

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	January 25, 2018
Time of Incident:	3:19 p.m.
Location of Incident:	████████████████████
Date of COPA Notification:	January 25, 2018
Time of COPA Notification:	6:23 p.m.

A CPD narcotics team was conducting an undercover controlled purchase of narcotics. Officer ██████████ and Officer ██████████ were undercover when they met with an intermediary, ██████████ who directed them to the vicinity of ██████ Street and ██████████ for the purchase. Once at the location, Mr. ██████████ exited the undercover vehicle to make a telephone call and re-entered the vehicle. A short time later, an unknown vehicle pulled next to the officers and two armed black males, now known as ██████████ and ██████████ exited, opened the doors to the undercover vehicle and demanded money. Another member of the narcotics team, Officer ██████████ approached in her undercover vehicle and opened fire at Mr. ██████████ who then ran back to his vehicle. Mr. ██████████ returned fire and ran northbound on ██████████ Officer ██████████ exited his vehicle and ran after Mr. ██████████ who then pointed his firearm at Officer ██████████ Officer ██████████ discharged his firearm one time before Mr. ██████████ entered his vehicle. The vehicle fled eastbound on ██████ Street and then crashed at the southeast corner of ██████ and ██████ Street. Two firearms were recovered from inside the vehicle. Three male subjects from the fleeing vehicle and Mr. ██████████ were then arrested.

COPA initiated its investigation on January 25, 2018. COPA’s investigation consisted of interviewing CPD officers as well as reviewing video, documentary, and other evidence. Based on its investigation, COPA finds a preponderance of the evidence shows that Officers ██████████ and ██████████ reasonably believed that Mr. ██████████ and Mr. ██████████ posed an immediate threat to their lives, and their use of deadly force was within policy as outlined by General Order G03-02, the relevant Illinois state statute, and the Fourth Amendment. However, the investigation also revealed that both Officer ██████████ and Officer ██████████ had not qualified with their auxiliary firearms, in violation of directive U04-02, Department Approved Weapons and Ammunition. The statuses of Officers ██████████ and ██████████ were changed from involved officers to accused officers, both officers were presented with allegations pertaining to their failure to qualify, and COPA recommends those allegations be Sustained.

II. INVOLVED PARTIES

Accused Officer #1:	██████████ Star # ██████████ employee ID# ██████████ Date of Appointment: ██████████ 2006; Police Officer; Unit ██████████ Date of Birth: ██████████ 1982; Female; White
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Accused Officer #2: [REDACTED] Star # [REDACTED] employee ID# [REDACTED] Date of Appointment: [REDACTED] 2001; Police Officer; Unit [REDACTED] Date of Birth: [REDACTED] 1972; Male; Black

Involved Individual #1: [REDACTED]; [REDACTED] 1997; Male; Black

Involved Individual #2: [REDACTED] 1995; Male; Black

Involved Individual #3: [REDACTED] 1991; Male; Black

Involved Individual #4: [REDACTED] 1993; Male; Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Officer [REDACTED] failed to qualify with her Ruger LCP semi-automatic pistol, Serial # [REDACTED], as required by directive U04-02, in violation of Rule 6.	Sustained
Officer [REDACTED]	1. Officer [REDACTED] failed to qualify with his Smith & Wesson revolver, Serial # [REDACTED], as required by directive U04-02, in violation of Rule 6.	Sustained

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 6 – Disobedience of an order or directive, whether written or oral.
General Orders
1. G03-02, Use of Force (effective date: October 16, 2017)
Special Orders
1.U04-02, Department Approved Weapons and Ammunition (effective date: June 2, 2017)
Federal Laws
1. U.S. Constitution, 4 th Amendment
State Laws

