

SUMMARY REPORT OF INVESTIGATION ¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 1, 2017
Time of Incident:	10:51 p.m.
Location of Incident:	████████████████████ Chicago, IL 60623
Date of COPA Notification:	July 2, 2017
Time of COPA Notification:	12:15 a.m.

On July 1, 2017, at approximately 10:50 p.m. Officer ██████████ # ██████████ Officer ██████████ # ██████████ and Officer ██████████ # ██████████ (collectively Beat # ██████████), were on routine patrol and responded to a call for a “person with a gun and shots fired” at ██████████. Upon arriving at ██████████ in an unmarked Ford Explorer, the officers observed an African American man, now known to be ██████████ and an African American woman, now known to be ██████████ on the front porch. As the officers exited the vehicle, ██████████ and ██████████ went into the residence and shut the door. Officer ██████████ proceeded down the southbound gangway with Officer ██████████ following behind, while Officer ██████████ remained near the front of the residence.

As Officer ██████████ proceeded down the gangway he stated that he heard a male voice say, “Get the guns,” through the open first-floor window of ██████████. Officer ██████████ drew his firearm and proceeded down the gangway. Officer ██████████ approached a chain link fence approximately four feet in height which separates the gangway from the backyard. He turned on his flashlight and started to climb the chain link fence.

While on the fence, Officer ██████████ saw ██████████ came down the stairs of the back porch and headed southbound through the backyard. Officer ██████████ stated, “Police. Show me your hands.” Officer ██████████ observed ██████████ carrying an AK47-style rifle in his right hand. In response to the officer’s commands, ██████████ turned his right shoulder and the firearm toward Officer ██████████ and his partner. Officer ██████████ subsequently discharged his firearm eight times.

Officers ██████████ and ██████████ jumped the fence and observed ██████████ lying face down in the backyard. An AK47-style rifle and another handgun were recovered from ██████████. The Chicago Fire Department transported ██████████ to Mount Sinai Hospital, where he was pronounced deceased.

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.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ star # ██████ employee ID# ██████ Date of Appointment ██████ 2015, Police Officer, Unit of Assignment ██████ DOB ██████ 1991, male, White
Involved Individual #1:	██████████ DOB ██████ 1980, male, Black

III. ALLEGATIONS

Any discharge of an officer’s firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. However, COPA determined evidence did not exist which would require allegations of excessive force against Officer ██████

IV. APPLICABLE RULES AND LAWS

General Orders

1. General Order 03-02-03, Section II, A: Deadly Force (effective February 10, 2015-October 15, 2017)

State Laws

1. 720 ILCS 5/7-5 (1986): Justifiable Use of Force; Exoneration

Federal Laws

1. The Fourth Amendment to the United States Constitution

V. INVESTIGATION³

a. Interviews

Civilian Interviews⁴

In a statement to IPRA on July 02, 2017, witness ██████ stated that she was at her home at ██████ at approximately 10:30 or 11:00 p.m. on July 01, 2017, when she heard an argument.⁵ The argument escalated, and ██████ went outside to see what was going

² ██████ first name has been spelled as ██████” ██████” and ██████ in various reports related to this incident. For purposes of this report, it will be spelled ██████”

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ IPRA/COPA personnel spoke to multiple people who stated that they heard gunfire but did not witness the incident or events leading up to the shooting. IPRA also conducted multiple canvasses of the location of incident but was unable to locate any individuals who witnessed the shooting. Additional attempts to contact other people identified as potential witnesses were unsuccessful. (Atts. 24, 32, 44-45, 54, 59, 63, 64-67, 78)

⁵ Att. 27

on. She explained that the woman who lives across the street at ██████████ now known to be ██████████ was outside on the porch.⁶ ██████████ described ██████████ as “ignorant out there hoopin’ and hollerin’, ravin’ talkin’ ‘bout what she aint gonna do”⁷ ██████████ stated that ██████████ had a pistol and was waving it. In response, ██████████ called 911.⁸ ██████████ saw ██████████ shoot into the air and then point the weapon in front of her and continue shooting.

██████████ stated that while she was on the phone with 911, she saw a dark grey SUV stop in the middle of Kostner Avenue. Three African American males exited the vehicle. She also saw another male come out of the gangway, located alongside ██████████. She identified the man along the gangway as either ██████████ or ██████████ and believed him to be ██████████ boyfriend, now known to be ██████████. ██████████ saw ██████████ holding a “sawed off shotgun”⁹ and saying, “Y’all come on now. Come on now.”¹⁰ She explained that ██████████ weapon was larger than ██████████ weapon. ██████████ was unable to provide a more specific description as she was “not good with guns.”¹¹

██████████ believed that the men who got out of the SUV came to assist ██████████ because they ran towards her and ██████████ told them, “There they go right there. Now y’all talk y’all stuff.”¹² ██████████ stated that ██████████ was starting to come into the street on Kostner Avenue but ran back towards an alley on the east side of the street. Police were arriving on the street at that point. ██████████ stated that she heard shots but did not see ██████████ (or anyone else) fire a weapon at that point. When she heard the shots, she shut the door and went inside. ██████████ stated that the police arrived shortly after, and she heard officers say that someone was running through the gangway to the alley. From her bedroom, ██████████ saw the police running through the vacant lot and then heard several more shots.

