED] denied intending to shoot the officers, but admitted he fired in their direction – hoping the officers would back off. [REDACTED] eventually crashed the stolen car; he then threw his gun out of the window and surrendered to the police.

9. Traffic Pursuit Report⁵⁷

⁵² Attachment 46.

⁵³ Attachment 49.

⁵⁴ The Case Supplementary Report also documents that Officers [REDACTED] and [REDACTED] met with ASA [REDACTED] at the Area South Detective Division offices and provided statements to ASA [REDACTED] that were consistent with their prior statements to detectives. *See* Attachments 71 & 72.

⁵⁵ Attachment 50.

⁵⁶ [REDACTED] statement to Detective [REDACTED] and Detective [REDACTED] was video-recorded at the Area South Detective Division office. COPA obtained a copy of the recorded interview, which is consistent with Detective [REDACTED] summary. *See* Attachment 105.

⁵⁷ Attachment 93.

A Traffic Pursuit Report, signed by both Officer [REDACTED] and Officer [REDACTED] reports a summary of the events consistent with both officers' statements to detectives and later statements to COPA.

Sgt. [REDACTED] appears on the report as the supervisor assigned to the pursuit, and Sgt. [REDACTED] noted in his narrative section of the report that the "'Balancing Test' requirements of the Department's vehicle pursuit policy" were satisfied.

10. Traffic Pursuit Supplemental Report⁵⁸

A Traffic Pursuit Supplemental Report signed by Officer [REDACTED] documents that Beat [REDACTED] supported Beat [REDACTED] during a pursuit on August 16, 2016. The report is substantially consistent with Officer [REDACTED] later statements to detectives and to COPA.

11. Cook County Circuit Court Records⁵⁹

Court records document that [REDACTED] was charged with thirty-one counts of attempted murder and thirty-four additional firearms-related charges.⁶⁰ On February 1, 2019, [REDACTED] pled guilty to one count of aggravated discharge of a firearm in the direction of a peace officer and was sentenced to a minimum of nineteen years in prison.^{61, 62}

VI. LEGAL STANDARD

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

2. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
3. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
4. 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*

⁵⁸ Attachment 96.

⁵⁹ Attachment 112.

⁶⁰ [REDACTED] was charged in a separate case, 16CR [REDACTED] for the hijacking. On February 1, 2019, [REDACTED] pled guilty to one count of aggravated vehicle hijacking with a firearm. Attachment 119.

⁶¹ COPA contacted [REDACTED] attorney, Assistant Public Defender ("APD") [REDACTED] and requested that [REDACTED] provide a statement to COPA regarding this incident. APD [REDACTED] did not consent to this interview. Attachment 116.

⁶² Attachments 112, 118.

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

a. Legal Standards

The case involves Officers ██████ and ██████ decision to use deadly force. It also involves Officers ██████ and ██████ decision to engage in a high-speed pursuit through a residential area. COPA looks to CPD directives and orders, federal law, and Illinois law to evaluate officers' actions. COPA makes its factual and legal determinations using a preponderance-of-the-evidence standard. A proposition is proved by a preponderance of the evidence when it is found to be more probably true than not.⁶³

b. Officers ██████ and ██████ use of deadly force

1. Federal and State law, as well as **CPD directives** govern a CPD ██████ member's use of force.

At the time of the incident, *CPD General Order G03-02-0364* governed each CPD member's use of deadly force. The relevant version of the order states:

A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest **from being defeated by resistance** or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the *infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm* or;
 - b. is attempting to escape by use of a deadly weapon or;

⁶³ *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005).