1.720 ILCS 5/7-5, Peace Officer's Use of Force in Making Arrest

V. INVESTIGATION¹

a. Interviews²

In an **electronically recorded interview** on January 25 and 26, 2018, ██████ stated to CPD detectives that he was the front seat passenger in a vehicle driven by ██████ ██████ was in the back seat. Mr. ██████ stated that his cousin, ██████ was the owner of the vehicle.³ Mr. ██████ stated that ██████ called ██████ telling him that he was going to sell narcotics to unknown individuals and asking ██████ to do "the lick."⁴ Mr. ██████ stated that he was at ██████ and ██████ around 2 or 3 p.m. and met with Mr. ██████ who stated that the buyers were outside and had \$2500 for the narcotics. Mr. ██████ stated that they did not attempt the robbery there because Mr. ██████ was being "sneaky." Mr. ██████ then called ██████ or ██████ and said that he and the buyers were at ██████ and ██████. When Mr. ██████ and his group pulled up, Mr. ██████ went to the passenger side and Mr. ██████ went to the driver's side, while Mr. ██████ stayed inside the vehicle. Mr. ██████ stated that all three were armed with guns. Mr. ██████ grabbed the door handle but did not have an opportunity to say anything. A female pulled up at a distance of ten to fifteen feet, yelled "Freeze!" and started shooting. Mr. ██████ heard two shots and ran back to his vehicle. He then heard two more shots as Mr. ██████ jumped inside the vehicle. Mr. ██████ stated that he did not discharge his weapon and did not know whether Mr. ██████ discharged his weapon. Mr. ██████ threw his firearm, a Smith & Wesson .45, out of the window. The vehicle then slid and crashed on ██████ Street, and the three subjects were placed in custody.⁵

In an **electronically recorded interview** on January 25 and 26, 2018, ██████ stated to CPD detectives and the Assistant State's Attorney that he received a call on January 25 from an individual Mr. ██████ knew only as ██████ (now known as Officer ██████). Mr. ██████ had known Officer ██████ for about one month and had acted as the middleman for three or four narcotics transactions between Officer ██████ and a supplier called ██████. Mr. ██████ stated that Officer ██████ and his friend (now known as Officer ██████) met Mr. ██████ around 3:00 p.m. at ██████ and ██████. Mr. ██████ entered a building and spoke to another supplier, known to Mr. ██████ only as ██████. ██████ instructed Mr. ██████ to meet at another location for the narcotics. Mr. ██████ stated that ██████ would give him \$200 for making this deal. Mr. ██████, Officer ██████ and Officer ██████ entered a vehicle together, with Mr. ██████ riding in the back seat. At ██████ and ██████, Mr. ██████ told Officers ██████ and ██████ to pull over. Mr. ██████ exited the vehicle to call ██████ and ask him where he was. When Mr. ██████ returned to the vehicle, Officer ██████ gave him \$2500 in cash and Mr. ██████ again attempted to call ██████. When Mr. ██████ looked up, he observed Officer ██████ and his friend

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² A canvass conducted by COPA investigators did not yield any witnesses or additional information (Att. #73)

³ Mr. ██████ stated that ██████ obtained the vehicle from Mr. ██████ cousin ██████ who is also Mr. ██████ friend.

⁴ Common street term meaning "robbery."

⁵ Att. #74. An attorney for Mr. ██████ denied COPA's request to interview him. (Att. #78)

put their hands up and saw part of the robber on the driver's side, who was dressed all in black. Mr. ██████ stated that the hands of the front occupants were blocking his view and he could only see the coats of the subjects. When the shooting began, Mr. ██████ ducked down. Officer ██████ then pulled Mr. ██████ out of the back seat and told ██████ that he was a police officer.⁶

In an **electronically recorded interview** on January 25 and 26, 2018, ██████ refused to speak to any CPD detectives.⁷

In an **electronically recorded interview** on January 25 and 26, 2018, ██████ requested an attorney and the interview was terminated.⁸