██████████ explained that after the police arrived she went back outside. Once the officers came back from the vacant lot into the street, she heard one of them make a comment about someone being shot in the head. At that time, ██████████ did not see ██████████ and was not sure where she went. Approximately thirty to forty minutes after the police arrived, ██████████ stated that ██████████ sister, who lives in the upstairs unit of ██████████ had a conversation with her. ██████████ was not aware of the sister’s name and had not previously spoken to the sister. ██████████ explained that the sister told her that ██████████ came to the upstairs unit and knocked on the door but that the sister refused to let ██████████ in.

⁶ The Chicago Police Department (CPD) has an ongoing criminal investigation into ██████████ for reckless discharge of a firearm, documented under RD ██████████. COPA intentionally did not initially attempt to interview ██████████ as to avoid interfering in the criminal investigation. On March 2, 2018, COPA attempted to locate a working phone number for ██████████ without success and sent a letter to her last known address (Att. 101). COPA did not receive a response. In April of 2019, COPA became aware that ██████████ was in police custody for reckless discharge of a firearm. On April 8, 2019, COPA spoke to ██████████ criminal defense attorney in an attempt to arrange and interview of ██████████ (Att. 112). COPA continued to correspond with ██████████ attorney until August of 2019 (Att. 113). ██████████ never provided an interview to COPA.

⁷ Att. 27, page 3, lines 17-20.

⁸ This call is detailed in the section summarizing the digital evidence as Event Query # ██████████ (Att. 11). Approximately nine shots are heard in the background of the call.

⁹ Att. 27, page 5, line 19.

¹⁰ *Id.*, page 5, line 20.

¹¹ *Id.*, page 5, lines 31-32.

¹² *Id.*, page 8, lines 23-24.

Police Officer Interviews

In a statement to IPRA on July 11, 2017, and a statement to COPA on February 6, 2018, Officer ██████████ stated that he was assigned to routine patrol in the ██████ District at the time of the incident.¹³ Officer ██████████ stated that he was working his regular beat, ██████████ with Officers ██████████ and ██████████. Officer ██████████ has been his regular partner for approximately a year, but he does not normally work with Officer ██████████. On the date of the incident, Officer ██████████ was in full uniform and was assigned to an unmarked Ford Explorer.

Officer ██████████ stated that on July 01, 2017, Officer ██████████ was driving southbound on Kolin Street when Officers ██████████ and ██████████ received a call from the Office of Emergency Management and Communication (OEMC) reporting “shots fired, person with a gun at ██████████.” Officer ██████████ added that OEMC may have provided other information about the call, but all he could remember was that the call was about shots fired and a person with a gun. He stated that they responded without answering the radio because they were very close to ██████████. Officer ██████████ initially activated the emergency equipment, but he turned it off as they turned northbound onto Kostner.¹⁴ Officer ██████████ estimated that it took them less than a minute from the time they received the call until they arrived at ██████████.

Officer ██████████ stated that as the officers stopped in front of ██████████, Officer ██████████ observed a male wearing a multi-colored striped shirt, now known to be ██████████ and a heavy-set female wearing a white shirt, now known to be ██████████ in the doorway near the front porch. Officer ██████████ observed ██████████ was holding an unidentified “long object.” Officer ██████████ stated that the two individuals looked surprised upon seeing the officers, and ██████████ immediately shut the door after the two individuals retreated into the residence. Officer ██████████ believed that ██████████ was moving toward the back of the residence, but he was not certain because the door was closed.

Officer ██████████ stated that after the two individuals went into the residence, he exited the vehicle and went to the south gangway of the residence. He stated, “[I]nitially when I saw the woman [██████████] run towards the back, I thought she was going towards the back of the house. So that’s the reason I went to the gangway going in the [*sic*], going towards the back of the alley.”¹⁵ Officer ██████████ explained that as he proceeded down the gangway, he observed a partially-open first floor window to his left. Through the window he heard a male say, “Get the guns.” Officer ██████████ stated that he unholstered his weapon upon hearing this.

¹³ Atts. 41, 85

¹⁴ When asked, Officer ██████████ reported that he did not know why Officer ██████████ turned off the emergency equipment. (Att. 41, Page 15, Line 30). Officer ██████████ did not mention this in his own statement and was not asked about it.

¹⁵ Att. 41, page 19, lines 9-13.

Officer ██████ stated that he could no longer proceed down the gangway because a chain link fence blocked his path. He stated that he placed his right foot on the fence and climbed just over the fence with his knee placed on the bent fence. He stated, “I had my gun out [like I said] I had my gun out and I was just [uh] basically leaning on the fence with the flashlight in my left hand and then [uh] my weapon, [in the], in my right hand.”¹⁶ Officer ██████ stated that while he was on the fence he observed an individual sprinting down the stairs with an AK47-style rifle in his right hand, holding the weapon perpendicular to his body. Officer ██████ could not see the individual’s left hand. Officer ██████ said that as soon as he saw the individual, he turned on his flashlight due to the poor lighting conditions. He then said, “Police, let me see your hands.”¹⁷