⁶⁴ The version of General Order G03-02-03 referenced in this report was issued and became effective on February 10, 2015.

c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

An officer's ability to confront dangerous situations and use deadly force is further codified under 720 ILCS 5/7-5. The statute provides that a police officer "need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest," and the statute outlines the amount of force an officer is justified in using in certain situations, which are the same as those outlined in General Order G03-02-03.⁶⁵

Finally, an officer's use of deadly force is a seizure within the meaning of the Fourth Amendment to the U.S. Constitution.⁶⁶ Determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard.⁶⁷ The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.⁶⁸ The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) "whether he is actively resisting arrest or attempting to evade arrest by flight."⁶⁹ The analysis of the reasonableness of an officer's actions must be grounded in the perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and "allow 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."⁷⁰ The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors.⁷¹ 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."⁷²

The relevant question is whether reasonable officers in the positions of Officers [REDACTED] and [REDACTED] would believe that the use of deadly force was necessary to prevent death, great bodily harm, or the escape of a violent felon. COPA asks this question for each individual shot the officers fired. A preponderance of the evidence shows that Officers [REDACTED] and [REDACTED] reasonably believed that deadly force was necessary to prevent death or great bodily harm to other officers and to civilians, and that deadly force was necessary to prevent the escape of a suspect who had committed a violent felony.

2. Officer [REDACTED] use of deadly force was justified because [REDACTED] fired a handgun in the direction of multiple police officers.

⁶⁵ 720 ILCS 5/7-5 (1986).

⁶⁶ *Muhammed v. City of Chicago*, 316 F.3d 680, 683 (7th Cir. 2002).

⁶⁷ *Graham v. Connor*, 490 U.S. 386, 397 (1989).

⁶⁸ *Graham*, 490 U.S. at 397; see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003).

⁶⁹ *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)).

⁷⁰ *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted).

⁷¹ *Id.* at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

⁷² *Muhammed*, 316 F.3d at 683 (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (en banc) (emphasis omitted)).

The video recordings from both Beat [REDACTED] and Beat [REDACTED] show the driver of a fleeing vehicle shooting in the direction of pursuing police officers. Only the driver is visible in the fleeing vehicle. At the end of the pursuit, the video also shows the driver throwing a gun out of the car and surrendering. That driver was then identified as [REDACTED]. In a video-recorded statement to detectives on the night of the incident, [REDACTED] admitted to shooting in the officers' direction, hoping that the police would back off from the pursuit. [REDACTED] admitted to firing more than five times, and evidence technicians recovered seven spent shell casings from [REDACTED] gun. Based upon the video and physical evidence, it is clear that [REDACTED] fired a handgun in the direction of both sets of officers. This fact is also bolstered by [REDACTED] subsequent statement to the police. COPA therefore concludes that [REDACTED] fired in the direction of the police seven times and that Officer [REDACTED] reasonably perceived [REDACTED] actions as endangering the officers' lives.

While driving behind Beat [REDACTED] during the pursuit, Officer [REDACTED] heard gunshots and heard Beat [REDACTED] announce "Shots fired" over the police radio. When Beat [REDACTED] suddenly pulled to the right and stopped, Officer [REDACTED] reasonably believed that one of the officers in Beat [REDACTED] may have been shot. Further, once Officer [REDACTED] and his partner, Officer [REDACTED] took over as the lead vehicle in the pursuit, [REDACTED] continued to fire at the officers. Based on these observations, Officer [REDACTED] reasonably believed that [REDACTED] had committed, and was continuing to commit, a violent felony by shooting at the police, and that deadly force was an appropriate response.⁷³ Because [REDACTED] continued to drive away from the pursuing police vehicles, Officer [REDACTED] also reasonably believed that [REDACTED] was attempting to evade arrest and to escape. Under these circumstances, Officer [REDACTED] could also reasonably conclude that deadly force was necessary to prevent [REDACTED] escape.

- 3. Officer [REDACTED] considered the danger to others before firing at [REDACTED] and reasonably concluded that he could fire at [REDACTED] without endangering others.**

If an officer reasonably believes that the threshold requirements for using deadly force against a suspect have been met, the officer must still take the surrounding circumstances into account before using force. CPD policy prohibits firing into buildings or through doors, windows, or other openings when the person lawfully fired at is not clearly visible.⁷⁴ The video recording from Officer [REDACTED] squad car camera and Officer [REDACTED] statement to COPA demonstrate that Officer [REDACTED] considered the safety of others before firing at [REDACTED]. Officer [REDACTED] told investigators that he was able to see the person in the driver's seat of the fleeing vehicle each time that he fired, and the video recording supports Officer [REDACTED] assertion. No one other than the driver of the fleeing vehicle is ever seen on the available video recordings and all the involved officers reported that they never saw any other occupants in the vehicle.

