

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Date of Incident:	March 23, 2012
Time of Incident:	11:11 pm
Location of Incident:	██████████ Avenue (backyard)
Date of IPRA Notification:	March 23, 2012
Time of IPRA Notification:	11:40 pm

On March 23, 2012, at approximately 11:11 pm, Officers ██████████ and ██████████ went to ██████████ Avenue in response to multiple 911 calls regarding a man with a gun. Upon their arrival, the officers saw several civilians, who directed the officers to the backyard of the single-family residence. Once in the backyard, the officers encountered ██████████ standing near the garage door entrance. ██████████ held a handgun at his side. The officers announced their office and ordered ██████████ to drop his handgun. ██████████ did not comply with the officers' commands, and instead began to raise the handgun. Fearing ██████████ intended to shoot them, both officers discharged their firearms at ██████████. The officers fired at ██████████ as he ran across the backyard, while still holding the firearm in his hand. ██████████ climbed on top of an air-conditioning unit located near the northeast corner of the yard, threw his handgun to the ground, and attempted to scale a fence. Officer ██████████ was able to grab ██████████ and pull him to the ground where he was handcuffed. A search of ██████████ revealed a second handgun inside his vest pocket. ██████████ sustained several gunshot wounds and was transported by ambulance to ██████████ Hospital for treatment. This investigation concludes Officers ██████████ and ██████████ use of deadly force complied with Department policy.

**II. INVOLVED PARTIES**

Involved Officer #1:	██████████ Star #: ██████████ Employee #: ██████████ Date of Appointment: ██████████ 2007, Rank: Police Officer, Unit of Assignment: ██████████ DOB: ██████████, 1979, Gender: Male, Race: Black
Involved Officer #2:	██████████ Star #: ██████████, Employee #: ██████████, Date of Appointment: ██████████ 2006, Rank: Police Officer,

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

<sup>2</sup> Officers were in dressed in plainclothes and neither officer was equipped with a Body-Worn Camera on the date of the incident.

Involved Individual #1:

Unit of Assignment: [REDACTED] DOB: [REDACTED] 1980,  
Gender: Female, Race: Black

[REDACTED] DOB: [REDACTED] 1987, Gender: Male,  
Race: 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 a notification. However, COPA determined evidence did not exist which would require allegations of excessive force against Officers [REDACTED] and/or [REDACTED]

**IV. APPLICABLE RULES AND LAWS**

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**General Orders**

1. General Order 03-02-02

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**Federal Laws**

1. The Fourth Amendment to the United States Constitution

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**State Laws**

1. 720 ILCS 5/7-5

**V. INVESTIGATION<sup>3</sup>**

**a. Interviews**

In a statement to IPRA on March 24, 2012, [REDACTED] stated she did not witness this incident because, when she heard gunshots, she ran to the second floor of the residence to get her 10-year-old son. [REDACTED] remained on the second floor, until the incident ended.

In a statement to IPRA on March 24, 2012, witness [REDACTED] stated that he was in his bedroom watching a basketball game. [REDACTED] bedroom is in the front of his home. As he watched the basketball game, he heard several gunshots. When the gunfire ceased, [REDACTED] went outside and opened the gate to his yard for the police officers. [REDACTED] did not witness what occurred between the officers and [REDACTED]

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

<sup>4</sup> Attachment 8.

<sup>5</sup> Attachments 25 and 32.

In a statement to IPRA on March 25, 2012, **Officer [REDACTED]** stated he and his regular partner, Officer [REDACTED] responded to a 911 call of a man with a gun at [REDACTED] Avenue. Officer [REDACTED] stated the dispatcher informed them the female 911 caller reported the person with the gun was “tryin’ to shoot my son.”<sup>7</sup> A second update from the dispatcher reported the person pointed a gun. Upon arrival, Officers [REDACTED] and [REDACTED] exited their police vehicle with their guns drawn. Officer [REDACTED] saw several people looking at them through a window. A few people exited the side door of the residence, yelling to the officers, “He’s in the back.”<sup>8</sup> Officer [REDACTED] stood near the gangway’s entrance, and instructed Officer [REDACTED] to come to him with her flashlight. Officer [REDACTED] and Officer [REDACTED] walked through the gangway to the backyard, and as they walked past the residence’s side door, a motion-activated light came on and illuminated the gangway.

As Officer [REDACTED] and Officer [REDACTED] walked through the gangway, Officer [REDACTED] heard numerous voices coming from the backyard. Officer [REDACTED] and Officer [REDACTED] yelled out statements to the effect, “If you back there, keep, uh you need to come out with your hands up.”<sup>9</sup> They reached the end of the gangway leading to the backyard, when Officer [REDACTED] saw [REDACTED] standing in the backyard, near the entrance to the garage, holding a chrome, semi-automatic handgun in his right hand. Officer [REDACTED] stated people were standing on the rear porch of the residence. Officer [REDACTED] and Officer [REDACTED] ordered [REDACTED] to put his gun down. [REDACTED] did not drop the gun, but instead began to raise it upwards as if he was going to point it. Officer [REDACTED] and Officer [REDACTED] then discharged their firearms at [REDACTED] Officer [REDACTED] was between five and ten feet away from [REDACTED] at this time. [REDACTED] still holding the gun in his right hand, ran to the right side of the yard, stepped onto an air-conditioning unit, and attempted to scale a tall metal gate. [REDACTED] fell back from the gate onto the ground between the air conditioning unit and the gate. Officer [REDACTED] and Officer [REDACTED] continued to repeatedly order [REDACTED] to show his hands. Officer [REDACTED] then grabbed [REDACTED] by his arm, pulled him into the open yard and turned him onto his stomach. As Officer [REDACTED] pulled [REDACTED] to the open yard, handcuffs were applied, and he observed blood on his clothing. Officer [REDACTED] also observed [REDACTED] gun on the ground a few feet from [REDACTED]