Officer ██████ stated that “within a fraction of a second,”¹⁸ the individual made it down the stairs, which Officer ██████ estimated were approximately four feet away from Officer ██████. Officer ██████ did not initially recognize the individual coming from the stairs, now known to be ██████ as the same person he saw on the front porch. Officer ██████ believed that once he announced his office, ██████ became aware of his presence. Officer ██████ stated, “He turns towards me, attempts to turn towards me. I did [not] let him turn towards me because I know the capability of that fire power of that weapon. I was in fear of my life, not just my life, my partner that was behind me and then that’s when I discharged my weapon.”¹⁹

Officer ██████ stated that ██████ right hand never left the right side of his body and that as ██████ turned to the right toward Officer ██████ the AK47-style rifle moved along with him. Officer ██████ estimated that ██████ was approximately five to ten feet away at this point. Officer ██████ did not remember how many times he discharged his weapon but later learned eight casings from his weapon were recovered from the backyard.

Officer ██████ explained that after he fired his weapon, he jumped over the fence, moved the AK47-style rifle away from the individual, announced “Shots fired by the Police”²⁰ over the radio and then called an ambulance. At this point, Officer ██████ recognized ██████ as the same person he saw on the front porch. Officer ██████ said that other officers started to arrive at the scene. He explained that as he was leaving the scene, he noticed that other officers had recovered another handgun from ██████. Officer ██████ stated that he did not initially see the handgun when he moved the AK47. An ambulance took Officer ██████ to Stroger Hospital because he was “shaken up.” He returned to the scene to do a walk-through.

¹⁶ *Id.*, page 20, lines 21-25.

¹⁷ *Id.*, page 21, lines 1-2.

¹⁸ *Id.*, page 21, lines 2-3

¹⁹ On February 7, 2018, Officer ██████ clarified this quotation from his July 11, 2017, statement by explaining that the transcript of the earlier statement omitted the word “not” from the portion that reads, “I did not let him turn towards me.” In his earlier statement, officer ██████ stated, “I then let him turn towards me because I know the capability of that fire power of that weapon.” (Att. 41, page 21, lines 7-8). In his second statement, Officer ██████ clarifies that he meant to say, “He didn’t fully turn my way because, obviously, I don’t let him turn that way just because I know the fire power of what that weapon can do.” (Att. 85, page 6, lines 16-19).

²⁰ Att. 41, page 29, line 1.

In a statement to IPRA on July 05, 2017, Officer ██████ stated that he was assigned to routine patrol in the ██████ District at the time of the incident.²¹ Officer ██████ stated that he was assigned to Beat ██████ with Officer ██████ and Officer ██████. Officer ██████ explained that Officer ██████ had been his regular partner for approximately a year but that he had only worked with Officer ██████ occasionally. Officer ██████ said that Officer ██████ was driving an unmarked Ford Explorer, and that he was in the front passenger seat. Officer ██████ was in the back seat.

Officer ██████ stated that the officers were driving southbound on Kolin Street, approaching the intersection of Kolin Street and ██████ when they received a call over the radio from OEMC of “a person with a gun, which was later updated to include shots fired as well.”²² Officer ██████ did not think that OEMC provided a physical description of the person with a gun.

Officer ██████ explained that they were only two or three blocks away from the location given by OEMC, ██████ so they proceeded northbound on Kostner until they reached the address. Officer ██████ stated that they pulled up to the address and started to get out of the vehicle. He exited the vehicle with his weapon drawn. While in the process of getting out of the vehicle, Officer ██████ observed a black male wearing a striped shirt and a black female wearing a white shirt on the front porch. As the officers were still exiting the vehicle, the two individuals went into the residence and shut the door.

Officer ██████ stated that Officer ██████ proceeded down the gangway toward the backyard and Officer ██████ stayed in the front yard. Officer ██████ explained, “We still weren’t really sure what was going on at the time...I was kind of going back and forth between the back and the front. I started in the back, went back to the front, saw ██████ [Officer ██████] in the front by himself. There wasn’t much going on. [I] went back towards the back to meet my partner.”²³

Officer ██████ explained that there was a chain link fence in the gangway leading to the backyard of the residence. The fence did not have a gate, so Officer ██████ attempted to jump the fence. As Officer ██████ was in the process of climbing the fence, Officer ██████ observed a male exit the rear of the residence and run through the backyard. Officer ██████ heard Officer ██████ say, “Police. Let me see your hands,”²⁴ and then heard him fire his weapon. Officer ██████ heard approximately seven shots.

When Officer ██████ heard the shots, he drew his weapon and crouched down because at the time he was not certain it was Officer ██████ who had fired. Once Officer ██████ jumped the fence, Officer ██████ re-holstered his weapon and jumped the fence. Officer ██████ stated, “The next thing I was able to see [after jumping the fence], it was so dark, was [um] the male that I had seen [*sic*] on the porch, laying on the ground with [uh] a rifle next to [*sic*,] on his

²¹ Att. 48

²² *Id.*, page 11, lines 9-11.

²³ *Id.*, page 12, lines 27-32.

²⁴ *Id.*, page 13, lines 15-16.

left side and a pistol [uh] handgun on his right side.”²⁵ Officer ██████ explained that he and Officer ██████ first moved the weapons away from the subject and then Officer ██████ turned the subject over and handcuffed him.