⁷³ Both [REDACTED] later statement to detectives and the available documentary evidence demonstrate that [REDACTED] also likely participated in carjacking the Dodge Journey at gunpoint minutes before the pursuit began. This would also constitute a violent felony. Officer [REDACTED] at the time he fired, was not aware of the original reason for the pursuit, so COPA did not consider the carjacking offense as justification for Officer [REDACTED] use of deadly force.

⁷⁴ See General Order G03-02-03, § III. The prohibition regarding firing at or into a moving vehicle only applies when the vehicle is the only force used against the sworn member or another person. In the instant case, [REDACTED] discharged a firearm at Department members.

Officer [REDACTED] also told investigators that he did not begin firing until [REDACTED] approached the railroad embankment at the corner of 100th Street and Dauphin. This assertion is corroborated by the in-car-camera video recording, which shows Officer [REDACTED] firing two shots as the embankment comes into view and an additional twelve shots in rapid succession as [REDACTED] turns directly in front of the embankment. Officer [REDACTED] reasonably believed that the embankment would provide a backstop for any rounds that did not strike [REDACTED] or [REDACTED] vehicle, minimizing danger to anyone else who might be in the area. The video recording also shows no other vehicles or pedestrians in the line of Officer [REDACTED] fire. Officer [REDACTED] reasonably concluded he could aim and fire at [REDACTED] without endangering others.

The fact that Officers [REDACTED] and [REDACTED] decided not to fire at [REDACTED] does not demonstrate that Officer [REDACTED] decision to shoot was unreasonable. Officers [REDACTED] and [REDACTED] observed vehicle and pedestrian activity while they were the lead police vehicle in the pursuit, and they also observed houses, likely occupied, on the south side of 100th Street when [REDACTED] fired the shot that struck Officer [REDACTED]. The vehicular and pedestrian activity observed by Officer [REDACTED] later in the pursuit, were different, and the railroad embankment became available as a backstop. [REDACTED] shot at the police several more times before Officer [REDACTED] decided to return fire. All these circumstances led Officer [REDACTED] to make a different, yet reasonable decision.

4. Officer [REDACTED] use of deadly force was justified because [REDACTED] fired a handgun in the direction of multiple police officers.

Officer [REDACTED] was Officer [REDACTED] partner on the night of this incident and was in the front passenger seat of their patrol vehicle during the entire incident. Officer [REDACTED] did not know why the pursuit had started, but he did observe [REDACTED] firing a gun at the pursuing officers. For the same reasons explained above, COPA finds that Officer [REDACTED] threshold decision to use deadly force was reasonable under the totality of the circumstances, based on [REDACTED] firing his gun in the direction of the police and [REDACTED] attempts to evade arrest and to escape.

Officer [REDACTED] fired at [REDACTED] twice, after Officer [REDACTED] had ceased firing. Because Officer [REDACTED] fired at [REDACTED] under different conditions than Officer [REDACTED] each of Officer [REDACTED] shots must also be evaluated against any danger to people other than the fleeing suspect. The available evidence shows that Officer [REDACTED] was within a few car-lengths of [REDACTED] vehicle when he fired, and there is no evidence to contradict Officer [REDACTED] assertion that he was able to clearly see [REDACTED] and aim at [REDACTED]. Officer [REDACTED] also told investigators that he waited until [REDACTED] vehicle moved away from the houses on the west side of Dauphin Avenue and back onto the road before he fired, and the in-car-camera video recording corroborates Officer [REDACTED] assertion. There were no houses on the east side of Dauphin Avenue, and the railroad embankment was still available as a backstop for any errant shots. No other vehicular traffic or pedestrian activity was apparent at the time Officer [REDACTED] fired. Based on these factors, Officer [REDACTED] could reasonably conclude that firing at [REDACTED] would not endanger others.

c. The Pursuit

1. CPD members must comply with the department's directives regarding vehicle pursuits.

Because this firearm-discharge incident occurred during a motor vehicle pursuit, COPA also conducted an independent evaluation of the pursuit. Before initiating or continuing a motor vehicle pursuit, CPD members must balance the necessity to immediately apprehend the fleeing suspect against the level of inherent danger created by the pursuit. The pursuit may only be initiated or continued if the need to immediately apprehend the suspect outweighs the danger created by the pursuit.⁷⁵

2. Officers ██████████ and ██████████ decision to pursue Mr. ██████████ complied with the applicable CPD directives regarding pursuits.