Officer [REDACTED] stated other officers arrived, searched [REDACTED] and subsequently found a second handgun on him.<sup>10</sup> Officer [REDACTED] heard an unknown male yell at [REDACTED] “That’s why they shot your bitch ass. That’s what you get.”<sup>11</sup>

In a statement to IPRA on March 25, 2012, **Officer [REDACTED]** stated, she and her regular partner, Officer [REDACTED] responded to [REDACTED] Avenue regarding a 911 call of a man with a gun. The dispatcher informed them the 911 caller relayed, “that, um, it was a person, a guy there who, um, was gonna, was tryin’ to shoot ‘er son.”<sup>13</sup> Upon arriving, at the aforementioned address, Officer [REDACTED] and Officer [REDACTED] both with their weapons drawn,

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<sup>6</sup> Attachment 54.

<sup>7</sup> Statement of PO [REDACTED] P. 8, L. 12.

<sup>8</sup> *Id.*; P. 9, L. 17.

<sup>9</sup> *Id.*; P. 13, L. 6-8.

<sup>10</sup> PO [REDACTED] did not know which officers searched [REDACTED]

<sup>11</sup> Statement of PO [REDACTED] P. 26, L. 20-21.

<sup>12</sup> Attachment 53.

<sup>13</sup> *Id.*, P. 8, L. 18-20.

exited their police vehicle. Officer ██████ did not see anyone in front of the residence, but she saw several people looking out the front window of the residence. The people looking out the front window gestured for her to come toward the house. Officer ██████ approached the left side, of the front of the house, while Officer ██████ approached the right side. Officer ██████ heard an unknown female voice, on the right side of the home, say, “Come on, um, he’s in the back. He has a gun, pullin’ it in and out.”<sup>14</sup>

Officer ██████ called Officer ██████ to come to the gangway, because he needed her flashlight. The gangway is on the right side of the house. Officer ██████ used her flashlight to illuminate their path, as she and Officer ██████ walked through the gangway to the backyard. Officer ██████ heard noises, from an unknown number of people in the backyard. As they approached the backyard, Officer ██████ announced, “Police.”<sup>15</sup> A motion-activated light came on, as the officers walked through the gangway.

Once they reached the backyard, Officer ██████ saw ██████ standing near the entrance of the garage, holding a chrome handgun, in his right hand, pointed at the ground. ██████ looked at Officer ██████ and Officer ██████ when they entered the yard; they ordered ██████ to drop his handgun. Officer ██████ stated 10-15 people stood on the rear porch and stairs, of the residence, and several of those people repeatedly told ██████ to drop his handgun. ██████ did not drop his handgun, but instead raised it. Officer ██████ and Officer ██████ moved further into the backyard and spread out, to put more distance between them because they stood too close to each other. Before ██████ could point his firearm at her, Officer ██████ discharged her firearm several times at ██████ who began to run along the front of the garage toward a gate<sup>16</sup> on the opposite of the residence. ██████ then jumped onto an air-conditioning unit and then onto the gate. ██████ then fell to the ground between the air-conditioning unit and the gate. ██████ threw his handgun, which landed on the right side of the air-conditioning unit, near Officer ██████ feet. Officer ██████ pulled ██████ from between the air-conditioning unit and the gate. Officer ██████ then handcuffed ██████ hands behind his back. Other responding officers arrived. Officer ██████ learned those officers conducted a search of ██████ and found a second handgun in his pocket.

The **Detective’s Supplemental Report**<sup>17</sup> documents Officer ██████ related to Detectives ██████ and ██████ essentially the same facts as Officer ██████. Officer ██████ added she observed several people in the front window of the residence acting hysterical and yelling to the officers, “He’s got a gun in the back.”<sup>18</sup> Officer ██████ discharged her weapon, in fear for both her and her partner’s lives.

A canvass<sup>19</sup> of the area of incident, conducted by additional detectives, on the night of this incident, did not produce any additional witnesses or information relevant to this investigation.

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<sup>14</sup> *Id.*; P. 10, L. 13.

<sup>15</sup> *Id.*; P. 13, L. 9.

<sup>16</sup> PO ██████ described the gate as being approximately 6 feet tall.

<sup>17</sup> Attachment 47.

<sup>18</sup> Attachment 47, L. 13.

<sup>19</sup> Attachment 46.

A canvass<sup>20</sup> of the area of incident, conducted by IPRA on March 24, 2012, did not produce any additional witnesses or information relevant to this investigation.

**b. Digital Evidence**

A search for any **Police Observation Devices (PODs)**<sup>21</sup> in the vicinity of [REDACTED] Avenue revealed no devices in the aforementioned area.

**Evidence Technician photographs**,<sup>22</sup> taken on March 24, 2012, depict the location of incident. The following pictures are from the 200 pictures taken on the night of the incident.



**Figure 1:** The view of the backyard from the south gangway of [REDACTED] Avenue. The wooden stairs and railing to the rear porch obstruct a complete view of the backyard from the gangway.

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<sup>20</sup> Attachments 23 and 27

<sup>21</sup> Attachment 15.

<sup>22</sup> Attachment 29.



**Figure 2:** The view of the backyard from the south gangway of [REDACTED] Avenue.



**Figure 3:** View of the backyard from the rear porch of [REDACTED] Avenue.



Figure 4: View of the backyard from the rear porch of [REDACTED] Avenue.



**Figure 5:** View of the backyard from the rear porch of [REDACTED] Avenue. The air-conditioning unit is in the northeast corner of the backyard. Two recovered firearms laying in the grass near the east wall of the residence; one of which [REDACTED] had in his hand and the other which was recovered from his pocket after officers responded.