Officer ██████ stated that at this point, other officers arrived at the scene and it was “kind of chaotic.”²⁶ He estimated that the other officers arrived approximately thirty seconds after he and Officer ██████ jumped the fence and entered the backyard. Officer ██████ then took an ambulance to the hospital and Officer ██████ went to the hospital in a separate car.

In a statement to IPRA on July 05, 2017, Officer ██████ stated that he was assigned to routine patrol at the time of the incident, working with Officer ██████ and Officer ██████²⁷ Officer ██████ explained that although Officer ██████ and Officer ██████ were not his normal partners, it was not his first time working with either officer.

Officer ██████ stated that on the date of the incident he was the driver of an unmarked vehicle. Officer ██████ was sitting in the front passenger seat and Officer ██████ was in the back seat. Officer ██████ stated that they received a call for a person with a gun and that they responded because they were approximately two blocks away. Officer ██████ explained that as they were responding to the call, they received an update that shots were fired at the location.

Officer ██████ explained that they pulled up in front of ██████ and he saw a male and female on the porch. He said that as the officers were getting out of their vehicle, the female walked into the house and the male closed the front door. Officer ██████ stated that at this point, he walked towards the front door. Officer ██████ went down the gangway and Officer ██████ followed Officer ██████ Officer ██████ said he was trying to determine if he could see anything through the windows, but he could not. Officer ██████ heard people talking towards the back of the residence, but could not make out what was being said.

Officer ██████ stated that as he walked up the front stairs of the porch, he heard gunshots coming from the back of the house. Officer ██████ immediately called out over the radio, “Shots fired.” Officer ██████ then made his way down the porch stairs, into the gangway, and jumped the fence to enter the backyard. When he entered the backyard, he saw a black male, now known to be ██████ lying on the ground near a rifle and handgun. Officer ██████ explained that the weapons were “away” from ██████ but that he did not see anyone move the weapons.

Officer ██████ saw Officer ██████ on the radio near ██████ Officer ██████ helped Officer ██████ handcuff ██████ Officer ██████ explained that at that point more officers arrived and a Sergeant ordered him to leave the yard.

b. Digital Evidence

²⁵ *Id.*, page 13, lines 20-25.

²⁶ *Id.*, page 13, lines 29-31.

²⁷ Att. 36

IPRA received and reviewed **body worn camera footage** from twenty members of the Chicago Police Department pertaining to this incident. Most of this footage captures the response and aftermath of this incident, though Officer [REDACTED] footage does capture the moments directly before the shooting.²⁸ The relevant footage is summarized below:

The footage from **Officer [REDACTED] body worn camera** starts on July 01, 2017 at 10:51 p.m.²⁹ The camera shows Officer [REDACTED] in a dark gangway and following another person, now known to be Officer [REDACTED]. Officer [REDACTED] is shown climbing a chain link fence and activating his flashlight. Approximately four seconds into the footage, a person in a white striped shirt is seen moving in the left portion of the screen.



Figure 1: Officer [REDACTED] positioned on the top of the fence, illuminating the rear yard with his flashlight.

Approximately five seconds into the footage, a flash of light appears near the area in which Officer [REDACTED] is located. Officer [REDACTED] is shown reaching his hand near his hip and jumping over the fence. The footage appears to show Officer [REDACTED] climbing over the fence. The camera captures a black male, now known to be [REDACTED] lying motionless on his back in the corner of the backyard with his head in the direction of Officer [REDACTED]. As Officer [REDACTED] approaches the man, the camera captures a black rifle with a wooden handle immediately to the left of [REDACTED]. A white cell phone is seen on the ground to the left of [REDACTED] head. Officer [REDACTED] is seen approaching [REDACTED] and moving the rifle away. As Officer [REDACTED] moves towards [REDACTED] the

²⁸ Special Order 03-14 requires members to activate the body worn camera and record the entire law enforcement-related incident, including calls for service and high-risk situations. Officers [REDACTED] and [REDACTED] did not turn their body worn cameras on early enough such that they did not record the entirety of this incident. Accordingly, COPA initiated an investigation into the officers' failure to properly activate their body worn cameras under CR #1088052.

²⁹ Att. 102

camera captures a black handgun on the ground near ██████ right knee. Officer ██████ uses a piece of cloth to recover the handgun. Approximately 01:15 into the video, two officers are shown handcuffing ██████. The remainder of the footage shows additional officers arriving, providing updates over the radio and observing the backyard.

The footage from Officer ██████ body worn camera starts on July 01, 2017 at 10:51 p.m.³⁰ The camera shows Officer ██████ in the backyard. ██████ is laying on the ground, on his back with a white cell phone near his left shoulder and blood near his left ear. Another uniformed police officer, now known to be Officer ██████ jumps over the chain link fence into the backyard. Two other officers appear in the back yard. Approximately 00:35 into the footage a uniformed officer turns ██████ over and places him in handcuffs. The remainder of the footage shows Officer ██████ leaving the backyard through the alley and waiting in a car for an ambulance.

The footage from Officer ██████ body worn camera starts on July 01, 2017 at 10:51 p.m.³¹ The camera shows that Officer ██████ comes from the front of the house to the gangway and down the gangway. A person in front of him, now known to be Officer ██████ climbs a chain link fence and jumps into the backyard. Officer ██████ climbs the fence and jumps into the backyard.