In a **statement to COPA** on February 15, 2018, Officer ██████ #17725, stated that he was conducting surveillance for an undercover narcotic purchase by Officers ██████ and ██████. The two undercover officers had arranged to make the purchase from Mr. ██████ who was acting as the middleman and had previously sold the officers small amounts of cannabis and cocaine from different suppliers. The usual source was a subject known only as ██████ whom the officers had previously met at ██████. Mr. ██████ then told the undercover officers that ██████ wanted to meet at ██████ and ██████. Officer ██████ drove his covert vehicle to that location and maintained surveillance. Officer ██████ observed Mr. ██████ exit a multi-unit building and enter the rear of the undercover vehicle, where Officer ██████ was the driver and Officer ██████ was the front seat passenger. Mr. ██████ stayed there for about two to three minutes and returned to the building. Officer ██████ observed a white Chevrolet Impala pull up behind the undercover vehicle and two or three unknown subjects exited and went to the same building as Mr. ██████. Officer ██████ then observed one gray Nissan and one black Chrysler SUV park in front of the undercover vehicle; different unknown male subjects exited the vehicles and also entered the same building as Mr. ██████. After approximately eleven minutes, two of the subjects and Mr. ██████ exited the building and were engaged in conversation. Officer ██████ stated that the undercover team was on high alert because the situation did not look right to them. The unknown subjects entered the other vehicles, while Mr. ██████ returned to the undercover vehicle. Officer ██████ then received a text message from one of the undercover officers stating that the meeting was changed to ██████ and ██████ followed the undercover vehicle and conducted mobile surveillance. On the way to the location, ██████ heard over the radio from the enforcement team that the same Nissan that was at the earlier location was paralleling⁹ the undercover vehicle and going in the same direction. ██████ stated that he became really concerned.

When Officers ██████ and ██████ reached the ██████ block of ██████ they parked around ██████ S. ██████. Officer ██████ parked farther south, around ██████ or ██████ S. ██████. Mr. ██████ then exited the undercover vehicle, made a call on his cell phone and returned to the undercover vehicle. Shortly thereafter, Officer ██████ observed the gray Nissan head northbound on ██████ and relayed over the radio that the Nissan was on the block. The Nissan stopped just north of the undercover vehicle and two black males, now known as ██████

⁶ Att. #75. An attorney for Mr. ██████ denied COPA's request to interview him. (Att. #78)

⁷ Att. #76. An attorney for Mr. ██████ denied COPA's request to interview him. (Att. #80)

⁸ Att. #77. An attorney for Mr. ██████ denied COPA's request to interview him. (Att. #78)

⁹ "Paralleling" refers to a vehicle tracking another vehicle by taking a parallel route instead of following behind.

██████████ and ██████████ exited holding guns in their hands. Mr. ██████████ and Mr. ██████████ ran to the undercover vehicle, opened the doors and reached into the vehicle. Officer ██████████ who was on scene in a different vehicle, then yelled over the radio, "They're robbing them!" Officer ██████████ drove his vehicle forward behind Officer ██████████ and heard one gunshot. Officer ██████████ did not observe Officer ██████████ shoot because he was looking at the two subjects. Officer ██████████ could not hear if Officer ██████████ stated anything to the subjects because his windows were rolled up. Mr. ██████████ turned away and ran into the Nissan. Officer ██████████ did not observe Mr. ██████████ discharge his firearm. ██████████ was on the driver's side of the undercover vehicle and started shooting at Officer ██████████. Officer ██████████ stated that he heard a little thump and leaned down under the dashboard for cover.

Officer ██████████ then opened his door to return fire and observed Mr. ██████████ run northbound in the parkway. Officer ██████████ holding his firearm, ran on the sidewalk in pursuit of Mr. ██████████ and passed Officer ██████████ who was exiting the undercover vehicle. Officer ██████████ stated that he did not observe Officer ██████████ discharge his firearm because he was focused on Mr. ██████████. Officer ██████████ observed the Nissan slowly rolling forward and then observed Mr. ██████████ jump into the rear of the Nissan. Officer ██████████ did not recall how far Mr. ██████████ had run but estimated that it was at least two car lengths. The Nissan drove off and Officer ██████████ continued to run to maintain sight. Officer ██████████ stopped running before ██████████ Street, because he observed Officer ██████████ following the Nissan in her covert vehicle. Officer ██████████ also observed another covert vehicle and an enforcement vehicle turn eastbound on ██████████ Street and pursue the Nissan. Officer ██████████ ran back to check whether Officer ██████████ had been injured. Officer ██████████ had already taken Mr. ██████████ out of the back seat of the undercover vehicle and had placed him on the ground. Officer ██████████ ran to his vehicle, retrieved handcuffs and placed them on Mr. ██████████. Officer ██████████ then retrieved his zone radio and called "shots fired." Officer ██████████ learned that his covert vehicle's front bumper and passenger side view mirror had been struck by Mr. ██████████ bullets. The officer remained on the scene for approximately two hours and then proceeded to Area South where he was interviewed by CPD detectives.¹⁰