**Figure 6:** Photo of the two recovered semi-automatic handguns [REDACTED] reportedly had on his person at the time of the incident.



**Figure 7:** Photo of the two recovered semi-automatic handguns [REDACTED] reportedly had on his person at the time of the incident.



**Figure 8:** Photograph of the fired cartridges found near the northeast corner of the backyard of [REDACTED]. The photograph depicts the seven fired cartridges recovered from the backyard of [REDACTED] which is the next yard south of the location of incident, [REDACTED] Avenue.



**Figure 9:** Photograph of the fired cartridges found near the northeast corner of the backyard of [REDACTED] Avenue. Depicts the seven fired cartridges recovered from the backyard of [REDACTED] Avenue, which is the next yard south of the location of incident, [REDACTED] Avenue.



**Figure 10: Photograph of the fired cartridges found near the northeast corner of the backyard of [REDACTED] Avenue.** The photograph depicts the seven fired cartridges recovered from the backyard of [REDACTED] Avenue, which is the next yard south of the location of incident, [REDACTED] Avenue.

**c. Physical Evidence**

An **Illinois State Police Laboratory Report dated April 13, 2012,**<sup>23</sup> documents 10.3 grams of plant material recovered from [REDACTED] was analyzed and determined to be Cannabis. The remaining estimated 9.0 grams of the plant material was not analyzed.

**Illinois State Police Laboratory Reports dated July 19, 2012, and September 27, 2012,**<sup>24</sup> indicates blood was on Inventory # [REDACTED] (1 Cobra Ent Model CA-380, .380 caliber semi-automatic handgun with a stainless-steel finish). No further analysis was conducted.

An **Illinois State Police Laboratory Report dated August 8, 2012,**<sup>25</sup> documents an examination revealed no latent impressions suitable for comparison on Inventory # [REDACTED] (1 Kimber, Model: Ultra CDPII, .45 caliber, semi-automatic handgun stainless-steel finish with one live cartridge from the chamber and four live cartridges from the eight round capacity magazine) and Inventory # [REDACTED] (1 Cobra Ent, Model CA-380, .380 caliber semi-automatic handgun with a stainless-steel finish with one live cartridge from the chamber and five live cartridges from the eight round capacity magazine).

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<sup>23</sup> Attachment 80.

<sup>24</sup> Attachments 34 and 36.

<sup>25</sup> Attachment 35.

An **Illinois State Police Laboratory Report dated May 22, 2012,**<sup>26</sup> documents the results of the gunshot residue exam performed on ██████ indicated he may not have discharged a firearm with either hand. If ██████ did discharge a firearm, then the particles were removed by activity, were not deposited, or were not detected by the procedure.

An **Illinois State Police Laboratory Report dated February 25, 2013,**<sup>27</sup> documents the Kimber, Model Ultra CDPII, .45 caliber semi-automatic handgun recovered from the backyard of ██████ Avenue was examined and found to be in firing condition. It contained five unfired cartridges, examined for caliber and type.

The Cobra Enterprises, Inc., Model CA-380, .308 caliber semi-automatic handgun recovered from the backyard of ██████ Avenue was examined and found to be in firing condition. It contained six unfired cartridges, examined for caliber and type.

Officer ██████ and Officer ██████ firearms were examined and found to be in firing condition.

It was determined that 13 of the recovered spent cartridges were fired from Officer ██████ firearm and eight of the recovered spent cartridges were fired from Officer ██████ firearm.<sup>28</sup> Also, the bullet fragment recovered from ██████ clothing was determined to have been fired from Officer ██████ firearm. The fired bullet recovered from the alley behind the garage at ██████ Avenue was determined to have been fired from Officer ██████ firearm.

A fired bullet recovered from the floor near the rear door of the residence at ██████ Avenue, and a second fired bullet recovered from near the air-conditioning unit in the backyard of ██████ Avenue were examined but could not be identified or eliminated as being fired from Officer ██████ or Officer ██████ firearms. It was determined the bullet was not fired from either of the firearms recovered from the backyard of ██████ Avenue.

An unfired .45 caliber cartridge recovered from near the north fence of the backyard of ██████ Avenue was examined and could not be identified or eliminated as being caused by the firing pin of the Kimber, Model Ultra CDPII, .45 caliber semi-automatic handgun recovered from the same backyard.

An **Illinois State Police Laboratory Report dated February 21, 2013,**<sup>29</sup> documents no human Y-STR DNA haplotype identified on the swabs taken from the Kimber, Model Ultra CDPII, .45 caliber semi-automatic handgun recovered from the backyard of ██████ Avenue.

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<sup>26</sup> Attachment 75.

<sup>27</sup> Attachment 75.

<sup>28</sup> Officers ██████ and ██████ reported discharging their firearms a total of 22 times. Only 21 fired cartridges were recovered.

<sup>29</sup> Attachment 75, L. 18-21-

An **Illinois State Police Laboratory Report dated March 8, 2013**,<sup>30</sup> documents the blood stain found on the .380 caliber Cobra handgun matched ██████████ DNA profile. The swabs taken from aforementioned handgun were analyzed and determined to be a mixture of DNA from at least two people. ██████████ could not be excluded.

The swabs taken from the .45 caliber Kimber semi-automatic handgun were tested and found they contained insufficient human DNA for analysis.