Approximately 00:28 into the footage, Officer ██████ is seen in the backyard and the camera captures ██████ lying on his back near the gate to the alley with his head pointing in the direction of Officer ██████. Three uniformed officers are seen near ██████ and a fourth is shown coming from the alley through the gate. Officer ██████ approaches ██████ and the camera shows blood near ██████ head, on his neck and on his white striped shirt. A white cell phone is on the ground near his head. Officer ██████ turns ██████ over, and blood can be seen on the back of his shirt. Officer ██████ is shown placing handcuffs on ██████. The remainder of the footage shows the officers securing the scene.

Chicago Police Department Event Queries and 911 Calls establish that at approximately 10:48 p.m. on July 01, 2017, several individuals called 911 to report “shots fired” at or near ██████ ██████.³² None of the callers reported seeing the shooter; however, several of the callers reported hearing fighting or arguing. During the audio recording of **Event #** ██████ arguing can be heard in the background and approximately nine shots are heard fired during the call.³³

The **Chicago Police Department Radio** dispatch from July 01, 2017 documented that at approximately 10:49 p.m. the dispatcher put out a call as follows, “Got a call for a person with a gun. ██████ Female said someone had a gun and we’re getting shots fired at that location. Nothing further.”³⁴ At 10:49:15 the dispatcher provided an update as follows: “No description, just that someone had a gun and people are arguing.” At 10:51 p.m. the

³⁰ Att. 102

³¹ Att. 102

³² Atts. 10-18

³³ Att. 11

³⁴ Att. 46

dispatcher announces there is a unit with an emergency, followed by a request from an unidentified male voice for an ambulance in the alley. At 10:52 p.m. Beat [REDACTED] announces over the radio, "Shots fired by the police, someone went into [REDACTED] We need the area surrounded."

Evidence Technician Photographs document the scene, the firearms recovered from [REDACTED] the residence of [REDACTED] and the vehicles located across the street from [REDACTED] with damage from bullet holes.³⁵ The photographs also document Officers [REDACTED] and [REDACTED]. The Evidence Technician photographed [REDACTED] during the Medical Examiner's postmortem examination.



Figure 2: Weapons recovered from [REDACTED]

c. Physical Evidence

The **Chicago Fire Department Ambulance Reports** documented that Ambulance # [REDACTED] was dispatched to [REDACTED] at 10:53 p.m. on July 01, 2017 and arrived on scene at 10:56 p.m. in response to a call for an unknown African American male gunshot victim.³⁶ The report indicates that the patient, now known to be [REDACTED] was unresponsive with shallow respiration and a weak carotid pulse, and had sustained a single gunshot wound to the right side of the neck. The ambulance departed the scene at 11:10 p.m. and arrived at Mt. Sinai Hospital at 11:15 p.m.

The **medical records** for [REDACTED] document that he was admitted to Mt. Sinai Hospital at 11:24 p.m. on July 01, 2017 as [REDACTED].³⁷ He arrived at the Emergency Department with no pulse. [REDACTED] was treated in the Emergency Department for approximately thirty-one minutes before being admitted to the operating room by the surgical team. [REDACTED] injuries were

³⁵ Atts. 50-52

³⁶ Atts. 71-72

³⁷ Att. 75

documented as multiple gunshot wounds, including one to the anterior right neck, one to the posterior left neck, one to the left buttock and two in the left hand.

The **Report of Post Mortem Examination from the Cook County Medical Examiner's Office and photographs** documented the examination which occurred at 6:40 a.m. on July 03, 2017 and listed the date of death as July 02, 2017.³⁸ A radiological examination found the following: small bullet fragments in the neck, a bullet lodged in the midline of the chest, a bullet in the left thigh, a fracture of the left femur and small bullet fragments in the left hand.

The gunshot wound to the neck is reported as having an entry wound to the posterior of the neck, and the direction of the wound path is back to front and left to right. There is a lacerated exit wound located on the right side of the neck. No bullet or bullet fragments were recovered from the wound path.

The gunshot wound to the back is reported as having an entry wound to the upper right side of the back, and the direction of the wound path is back to front and right to left. A deformed copper colored jacketed bullet was recovered from the sternum.

The gunshot wound to the buttock is reported as having an entry wound on the left buttock and the direction of the wound path is back to front. A deformed copper-colored jacketed bullet was recovered from the tissue of the left thigh.

The gunshot wounds to the left hand are reported as having an entry wound on the left thumb with a wound path through the left thumb and left hand which created a perforating defect on the tip of the fourth digit. There is a re-entry wound on the fourth and fifth digit and a re-exit wound on the fifth digit. The direction of the wound path is left to right and downward. No bullet or bullet fragments were recovered from the wound path.

None of the skin near the gunshot wounds to the neck, back, buttock or left hand showed evidence of soot deposition or gunpowder stippling.³⁹ The Medical Examiner's Officer found the cause of death to be multiple gunshot wounds and ruled the cause of death to be a homicide.