In a **statement to COPA** on March 6, 2018, **Sergeant ██████████ #██████████** stated that on January 25, 2018, she was the supervisor of her regular narcotics team, which included Officers ██████████ and ██████████ and others that she could not recall. Sgt. ██████████ was also assigned to cover for Sgt. ██████████ who was on vacation. Sgt. ██████████ team, which included Officers ██████████ and ██████████ informed Sgt. ██████████ that it was conducting an undercover controlled purchase of narcotics and asked Sgt. ██████████ for assistance. When the meeting with the subject, now known as ██████████ was arranged, Sgt. ██████████ team and Sgt. ██████████ team headed out in covert vehicles. Sgt. ██████████ stated that her role was to supervise but also to act as surveillance. Officers ██████████ and ██████████ who were undercover, met Mr. ██████████ at ██████████ and ██████████. Sgt. ██████████ learned from the surveillance team¹¹ that unknown individuals had parked their vehicle and entered the same residence as Mr. ██████████. The undercover officers and Mr. ██████████ relocated to ██████████ and ██████████ and the rest of the team followed their vehicle. On the way to that location, an unknown officer communicated via the closed radio system that a Nissan that had been observed at ██████████ and ██████████ was paralleling the undercover vehicle. Sgt.

¹⁰ Att. #s 32-33. Officer ██████████ statement to the CPD detectives was consistent with his statement to COPA. (Att. #136)

¹¹ The surveillance team was comprised of Officers ██████████, ██████████ and ██████████ (Att. #121)

█████ observed the undercover vehicle turn the corner northbound at █████ and █████ and she parked her vehicle on █████ Street east of █████ and monitored the radio. The sergeant observed a Nissan cross █████ Street northbound and thought that it was the same Nissan as earlier. Sgt. █████ thought that it was Officer █████ who remarked over the radio, “There’s that Nissan.” According to Sgt. █████ Officer █████ had parked on the same block as the undercover officers. Sgt. █████ then heard Officer █████ say, “They’ve got a gun.” Sgt. █████ drove westbound on █████ and then northbound on █████. As she turned the corner, the sergeant heard one shot fired but did not see who fired the shot. Sgt. █████ observed Officer █████ getting Mr. █████ out of the back seat of the undercover vehicle; she then parked her vehicle and ran toward Officer █████. Sgt. █████ observed Officer █████ coming back southbound from █████ Street. Mr. █████ was handcuffed, and Sgt. █████ asked where Officer █████ was. Officer █████ responded that Officer █████ was chasing the subjects. Sgt. █████ believed that Officer █████ was alone pursuing the subject and ran back to her vehicle. Officer █████ also entered Sgt. █████ vehicle, and Sgt. █████ drove northbound on █████.

Sgt. █████ stated that she began receiving calls on her cell phone and was also trying to communicate on the zone radio; as a result, Officer █████ offered to drive and they switched positions near the end of the block. Officer █████ drove eastbound on █████ Street. Sgt. █████ observed that the Nissan had crashed at the corner of █████ and █████. An enforcement vehicle and police vehicles from the █████ District were there. One subject was being handcuffed on the ground. Sgt. █████ did not recall where the other two subjects were. The sergeant observed one firearm in the back seat of the Nissan and was told that there was a second firearm in the front seat, but she did not observe the second firearm. Officer █████ told the sergeant, “They had guns, they were going to rob them,” and added that she shot at the subjects. Sgt. █████ stated that she was surprised at Officer █████ statement, because she had only heard one shot fired and had not seen Officer █████ on █████. An unknown uniformed officer from the █████ District told the sergeant that there were seven shots and played her the audio from ShotSpotter.¹² Sgt. █████ notified her supervisor and began walking back and forth between the two crime scenes. Officer █████ told her that he fired one shot. Sgt. █████ placed Officers █████ and █████ in separate vehicles. Sgt. █████ remained at the scene until 7:00 or 7:30 p.m. when the vehicles were towed, at which point she went to Area South. At Area South, Sgt. █████ learned that a video recording from a residence on █████ had been obtained, and she watched the recording, together with a video recording from inside the undercover vehicle. The sergeant also learned which offender had discharged his weapon but could not remember at the time of her interview which offender(s) did so. Sgt. █████ stated that Officer █████ told her, “My little gun jammed.” The sergeant understood that the officer was referring to her “undercover” firearm. Sgt. █████ did not know what had caused the “jamming” of the officer’s firearm. Sgt. █████ added that she also learned from the “street deputy,” now known as Deputy Chief █████ # █████ that Officer █████ had not qualified with the firearm that he discharged. Sgt. █████ did not know whether Officer █████ had qualified with her firearm.¹³