#### **d. Documentary Evidence**

Cornell ██████████ **Arrest Report**<sup>31</sup> stated Officers ██████████ and ██████████ responded to a call of a person with a gun at ██████████ Avenue on the date of this incident. When the officers arrived, citizens from inside the location shouted, “He is in the back. He is taking the gun in and out.” The citizens from inside the residence referred to ██████████. As the officers relocated to the backyard of the residence, they observed ██████████ standing about the entry garage door with a handgun in his hand. The officers announced their office and ordered ██████████ to drop his weapon. After several attempts, ██████████ did not comply with the officers’ commands. ██████████ raised his weapon in the direction of the officers. In fear of receiving a battery, the officers discharged their duty weapons, striking ██████████ about the body. ██████████ attempted to defeat the arrest by briefly fleeing the scene. Ultimately, ██████████ was placed in custody in the backyard. ██████████ suffered several gunshot wounds to his body. Officers ██████████ and ██████████ requested medical attention. A .45 caliber handgun was recovered, and a custodial search of ██████████ revealed an additional handgun.

The **Detective Supplementary Report (RD# ██████████)**<sup>32</sup> documents on March 23, 2012, at 11:19 pm, Detectives ██████████ and ██████████ were assigned to the police-involved shooting at ██████████ Avenue. The detectives learned Officers ██████████ and ██████████ responded to a man with a gun call, and upon their arrival discovered ██████████ in the rear yard. Officers ██████████ and ██████████ confronted ██████████ who pointed a handgun in their direction. The officers then discharged their weapons, striking ██████████ several times. ██████████ was subsequently transported to ██████████ Hospital by CFD Ambulance #██████.

The detectives observed several fired casings on the ground in the backyard near the south fence and along the front of the garage. A live .45 caliber bullet was found near the center of the concrete patio of the back yard. Two semi-automatic handguns, two cell phones, and a large clear plastic bag containing several smaller bags of suspected cannabis, were observed on the ground between the rear porch and the air conditioning unit.

The detectives noted three bullet holes in the garage service door and two bullet holes in the overhead door on the alley-side of the garage appeared to correspond with the holes in the service door. The detectives also observed bullet holes in the north interior wall of the garage and in the rafters that appeared to correspond with the holes in the overhead door. Two bullet holes were also observed in the air-conditioning unit.

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<sup>30</sup> Attachment 75, L. 18-21

<sup>31</sup> Attachment 5.

<sup>32</sup> Attachment 47.

On March 24, 2012, at 12:30 a.m., Det. ██████████ read ██████████ his Miranda warning. ██████████ agreed to speak with Det. ██████████ at which time he related he (██████████ was walking near 10600 S. Perry with his friend, "TJ" (NFI), when he was shot. At 1:50 a.m., ██████████ was taken to surgery and unavailable for any further interview.

On March 24, 2012, at 7:30 pm, Det. ██████████ read ██████████ his Miranda Warning, at which time ██████████ agreed to speak with the detectives. ██████████ stated he had not pointed a gun at the police, and he did not have a gun, when the police shot him. ██████████ added the police shot him for no reason. The detectives attempted to obtain a more detailed account from ██████████ but he declined, adding he would not speak to the detectives without an attorney. The interview was then terminated.

The **Detective's Supplementary Report**<sup>33</sup> documents on the night of this incident, witness ██████████ related to Detectives ██████████ and ██████████ he arrived at ██████████ Avenue between 10:30 pm and 11:00 pm. ██████████ stated people were at the residence celebrating the birthday of his seven-year-old cousin, ██████████" ██████████ was standing in the back of the residence on the first floor, when chaos "broke out." ██████████ heard gunfire outside; he did not know who was shooting. ██████████ never looked outside and did not exit the residence. ██████████ further stated the police then entered the residence and informed everyone inside to gather in the living room. ██████████ concluded by stating he did not know the person shot, why 'he' was there, or who had invited 'him.' The Detectives noted based on their observations ██████████ had been drinking.

The **Detective's Supplementary Report**<sup>35</sup> documents witness ██████████ related to Detectives ██████████ and ██████████ that she is ██████████ friend, and she was at the birthday party for ██████████" ██████████ was having some drinks in the living room on the first floor of the residence, when she heard individuals yell, "He's got a gun" and "Get out." ██████████ began to take her child upstairs, when she heard people say, "The police are outside." ██████████ then heard gunfire. ██████████ added after the gunfire stopped, the police entered the residence and had everyone stay on the first floor.

The **Detective's Supplementary Report**<sup>37</sup> documents witness ██████████ told Detectives ██████████ and ██████████ he was at the birthday party when his cousin's boyfriend showed up with a handgun and threatened ██████████ (now known to be ██████████ stated the crowd went to the back of the residence and then outside. ██████████ did not know what happened because he was too afraid to go outside. ██████████ did not know ██████████ and some of the women took the kids upstairs during the dispute. It was noted ██████████ appeared to have been drinking.

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<sup>33</sup> Attachment 47.

<sup>34</sup> Page 14.

<sup>35</sup> Attachment 47.

<sup>36</sup> Page 14.

<sup>37</sup> Attachment 47.

In a telephone conversation with IPRA on March 24, 2012, ██████████ stated the incident occurred prior to his arrival and he did not witness the incident.

The **Detective's Supplementary Report**<sup>39</sup> documents witness ██████████ told Detectives ██████████ and ██████████ he was at the card table and then went into the bedroom. ██████████ was unaware anything was going on and refused to cooperate with the investigation.

In a telephone conversation with IPRA on March 24, 2012, ██████████ stated he was in the bathroom at the time of the incident and did not know what occurred.