The **Chicago Fire Department Ambulance Report** documents that Ambulance # [REDACTED] was dispatched to [REDACTED] on July 1, 2017 at 10:57 p.m. and arrived at 11:03 p.m. in response to a call for an on-duty Chicago Police Officer that was "upset after an incident."⁴⁰ The report indicates that the Officer was not physically hurt but was "very shook up." The ambulance departed the scene at 11:08 p.m. and arrived at John H. Stroger at 11:15 p.m. The **medical records** for Officer [REDACTED] document that he was admitted to John H. Stroger Hospital at 11:21 p.m. on July 1, 2017.⁴¹ The reason for the visit was listed as anxiety; it was noted that the duration of the symptoms had resolved and Officer [REDACTED] was discharged at 1:00 a.m. on July 02, 2017.

³⁸ Atts. 69, 79

³⁹ Had such evidence been present, it would have been indicative of close-range firing.

⁴⁰ Att. 72

⁴¹ Att. 77

d. Documentary Evidence

Officer ██████ completed a **Tactical Response Report (TRR)** that classified ██████ as a passive resister who did not follow verbal directions; an active resister who fled; an assailant committing an assault by creating an imminent threat of battery; and an assailant in possession of a weapon, using deadly force likely to cause death or great bodily harm.⁴² Officer ██████ documented that he responded with member presence, verbal commands and a firearm.

Officer ██████ completed an **Officer's Battery Report (OBR)** that documents that Officer ██████ was in uniform on patrol duty with multiple partners in a squad car when a battery occurred.⁴³ He listed the nature of the threat as officer at gunpoint and checked boxes indicating an unknown caliber semi-automatic firearm and a rifle.

The **Crime Scene Processing Report** documents a list of inventoried and photographed evidence, including 10 fired cartridge casings from the front porch and entryway, eight 9 mm fired cartridge casings recovered from the rear yard, narcotics recovered from the living room of ██████ and bundles of United States currency recovered from the front porch.⁴⁴ The report provides a description of the firearms recovered and inventoried: a Hi-point model JCP ██████ 40 caliber semi-automatic 4.5-inch barrel black; a Norinco Mak-90 # ██████ .62X39mm rifle 16.34-inch barrel blue steel/wood; and the officer's weapon, a Glock 17 Gen 4 # ██████ 9 mm semi-automatic 4.5-inch barrel black. The report provides a description of two involved vehicles, both of which were damaged by bullets: a black Pontiac Grand Prix parked at ██████ facing northbound and a beige Buick LaSabre parked at ██████ facing southbound.

Inventory Sheet # ██████ lists a semi-automatic Glock Gen 4 9-millimeter, seventeen-round magazine containing nine live rounds and one 9-millimeter WIN Luger +P recovered from the chamber of the firearm.⁴⁵ The owner of the inventoried evidence is listed as ██████

Illinois State Police Laboratory Report for Laboratory Case # ██████ documents that the Illinois State Police test fired the Norinco model ██████ 7.62 x 39-millimeter caliber semiautomatic rifle and concluded it is operable.⁴⁶

⁴² Att. 7

⁴³ Att. 8

⁴⁴ Att. 60

⁴⁵ Att. 62

⁴⁶ Att. 104

VI. ANALYSIS

I. Legal Standard

Consistent with Illinois state law as codified at 720 ILCS 5/7-5, according to the Chicago Police Department's General Order 03-02-03⁴⁷, Section II, A:

“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 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;
 - b. is attempting to escape by use of a deadly weapon;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”

In addition, an officer's use of deadly force is a seizure within the meaning of the Fourth Amendment and, therefore, must be reasonable. *Muhammed v. City of Chicago*, 316 F.3d 680, 683 (7th Cir. 2002). The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting him, without regard to his underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989). The following factors are instructive in determining 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 the subject “is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer's conduct must be grounded in the perspective of “a reasonable officer on the scene, rather than with the 20/20 vision or hindsight” and “allow for the fact that police officers are often forced to make split second judgments in situations that are tense, uncertain and rapidly evolving when considering the level of force necessary in a particular situation.” *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). Such an analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020.

II. Legal Analysis

A. Officer ██████ Use of Deadly Force Was Authorized Under Paragraph 1 of General Order 03-02-03, II.

⁴⁷ Chicago Police Department's General Order 03-02-03 was rescinded and replaced in October 2017 with a revised Use of Deadly Force Policy.

We begin by addressing the first paragraph of General Order 03-02-03, II, which authorizes the use of deadly force when an officer reasonably believes such force is necessary to prevent death or great bodily harm to the sworn member or another person.

1. It Is More Likely Than Not That Officer ██████ Saw ██████ Carrying an AK47-Style Rifle

In his statement to IPRA, Officer ██████ stated that he saw ██████ with an AK47-style rifle in his right hand. We cannot immediately accept Officer ██████ account. See *Cruz v. City of Anaheim*, 765 F. 3d 1076, 1079 (9th Cir. 2014) (in the deadly force context, we cannot “simply accept what may be a self-serving account by the police officer” (internal quotation marks omitted)). Rather, we must parse through the evidence “to determine whether the officer’s story is internally consistent and consistent with other known facts.” *Id.*

The totality of the evidence in this case supports Officer ██████ statement that he saw ██████ with an AK47-style rifle in his hand. The body worn camera footage shows ██████ after the shooting, motionless on his back near a handgun and an AK47-style rifle. While the footage does not clearly show ██████ in possession of either weapon, it sufficiently captures the officers approaching ██████ seconds after the incident unfolds and establishes the fact that no one else was in the backyard in the immediate aftermath of the shooting. In light of the video footage, it is more likely than not that the weapons found near ██████ belonged to him and that ██████ was in possession of weapons at the time Officer ██████ fired.