In a **statement to COPA** on March 9, 2018, **Officer █████ # █████** stated that he was working as an undercover “buy” officer with his partner, Officer █████ Officer █████

¹² ShotSpotter is a gunfire detection system that uses acoustic sensors to identify and triangulate the location of gunshots.

¹³ Att. #35

██████████ was the passenger in a covert silver Kia. Officer ██████████ was the driver. Officer ██████████ stated that he and his partner had been buying narcotics from ██████████ “for some time” and had been in communication with Mr. ██████████ for another controlled undercover buy. On January 25, 2018, the two officers met Mr. ██████████ in the vicinity of ██████████ and ██████████. Mr. ██████████ informed the officers that the location of the meeting with his supplier, ██████████ had changed from ██████████ and ██████████, which was the usual location, to ██████████ and ██████████. Officer ██████████ “became alerted” because they had not previously talked about a change of location, and he texted the new location to his team members. Officer ██████████ also observed Mr. ██████████ exit the undercover vehicle and talk to unknown individuals who had pulled up in their vehicles at the same time.

Mr. ██████████ directed the two undercover officers to the new location, where Officer ██████████ parked the vehicle at approximately ██████████ S. ██████████. Mr. ██████████ exited the vehicle and walked out of the officer’s sight but did not enter any of the residences. Officer ██████████ felt that the situation may “go bad” and removed his firearm from his “belly band holster” and placed it under his right thigh. Mr. ██████████ re-entered the vehicle and asked if the officers had the money. Officer ██████████ handed the money to Mr. ██████████ and asked where the supplier was. Officer ██████████ had turned to talk to Mr. ██████████ who was in the back seat and did not observe the Nissan pull up. Officer ██████████ heard Officer ██████████ say “Oh, shit!” and turned to the front where he observed a subject with his hood pulled up walk in front of their vehicle, pointing a gun at them. Officer ██████████ did not observe the second subject approach the Kia until the subject opened the door. Officer ██████████ stated that he remembered the second subject from ██████████ because of the tattoos on his face. Both subjects demanded money, and the officers held their hands up. Officer ██████████ responded, “Your man got it,” referring to Mr. ██████████. Officer ██████████ then heard multiple shots fired and stayed inside the vehicle because he did not want to “move into a bullet.” Officer ██████████ thought that the subject on Officer ██████████ side discharged his firearm. The second subject ran to the passenger side of the Nissan which then pulled away; the first subject also took off running.

When the barrage of shots stopped, both officers grabbed their firearms and exited the vehicle. Officer ██████████ concluded that he did not have a “shot down the street” because of the distance and turned his attention to Mr. ██████████ because he may have been armed. The officer pulled Mr. ██████████ out of the vehicle and Mr. ██████████ was yelling, “I didn’t do that!” Mr. ██████████ tried to get away, and Officer ██████████ placed him on the ground and yelled “Police!” Officers ██████████ and ██████████ came back and handcuffed Mr. ██████████. Officer ██████████ entered Sgt. ██████████ vehicle to follow the Nissan and observed that the Nissan had already crashed, and the subjects were in custody on the ground. Officer ██████████ approached Mr. ██████████ and asked him, “Homey set you up to rob me?” Mr. ██████████ replied, “He set it up, I’ll tell you about it.” Officer ██████████ then entered a covert vehicle with tinted windows because he could not be seen in public due to his undercover status. Officer ██████████ later learned that Officers ██████████ and ██████████ had discharged their firearms. The officer thought that both Mr. ██████████ and Mr. ██████████ had fired their firearms but learned that only Mr. ██████████ discharged his firearm. In addition, Officer ██████████ later learned that there was a bullet hole on the inside of the front passenger’s door. Finally, Officer ██████████ stated that he did not know when Officer ██████████ discharged his firearm and did not observe the first subject enter the Nissan.¹⁴