The **Detective's Supplementary Report**<sup>41</sup> documents witness ██████████ related to Detectives ██████████ and ██████████ that ██████████ her son's father, arrived at the birthday party at approximately 6:30 pm and began drinking. ██████████ stated her cousin, ██████████ saw ██████████ with two handguns and told ██████████ to leave the residence with the guns because there were children in the house. ██████████ argued with ██████████ at which time ██████████ told ██████████ to leave. ██████████ then telephoned 911. ██████████ walked out of her residence and into her backyard where he began waving a handgun around. ██████████ saw Officers ██████████ and ██████████ enter the backyard and heard Officer ██████████ order ██████████ to drop his gun. Although ██████████ saw ██████████ begin to move, she was not sure what he was doing when the police fired their handguns at him. ██████████ became upset and refused to further cooperate with this investigation. ██████████ also appeared to have been drinking.

Additional attempts to interview ██████████ in furtherance of the investigation were unsuccessful. ██████████ mother, ██████████ told IPRA, ██████████ was not able or willing to talk to IPRA investigators.

The **Detective's Supplemental Report**<sup>43</sup> documents on the night of this incident Officer ██████████ related to Detectives ██████████ and ██████████ he and Officer ██████████ heard a dispatched call of a man with a gun at ██████████ Avenue and relocated to that location. Officer ██████████ and Officer ██████████ exited their vehicle and approached the house. Officer ██████████ watched the north side of the house, as Officer ██████████ approached the door on the south wall. Officer ██████████ stated, as he entered the gangway, a female wearing a red shirt exited the door yelling, "He's in the backyard." Officer ██████████ alerted Officer ██████████ who then entered the south gangway directly behind Officer ██████████. Officers ██████████ and ██████████ walked down the gangway toward the rear yard with their duty weapons in hand. As the officers came near the end of the gangway, a motion light mounted on the rear southeast corner of the house activated, illuminating the rear yard. Officer ██████████ observed ██████████ standing near the garage service door, holding a semi-automatic handgun in his right hand. Officer ██████████ and Officer ██████████ yelled, "Police, drop the gun"<sup>44</sup> at which time ██████████ raised his right hand, pointing the handgun in the direction of the officers. Officer ██████████ and Officer ██████████ fired their weapons, at which time ██████████

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<sup>38</sup> Attachment 8.

<sup>39</sup> Attachment 47.

<sup>40</sup> Attachment 8.

<sup>41</sup> Attachment 47.

<sup>42</sup> Attachments 9 and 28.

<sup>43</sup> Attachment 47.

<sup>44</sup> Attachment 47; P. 13.



ran toward the northwest corner of the yard, while still holding the gun in his hand. Once [REDACTED] reached the corner of the yard, he dropped the gun and attempted to climb the fence. Officer [REDACTED] secured his weapon and ran to [REDACTED]. Officer [REDACTED] pulled [REDACTED] off the fence and placed him on the ground, at which time Officer [REDACTED] handcuffed [REDACTED]. Officer [REDACTED] stated, at the time he fired his weapon, he was in fear for his life and fired in defense of his life as well as Officer [REDACTED] life.

Once [REDACTED] was secured, Officer [REDACTED] alerted OEMC that he and Officer [REDACTED] fired their weapons, requested additional assist units, and an ambulance for [REDACTED]. Officer [REDACTED] stated that as the events in the yard were occurring several people had exited the residence through the rear door and were standing on the rear porch. Officer [REDACTED] stated that several of the people on the porch yelled at [REDACTED] to drop the gun. In addition to people yelling at [REDACTED] to drop the gun, a male Black yelled at [REDACTED] "That's what you get, bitch."

Officer [REDACTED] stated that after the paramedics rolled [REDACTED] onto his back, [REDACTED] was searched, and a second semi-automatic handgun was recovered from the front pouch-style pocket, as well as a large plastic bag containing several smaller bags of suspected cannabis.

**Supplementary Report<sup>45</sup>** documents witness [REDACTED] related to Detectives [REDACTED] and [REDACTED] she was on the second floor when she heard someone downstairs yelling "He got a gun."<sup>46</sup> [REDACTED] moved nine children to a second-floor bedroom and closed the door. [REDACTED] told other people to call 911, while she remained in the bedroom with the children. [REDACTED] then heard a lot of gunfire and laid on the floor with the children. [REDACTED] remained there until the police instructed her to go to the first floor.

During a telephone conversation with IPRA on March 24, 2012, [REDACTED] [REDACTED] stated she was inside her residence ([REDACTED] Avenue) at the time of this incident and did not witness what occurred.

The **Detective's Supplementary Report<sup>48</sup>** documents witness [REDACTED] related to Detectives [REDACTED] and [REDACTED] she was asleep on the second floor, when she was awakened by the gunfire. [REDACTED] remained on the second floor, until the police instructed her to go to the first floor.

The **Detective's Supplemental Report<sup>49</sup>** documents witness [REDACTED] related to Detectives [REDACTED] and [REDACTED] she was asleep in the basement, until the sound of gunfire woke her. [REDACTED] went upstairs, when the police arrived.

In a telephone conversation, with IPRA, on March 24, 2012, [REDACTED] stated that she only heard the gunshots, because she was asleep and did not see what happened.

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<sup>45</sup> Attachment 47.

<sup>46</sup> Attachment 47; P. 15.

<sup>47</sup> Attachment 11.

<sup>48</sup> Attachment 47.

<sup>49</sup> Attachment 47.

<sup>50</sup> Attachment 28.

The **Detective's Supplemental Report**<sup>51</sup> documents witness ██████████ related to Detectives ██████████ and ██████████ he was playing cards with ██████████<sup>52</sup> when an individual with braids told an individual with a gun to leave the residence. ██████████ stated the police arrived, after he heard six gunshots. ██████████ remained at the card table and did not see anything.

The **Detective's Supplemental Report**<sup>53</sup> documents witness ██████████ related to Detectives ██████████ and ██████████ he was in the living room playing cards with ██████████ Little ██████████ and ██████████.<sup>54</sup> ██████████ stated that he did not see anything and refused to cooperate with this investigation.