When questioned about the pursuit, both Officer ██████████ the driver of Beat ██████████ and Officer ██████████ the driver of Beat ██████████ explained how they performed the required balancing test. Both officers said that they were able to maintain control of their patrol vehicle throughout the pursuit, and these contentions are corroborated by the available in-car-camera video recordings. The evidence demonstrates that road conditions were dry, vehicular and pedestrian traffic were light, and speeds were not excessive. Officer ██████████ fired his handgun multiple times while simultaneously operating his vehicle, posing some obvious danger, but this is not prohibited *per se*, and no evidence was found to contradict Officer ██████████ assertion that he was able to shoot while maintaining control of his vehicle. It is also undisputed that ██████████ identity was not known to the officers until after the pursuit ended, and the officers had no reason to believe that ██████████ could be apprehended later if they decided to terminate the pursuit. Up until the time of the crash that terminated the pursuit, neither the suspect vehicle nor any Department vehicle had been involved in any other property-damage traffic crash. Officer ██████████ also properly considered the serious nature of the offense that ██████████ had reportedly committed – aggravated vehicular hijacking – and Officer ██████████ properly considered the fact that he had observed ██████████ shooting at an occupied police vehicle. Under these circumstances, it was reasonable for both Officer ██████████ and Officer ██████████ to believe that it was necessary to apprehend ██████████ immediately to prevent further danger to the public and to other CPD members.

Because Officer ██████████ and Officer ██████████ application of the balancing test was reasonable, COPA did not serve any allegations against either officer for potential violations of CPD's pursuit policy.

VIII. CONCLUSION

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

COPA has determined by a preponderance of the evidence that Officer ██████████ use of deadly force against ██████████ was objectively reasonable, as outlined in the Use of Force Model, state and federal law, and the Chicago Police Department's General Orders.

⁷⁵ See General Order G03-03-01, § II.A.

COPA has determined by a preponderance of the evidence that Officer [REDACTED] use of deadly force against [REDACTED] was objectively reasonable, as outlined in the Use of Force Model, state and federal law, and the Chicago Police Department’s General Orders.

Officer	Allegation	Finding
Officer [REDACTED]	No allegation of Misconduct	Use of deadly force was Within CPD Policy
Officer [REDACTED]	No allegation of Misconduct	Use of deadly force was Within CPD Policy

VII. TRAINING RECOMMENDATION

Both officers who fired their weapons during this incident told investigators that they had never received any training from CPD that specifically addressed shooting from a moving vehicle. Handgun ammunition is unlikely to be effective against an automobile and may cause an uncontrolled crash if the driver is struck by gunfire.⁷⁶ Bullets fired through the windshield of an officer’s vehicle may be deflected by the angled glass, and officers who fire their weapons inside of a vehicle may be susceptible to hearing loss and tinnitus. Under extreme circumstances, shooting at or from a moving vehicle may be appropriate, but officers should be informed about the risk associated with doing so and the ways in which such risk can be mitigated. COPA recommends that the Department provide training in this regard.

Approved:

 Angela Hearts-Glass
 Deputy Chief Administrator – Chief Investigator

 Date

 Sydney Roberts
 Chief Administrator

 Date

⁷⁶ See IACP National Law Enforcement Policy Center, Use of Force: Concepts and Issues Paper 7 (updated Feb. 2006), available at <https://www.documentcloud.org/documents/2303827-useofforcepolicy.html>; see also John P. Gross, *Unguided Missiles: Why the Supreme Court Should Prohibit Police Officers from Shooting at Moving Vehicles*, 164 U. PA. L. REV. ONLINE 135 (2016), <http://www.pennlawreview.com/online/164-U-Pa-L-Rev-Online-135.pdf>.

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	█
Supervising Investigator:	█
Deputy Chief Administrator:	Angela Hearts-Glass

DRAFT