¹⁴ Att. #s 38-39

In a **statement to COPA** on March 14, 2018, **Officer [REDACTED] # [REDACTED]** was working surveillance as a member of two teams comprised of about ten undercover officers. The operation was for Officers [REDACTED] and [REDACTED] to purchase narcotics from a subject known as [REDACTED]. Officer [REDACTED] was directed to [REDACTED] where the two undercover officers had previously purchased narcotics from [REDACTED]. The officers would pick up the subject, [REDACTED] who would direct them to various locations for the narcotics purchases. Officer [REDACTED] then received a radio communication that the location had changed and drove her covert vehicle to [REDACTED] and [REDACTED]. At that location, Officer [REDACTED] observed several unknown individuals park their vehicles and enter the same building as Mr. [REDACTED]. She wrote down the license plate numbers of those vehicles. Officer [REDACTED] then followed Officers [REDACTED] and [REDACTED] undercover Kia to [REDACTED] and [REDACTED]. As she drove northbound on Morgan, Officer [REDACTED] observed a silver Nissan head westbound and then turn northbound one block west of Morgan. Officer [REDACTED] noted that the silver Nissan had the same license plate number as one of the vehicles at the previous location. The officer radioed to her team that the Nissan was paralleling the Kia.

The Kia parked on the [REDACTED] block of [REDACTED]. Officer [REDACTED] parked her vehicle “a few cars length” south, on the west side of the street. Mr. [REDACTED] exited the Kia and walked southbound while talking on his cell phone. Officer [REDACTED] stated that she had to duck down in order not to be seen by Mr. [REDACTED]. Mr. [REDACTED] then re-entered the Kia and “seconds later,” the silver Nissan pulled up and stopped a little ahead of the Kia. Two unknown subjects exited the Nissan, opened the Kia’s doors and pointed firearms at the undercover officers. Officer [REDACTED] went over the radio and said, “They’re robbing them,” and drove her vehicle northbound on [REDACTED]. Officer [REDACTED] stated that Officers [REDACTED] and [REDACTED] were carrying \$2500-\$3000 for the purposes of the crack cocaine purchase, and she believed that the two subjects were going to kill them, because the subjects’ faces were not covered. Officer [REDACTED] pulled up in her vehicle and opened her door. Officer [REDACTED] believed that she announced “Police” and took cover behind her driver’s door. The officer pulled her auxiliary firearm from the holster in her waist band, aimed at Mr. [REDACTED] and discharged her firearm.¹⁵ Officer [REDACTED] stated that she fired her gun at least twice and thought that she had used all of the rounds.¹⁶ Mr. [REDACTED] did not discharge his firearm and ran back to the Nissan. Officer [REDACTED] then observed a muzzle flash on the driver’s side of the Kia but did not see the subject who was discharging the firearm. Officer [REDACTED] stated that, after later viewing the video recordings, she realized that it was the second subject, now known as Mr. [REDACTED] who had discharged his firearm at her. Officer [REDACTED] re-entered her vehicle because the Nissan began driving slowly northbound. Officer [REDACTED] stated that the Nissan then pulled over to the left, and she heard one shot fired. Officer [REDACTED] did not know where the shot came from. The officer then observed one subject “dive” into the driver’s side of the Nissan. The Nissan then drove off at a high speed, and Officer [REDACTED] followed behind.