In a telephone interview with IPRA on March 24, 2012, ██████████ stated that he was playing cards inside his residence and did not witness what occurred.

The **Detective's Supplemental Report**<sup>56</sup> documents witness ██████████ related to Detectives ██████████ and ██████████ she was at the birthday party when a "dude"<sup>57</sup> pulled out a gun and waved it around, while yelling threats. ██████████ stated the "dude"<sup>58</sup> went into the kitchen. People yelled at him to leave, at which time the "dude"<sup>59</sup> went "out back."<sup>60</sup> ██████████ stated, after the police arrived, she heard the officers yell, "Drop the gun."<sup>61</sup> ██████████ exited the residence through the back door, when she heard several gunshots. ██████████ did not see who was shooting. It was noted that ██████████ appeared to be intoxicated.

The **Detective's Supplemental Report**<sup>62</sup> documents witness ██████████ ██████████ related to Detectives ██████████ and ██████████ she was on the second floor of the residence, when ██████████ ran upstairs yelling, "He has a gun."<sup>63</sup> ██████████ walked downstairs and saw someone's arm, with a gun in their hand. ██████████ ran back upstairs. ██████████ heard people yelling for someone to call the police. ██████████ looked out a front window and saw a police car. As she began to walk down to the first floor, she heard several gunshots, but was unable to see who was shooting.

On the night of the incident the detectives determined, based on the lack of cooperation, and the inebriated state of the witnesses, additional interviews would be attempted at a later time.

Subsequently, the detectives attempted to conduct additional interviews with the witnesses, but they refused to cooperate any further. The detectives subsequently obtained Grand Jury

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<sup>51</sup> Attachment 47.

<sup>52</sup> Attachment 47; P. 16.

<sup>53</sup> Attachment 47.

<sup>54</sup> Attachment 47; P. 16.

<sup>55</sup> Attachment 12.

<sup>56</sup> Attachment 47.

<sup>57</sup> Attachment 47; P. 16.

<sup>58</sup> Attachment 47; P. 16.

<sup>59</sup> Attachment 47; P. 16.

<sup>60</sup> Attachment 47; P. 16.

<sup>61</sup> Attachment 47; P. 17.

<sup>62</sup> Attachment 47.

<sup>63</sup> Attachment 47; P. 17.

Subpoenas for the witnesses, none of whom complied. The **Detective's Supplemental Report**<sup>64</sup> documents on the night of this incident Officer ██████ related to Detectives ██████ and ██████ he and Officer ██████ heard a dispatched call of a man with a gun at ██████ Avenue and relocated to that location. Officer ██████ and Officer ██████ exited their vehicle and approached the house. Officer ██████ watched the north side of the house, as Officer ██████ approached the door on the south wall. Officer ██████ stated, as he entered the gangway, a female wearing a red shirt exited the door yelling, "He's in the backyard." Officer ██████ alerted Officer ██████ who then entered the south gangway directly behind Officer ██████. Officers ██████ and ██████ walked down the gangway toward the rear yard with their duty weapons in hand. As the officers came near the end of the gangway, a motion light mounted on the rear southeast corner of the house activated, illuminating the rear yard. Officer ██████ observed ██████ standing near the garage service door, holding a semi-automatic handgun in his right hand. Officer ██████ and Officer ██████ yelled, "Police, drop the gun"<sup>65</sup> at which time ██████ raised his right hand, pointing the handgun in the direction of the officers. Officer ██████ and Officer ██████ fired their weapons, at which time ██████ ran toward the northwest corner of the yard, while still holding the gun in his hand. Once ██████ reached the corner of the yard, he dropped the gun and attempted to climb the fence. Officer ██████ secured his weapon and ran to ██████. Officer ██████ pulled ██████ off the fence and placed him on the ground, at which time Officer ██████ handcuffed ██████. Officer ██████ stated, at the time he fired his weapon, he was in fear for his life and fired in defense of his life as well Officer ██████ life.

Once ██████ was secured, Officer ██████ alerted OEMC that he and Officer ██████ fired their weapons, requested additional assist units, and an ambulance for ██████. Officer ██████ stated that as the events in the yard were occurring several people had exited the residence through the rear door and were standing on the rear porch. Officer ██████ stated that several of the people on the porch yelled at ██████ to drop the gun. In addition to people yelling at ██████ to drop the gun, a male Black yelled at ██████ "That's what you get, bitch."

Officer ██████ stated that after the paramedics rolled ██████ onto his back, ██████ was searched, and a second semi-automatic handgun was recovered from the front pouch-style pocket, as well as a large plastic bag containing several smaller bags of suspected cannabis.

Officer ██████ **Tactical Response Report (TRR)**<sup>66</sup> indicates, in summary, ██████ actions were likely to cause death or great bodily harm in that he was armed with a firearm. Officer ██████ discharged his firearm thirteen (13) times. In the

Officer ██████ **Tactical Response Report (TRR)**<sup>67</sup> indicates, in summary, ██████ actions were likely to cause death or great bodily harm in that he was armed with a firearm. Officer ██████ discharged her firearm nine times.

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<sup>64</sup> Attachment 47.

<sup>65</sup> Attachment 47; P. 13.

<sup>66</sup> Attachment 16.

<sup>67</sup> Attachment 17.

Officer ██████ **Officer's Battery Report (OBR)**<sup>68</sup> indicates, in summary, the incident involved a man with a gun. ██████ was armed with a .380 caliber semi-automatic handgun.

Officer ██████ **Officer's Battery Report (OBR)**<sup>69</sup> indicates, in summary, the incident involved a man with a gun. ██████ was armed with a .380 caliber semi-automatic handgun.