Further, the lighting conditions in this case support a finding that Officer ██████ would have been able to see the AK47-style rifle that ██████ possessed. On the one hand, Officer ██████ described the lighting conditions in the backyard as “poor,” which would indicate he would not be able to clearly see or identify any object in the backyard. However, Officer ██████ explained that he activated his flashlight while on the fence, making it more likely that he would be able to see and correctly identify an object in the backyard. Notably, Officer ██████ also estimated that the stairs on which he saw ██████ were only five to ten feet away, a distance which would have allowed Officer ██████ to see objects in ██████ hands. This is especially true considering the relative size of the rifle compared to the handgun in the Evidence Technician photographs.⁴⁸

Considering the totality of the circumstances, we find sufficient evidence exists to corroborate Officer ██████ statement he saw ██████ with an AK47-style rifle in his hand. We note that Officer ██████ also stated that, prior to the shooting, he heard a male voice say, “Get the guns” through a cracked window of ██████. Neither Officer ██████ nor Officer ██████ could corroborate or refute Officer ██████ statement in this regard. Officer ██████ did not hear anyone mention guns through the window; however, Officer ██████ was not physically in a location to hear anything, as he stated that he went back to the front of the residence to check on Officer ██████ before proceeding to the rear of the house. Officer ██████ provided some level of corroboration by saying he heard voices from within the house; however, he could not specifically make out what was said. Without corroboration from either Officer ██████ or Officer ██████ it is difficult to discern whether Officer ██████ did, in fact, hear a male voice say, “Get the guns.”

⁴⁸ Att. 50

Ultimately, however, we need not determine whether Officer ██████ heard a male voice say, “Get the guns.” Whether Officer ██████ heard such a statement or not, for the reasons explained, COPA finds it more probable than not that Officer ██████ saw that ██████ possessed an AK47-style rifle.

2. A Reasonable Officer Would Believe the Use of Deadly Force Was Necessary to Prevent Death or Great Bodily Harm

We turn now to whether a reasonable officer would have believed the use of deadly force was necessary to prevent death or great bodily harm. A subject’s possession of a firearm alone does not in and of itself justify an officer’s use of deadly force. See, *e.g.*, *Cruz v. City of Anaheim*, 765 F.3d 1076, 1078 (9th Cir. 2014) (“if the [armed] suspect doesn’t reach for his waistband or make some similar threatening gesture, it would clearly be unreasonable for the officers to shoot him”). However, an officer “does not have to wait until a gun is pointed” before acting. *Anderson v. Russell*, 247 F.3d 125, 132 (4th Cir. 2001).

Officer ██████ stated that ██████ attempted to turn towards him after Officer ██████ announced his presence. Officer ██████ explained that ██████ did not fully turn towards him but turned his shoulders to the right, resulting in the AK47-style rifle turning towards Officer ██████ and Officer ██████. As there is no video footage of ██████ at the time of the shooting, and no other witnesses to the shooting, we must evaluate the remaining evidence to determine whether it is more likely than not that ██████ turned toward Officer ██████.

The entry wounds detailed in the Medical Examiner’s postmortem report are all located on the rear side of ██████ body. Officer ██████ stated that ██████ did not completely turn his body and did not fully turn his head to make eye contact. Therefore, the entry wounds to the back, buttocks, and posterior of the neck are consistent with Officer ██████ statement.

The direction of the wound paths from left to right are also consistent with Officer ██████ statement that Mr. ██████ turned toward him before Officer ██████ fired as well as the Evidence Technician photographs and body worn camera footage. If one were facing in the same direction as Officer ██████ was when he was on the fence, the stairs would be to the left. Officer ██████ said that he fired his weapon at Mr. ██████ when Mr. ██████ had exited the stairs and was running eastbound across the yard.⁴⁹ Officer ██████ also described seeing Mr. ██████ running through the back of the yard. Officer ██████ stated that after he fired, Mr. ██████ fell on concrete at an angle, with his feet toward the east and his head pointing west toward the stairs. The ET photographs show a concrete pathway runs along the right side of the backyard, directly in front of the fence on which Officer ██████ was balancing, and that a back gate is positioned

⁴⁹ In his statement, Officer ██████ stated that within “a fraction of a second” Mr. ██████ “was down the stairs and then I believe it registered to him that I was there when I said police let me see your hands. He turns towards me, attempts to turn and I then let him turn towards me because I know the capability of that fire power of that weapon.” Att. 41, pg. 21. Later, he said, “And it happened split of a second, that he was ready down the stairs and then went eastbound and then like I said that it went through his mind that hey police. You know like when I announced my presence he attempted to turn towards me with the rifle and then that’s when I discharged my weapon.” Att. 41, pg. 26.

in the right-hand corner of the backyard. The body camera footage shows that Mr. [REDACTED] fell very close to the gate.