Officer ██████ Sig Sauer, Model P226, 9mm semi-automatic handgun was inventoried with 1 unfired cartridge in its chamber and 2 unfired cartridges in its magazine. The magazine's capacity was 15 cartridges.<sup>70</sup>

██████ Sig Sauer, Model P239, 9mm semi-automatic handgun was inventoried with no unfired cartridges. The weapon's magazine had a capacity of 8 cartridges.<sup>71</sup>

The **Office of Emergency Management PCAD Event Queries**<sup>72</sup> documents Event # ██████, at 11:04 pm, the caller, ██████ reported to the 911 Call-Taker a man in her house with a gun getting ready to shoot her son.

Event # ██████, at 11:04 pm, an unidentified person telephoned 911 and informed the Call-Taker the caller's sister's boyfriend has a gun. A female yelled and then terminated the call.

Event # ██████, at 11:05 pm, an unidentified person dialed 911 and informed the Call-Taker her sister's boyfriend is armed with a gun and is threatening a cousin.

Event # ██████, at 11:06 pm, an unidentified person telephoned 911 and reported to the Call-Taker the caller's sister's boyfriend is armed with a gun. A female is heard yelling and the caller hung up.

Event # ██████, at 11:13 pm, at the caller described the offender as male Black, short, wearing army fatigue hat, vest, and black boots. At 11:10 pm, an unidentified caller from the same telephone number telephoned 911 and reported the offender was intoxicated and taking pills. The caller also reported the offender had a gun to a girlfriend's head.

Several additional civilians telephoned 911 and reported hearing several gunshots in the area.

The **Chicago Fire Department's Ambulance Report**<sup>73</sup> documents on March 23, 2012, at 11:13 pm, Ambulance # ██████ was dispatched to ██████ Avenue regarding a gunshot victim. Ambulance # ██████ arrived at 11:16 pm. The paramedics found ██████ oriented and alert, lying on the ground. ██████ sustained gunshot wounds to his left calf, femur, and pubic area. Pressure

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<sup>68</sup> Attachment 19.

<sup>69</sup> Attachment 18.

<sup>70</sup> Attachment 49

<sup>71</sup> Attachment 49

<sup>72</sup> Attachment 21.

<sup>73</sup> Attachment 38.

bandage dressing was applied to the gunshot wounds. At 11:35 pm, Ambulance # [REDACTED] transported [REDACTED] to [REDACTED] Hospital without incident.

[REDACTED] **Medical Records**<sup>74</sup> obtained from [REDACTED] Hospital documents [REDACTED] was brought to the Emergency Room by Chicago Fire Department Ambulance. [REDACTED] was admitted into the hospital on March 24, 2012, at 12:23 am. Examination revealed [REDACTED] sustained eight gunshot wounds: two to his left calf, two to the left kneecap, two to the left thigh, one to the right groin area, and one to his left hip. In addition, [REDACTED] BAC was .23 at the time of his hospital admittance.<sup>75</sup>

**e. Additional Evidence**

In a deposition on June 30, 2016 (Civil Suit Case # [REDACTED]), [REDACTED] stated at the time of his deposition he took two medications which impact his memory by causing him to forget things.<sup>77</sup>

[REDACTED] stated on the day of this incident he attended a birthday party for his son at his son's mother's, [REDACTED] home. [REDACTED] began drinking around 4 p.m. and arrived at the party sometime after that. He drank a pint or two of Patron Tequila. [REDACTED] also stated, while at the party, he continued to drink alcohol and consumed one Ecstasy pill.

[REDACTED] explained, while at the party, he argued with a person named [REDACTED]. The argument did not escalate into a physical fight, but [REDACTED] intervened by telling them to calm down. [REDACTED] could not recall the cause of the argument.

[REDACTED] received a telephone call from a woman named [REDACTED]<sup>78</sup>. He walked to the front yard of the residence to talk to [REDACTED] because [REDACTED] did not want to disrespect [REDACTED] by talking to another woman. [REDACTED] and [REDACTED] spoke for about 20-30 minutes and then [REDACTED] ended the phone call and returned to the party in the backyard.

[REDACTED] stated, when he returned to the backyard, he stood on the rear porch of the residence. [REDACTED] held a bottle of Patron in his left hand and a cell phone in his right hand. [REDACTED] was alone on the rear porch. [REDACTED] stated he had a handgun concealed in his inside jacket pocket. [REDACTED] stated the handgun was a .380 caliber handgun loaded with eight live rounds in the magazine. [REDACTED] noted that there was not a live round in the chamber, and the safety was on. [REDACTED] also had a bag of marijuana in his pocket.

[REDACTED] was unaware anyone at the party called 911. [REDACTED] stood alone on the rear porch, when two plainclothes officers, now known to be Officer [REDACTED] and Officer [REDACTED] entered the backyard and immediately shot at him. [REDACTED] heard the officers order him to drop his gun.

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<sup>74</sup> Attachment 52.

<sup>75</sup> His alcohol level was 273 mg/dL, which when converted to standard BAC measurements (by dividing it by 1.18) is the equivalent of .23 g/dL.

<sup>76</sup> Attachment 78.

<sup>77</sup> COPA relied on Mr. [REDACTED] deposition in lieu of taking a statement.

<sup>78</sup> [REDACTED] did not know [REDACTED] last name or contact information.

█████ believed the officers mistook the cell phone in his hand for a handgun. After the officers shot at █████ he fell over the railing, landing on the grass. █████ heard an unidentified officer say, “After all these shots, this nigger should be dead.”<sup>79</sup> Officer █████ searched him saying, “You dumb motherfucker, that’s what your ass get.”<sup>80</sup> The search revealed the gun in his jacket pocket and marijuana. Additional officers arrived on the scene.

█████ stated that he was not holding a handgun when Officers █████ and Officer █████ shot him. █████ pled guilty to the gun charge and the aggravated assault, in April 2015.

According to the **Court Docket (Case: █████)**<sup>81</sup> on April 29, 2015, █████ plead guilty to one count of a Felon in Possession/Use of a Firearm and Aggravated Assault to a Peace Officer with a Weapon. As part of his guilty plea, █████ admitted—under oath—that he pointed a firearm at Officers █████ and █████ at that in response Officers █████ and █████ opened fire at him.<sup>82</sup> █████ was sentenced to the Illinois Department of Corrections, seven years for the first charge, concurrent with three years for the second charge.

█████ filed a **civil suit** in the **United States District for the Northern District (█████)**<sup>83</sup> alleging, among other things, that he was unarmed, that he did not point a firearm at anyone during the incident, and Officers █████ and █████ unjustifiably shot at him twenty-two times. The court dismissed all of █████ claims, noting that the allegations contained in his complaint were barred because they were inconsistent with his guilty plea in the criminal case. The court specifically noted █████ stipulated that he possessed a firearm and pointed it in the direction of Officers █████ and █████ as part of his guilty plea in the criminal case.

## VI. ANALYSIS

### a. Legal Standard

#### 1. Deadly Force

The applicable Chicago Police Department’s General Order is 03-02-03, II,<sup>84</sup> which 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:

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<sup>79</sup> *Id.*; P. 64, L. 21.

<sup>80</sup> Attachment 78, P. 71, L. 24.

<sup>81</sup> Attachment 76.

<sup>82</sup> Attachment 82, P. 13, L. 5.

<sup>83</sup> Attachments 80-83.

<sup>84</sup> This report references the version of General Order 03-02-03 II in effect on the date of the incident. The Department subsequently amended its use of force directives.

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

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. 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. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). 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." *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 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." *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The 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; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

## 2. Preponderance of the Evidence

The standard of proof to determine whether the use of deadly force complied with Department policy is a preponderance of the evidence. A preponderance of evidence can be described as evidence that makes it more likely than not that the alleged misconduct took place. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred than that it did not occur, even if by a narrow margin, then the standard of proof has been met.

### b. Legal Analysis

Based on the totality of the circumstances, Officers ██████████ and ██████████ use of deadly force against ██████████ was objectively reasonable, and therefore, complied with Chicago Police Department policy.

██████████ did not provide a credible account of the incident. ██████████ provided inconsistent accounts of the incident. ██████████ told detectives that he did not possess a firearm, and the police officers shot him for no reason. ██████████ stated in his deposition that he possessed only a single

firearm concealed inside a pocket on the inside of his vest and that Officers [REDACTED] and [REDACTED] may have mistaken a cell phone in his hand as a firearm. However, numerous civilian witnesses reported observing [REDACTED] with a firearm on the night of the incident, and two firearms were recovered from or near [REDACTED] after the incident. [REDACTED] admitted in his criminal case—under oath—that he pointed a firearm in the direction of Officers [REDACTED] and [REDACTED] prior to Officers [REDACTED] and [REDACTED] discharging their firearms at him.

In contrast, Officers [REDACTED] and [REDACTED] provided consistent accounts of the incident which were corroborated by the physical evidence and independent witnesses. Officers [REDACTED] and [REDACTED] stated that they observed [REDACTED] holding a firearm and ordered [REDACTED] to drop the gun prior to discharging their firearms at [REDACTED]. A number of civilian witnesses heard Officers [REDACTED] and [REDACTED] command [REDACTED] to drop the gun prior to discharging their firearms. Officer [REDACTED] and [REDACTED] stated they began discharging their firearms at [REDACTED] while standing near the gangway entrance to the backyard on the south side of the residence after observing [REDACTED] raise firearm while he was standing by the garage. The locations of the casings and bullet holes are consistent with Officers [REDACTED] and [REDACTED] accounts.

A preponderance of the evidence demonstrates that [REDACTED] posed an imminent risk of death or great bodily harm to Officers [REDACTED] and [REDACTED] and that deadly force was reasonably necessary to eliminate the threat. Officers [REDACTED] and [REDACTED] credibly stated they discharged their firearm in response to [REDACTED] raising a firearm after they ordered him to drop it, and that they responded by discharging their firearm at [REDACTED]. A reasonable officer with police training would conclude that [REDACTED] posed an imminent risk of death or great bodily harm and that deadly force was necessary to eliminate the threat when raised a firearm after being ordered to drop it.<sup>85</sup> A preponderance of the evidence demonstrates that Officers [REDACTED] and [REDACTED] stopped discharging their firearms as [REDACTED] attempted to flee and subsequently apprehended him.

For these reasons, Officers [REDACTED] and [REDACTED] use of deadly force complied with Department policy.

**VII. CONCLUSION**

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

Officer	Allegation	Finding/ Recommendation
Officer [REDACTED]	None	Within Policy

<sup>85</sup> [REDACTED] admitted in his criminal case that he pointed the firearm at Officers [REDACTED] and [REDACTED] in his criminal case. However, Officers [REDACTED] and [REDACTED] described [REDACTED] as simply raising the firearm. In either case, it was objectively reasonable under the totality of the circumstances to use deadly force. *See, e.g., Thompson v. Hubbard*, 257 F.3d 896, 899 (8th Cir. 2001).



Officer [REDACTED]	None	Within Policy
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Approved:

[REDACTED]

*Deputy Chief Administrator*

11-8-19

\_\_\_\_\_  
Date

[REDACTED]

*Chief Administrator*



11-8-19

\_\_\_\_\_  
Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	8
<b>Major Case Investigator:</b>	
<b>Supervising Investigator:</b>	
<b>Deputy Chief Administrator:</b>	