Based on the position of the stairs and gate, as well as the location and manner in which Mr. [REDACTED] fell, Mr. [REDACTED] was more likely than not running in a diagonal angle toward the right corner of the yard, where the wooden gate was located. Such a diagonal path would have been the fastest path toward the gate. The direction of the bullet wounds from left to right would be consistent with Officer [REDACTED] firing at Mr. [REDACTED] as Mr. [REDACTED] was running in this diagonal direction toward the back gate. In sum, the physical evidence on its face appears to be consistent with Officer [REDACTED] account and provides support for his statement that Mr. [REDACTED] was turning toward him at the time Officer [REDACTED] fired.

That Officer [REDACTED] saw Mr. [REDACTED] carrying an AK47 style rifle, as opposed to a handgun, is also significant. Officer [REDACTED] explained in his statement that he knew “the capability of that fire power of that weapon.” Further, Officer [REDACTED] had no way of knowing whether the AK 47 style rifle he observed was a semi-automatic weapon or an automatic weapon, or whether it had been retrofitted to function like an automatic weapon. If it was an automatic weapon, it would have been capable of firing shots much more quickly.

In sum, it was reasonable, under the circumstances of this case, for Officer [REDACTED] to believe the use of deadly force was necessary to prevent death or great bodily harm when [REDACTED] started to turn toward Officer [REDACTED] while carrying an AK47-style rifle. The officers’ statements and the radio transmission establish that the officers were responding to a call of “person with a gun” and “shots fired.” A description of the person who had fired the shots was not provided; accordingly, Officer [REDACTED] had no way of knowing that [REDACTED] was not the person who had been firing shots. Given that Officer [REDACTED] knew shots had recently been fired at or near the address, it would be reasonable to infer that [REDACTED] who was carrying an AK47-style rifle, was the person firing shots and that [REDACTED] was thus not afraid to use the AK47-style rifle he was holding. Officer [REDACTED] was not obligated to wait for [REDACTED] to point a rifle directly at him or for [REDACTED] to fire at him before using force. See *Anderson*, 247 F.3d at 132. Officer [REDACTED] stated that it was only a “split second” between the time he saw [REDACTED] coming down the back stairs until Officer [REDACTED] fired his weapon. It was reasonable for Officer [REDACTED] in this split second as [REDACTED] turned toward him while holding an AK47-style rifle, to believe the use of deadly force was necessary to prevent death or great bodily harm.

B. Officer [REDACTED] Use of Deadly Force Was Also Authorized Under Paragraph 2 of General Order 03-02-03, II.

Even if [REDACTED] did not turn toward Officer [REDACTED] Officer [REDACTED] use of deadly force would nonetheless be authorized under the second paragraph of General Order 03-02-03, II, which allows an officer to use deadly force to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested will endanger human life or inflict great bodily harm unless arrested without delay.

As previously established, the evidence indicates Officer [REDACTED] more likely than not saw [REDACTED] carrying an AK47-style rifle as he fled from the house. [REDACTED] was running through an

enclosed yard in a residential area. Further, [REDACTED] was running towards the gate to leave the backyard and enter an alley. The body camera footage shows that [REDACTED] fell very close to the gate. Both sides of the alley for at least a block are residential and the area in general is largely residential. Thus, [REDACTED] was fleeing, with an AK47-style rifle, through a residential area.

Even if [REDACTED] only intended to flee and did not turn toward Officer [REDACTED] a reasonable officer would have believed that in fleeing the area, [REDACTED] was likely to encounter other responding officers and potentially other nearby civilians. [REDACTED] was fleeing at around 11 p.m. on a Saturday night in July, a time in which other citizens were likely to be outside in a residential area. Further, at the time Officer [REDACTED] used deadly force, he knew that other beats and officers were responding to [REDACTED] and that Officers [REDACTED] and [REDACTED] were on scene (though he was unaware of Officer [REDACTED] precise location). It would certainly be reasonable under these circumstances to believe a likelihood existed of [REDACTED] encountering either Officer [REDACTED] or other responding officers if he escaped. Moreover, given that the OEMC call that Officer [REDACTED] heard indicated that shots had been fired, an officer could reasonably believe that [REDACTED] had previously fired the gun he was carrying and that he would not fear doing so again. Finally, as [REDACTED] was carrying an AK47-style rifle—a deadly weapon—it was reasonable to believe the use of deadly force was necessary to prevent [REDACTED] escape as opposed to using other non-deadly means of preventing [REDACTED] escape.

For all of these reasons, a reasonable officer in Officer [REDACTED] position would have believed the use of deadly force was necessary to prevent [REDACTED] escape and that [REDACTED] would endanger human life or inflict great bodily harm unless arrested without delay. For the reasons analyzed above, Officer [REDACTED] conduct satisfies the second prong of CPD’s general order pertaining to use of deadly force.

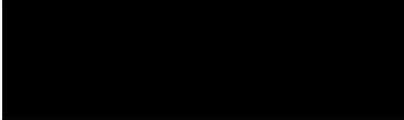
VII. CONCLUSION

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

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

Officer	Allegation	Finding
Officer [REDACTED]	N/A	Use of deadly force was within CPD policy.

Approved:



November 26, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date



November 26, 2019

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad #:	█
Major Case Specialist:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	Andrea Kersten