At [REDACTED] Street, the Nissan turned eastbound when another surveillance vehicle and the enforcement vehicle cut in front of Officer [REDACTED]. When Officer [REDACTED] arrived at [REDACTED] and [REDACTED]

¹⁵ Officer [REDACTED] auxiliary weapon, a Ruger 380 semi-automatic pistol, comprises of a six-round capacity magazine and one round in the chamber. (Att. #87)

¹⁶ Officer [REDACTED] later learned that her firearm had jammed. A fired cartridge case, head stamped “WIN 380 Auto,” was recovered from the ejection port of the firearm (Att. #87). A second fired cartridge case that was later determined to have been discharged from Officer [REDACTED] firearm was recovered from the street pavement (Att. #90).

she observed the Nissan “in the bushes” on the corner of the intersection. Officer ██████ stated that she did not observe how the Nissan went off the road. Officer ██████ then exited her vehicle and retrieved her duty weapon from the trunk. The officer stated that she kept her duty weapon in the trunk because she often conducted undercover narcotics transactions inside the vehicle and did not want a subject to be able to get the firearm while inside the vehicle. Officer ██████ approached and observed other officers pulling the subjects out of the Nissan. As a result, Officer ██████ placed the auxiliary weapon inside the pocket of her jacket and holstered her duty weapon. After the subjects had been placed in custody, the officer realized that her auxiliary weapon had “stovepiped” and, consequently, did not place it inside her waistband, because she did not want an “unstable” firearm in her waistband.¹⁷ Officer ██████ was separated from the other officers and later taken to Area South. Officer ██████ stated that she learned from Officer ██████ that he had also discharged his firearm.

In response to the allegation that she had failed to qualify with her Ruger LCP semi-automatic pistol, Officer ██████ responded that she was aware that she was required to qualify with this firearm and thought that she had qualified with this firearm. Officer ██████ did not recall the last time that she had qualified with that weapon. The officer stated that she had purchased the firearm approximately four years earlier and had last discharged it approximately one year earlier at a private gun range. Officer ██████ stated that she had not experienced any previous malfunction with this firearm. Finally, the officer stated that she uses this type of firearm for undercover deals because it is easier to conceal.¹⁸

In a **statement to COPA** on March 20, 2018, Officer ██████ ██████ stated that he was the driver of the undercover Kia, and his partner, Officer ██████ was the passenger and the primary “buy” officer. The two undercover officers met with ██████ in the vicinity of ██████ and ██████. Mr. ██████ entered the Kia, engaged in small talk, and exited to enter a building on the corner. Officer ██████ observed Mr. ██████ talking to unknown individuals who then entered the same building as Mr. ██████. When Mr. ██████ returned, he told the undercover officers that he could not obtain the narcotics at that location and that they would meet Mr. ██████ supplier in the vicinity of ██████ and ██████. Mr. ██████ directed the officers to ██████ S. ██████ upon arrival, Mr. ██████ exited the Kia, walked on the sidewalk, and talked on his cell phone. Officer ██████ observed that nobody else was outside. The officer did not know where the rest of his team was positioned. Mr. ██████ then re-entered the vehicle.

Approximately one minute later, a dark-colored Nissan pulled up slightly in front of the Kia. The first subject, now known as Mr. ██████ came to the front of the Kia displaying a weapon. Officer ██████ opened his door slightly and Mr. ██████ yelled, “I didn’t tell you to open the door!” Mr. ██████ pulled the door open and demanded that Officer ██████ give him money. Officer ██████ placed both hands in the air and told Mr. ██████ to “take everything.” Mr. ██████ started patting down the officer. Officer ██████ stated that although he is right-handed, his revolver was inside the left pocket of his jacket because he considered it safer since Mr. ██████ sat in the back seat and could have seen the revolver if it were in the right pocket. Mr. ██████ then leaned back and looked around. Officer ██████ stated that ██████ trigger finger was “inching” on the trigger of the gun, which was “in his face.” Officer ██████ stated that he thought that Mr. ██████ was going to shoot

¹⁷ “Stovepipe” commonly refers to firearms that malfunction when the casing fails to properly eject.

¹⁸ Att. #s 42-44

them and take the car. The officer then heard one gunshot fired but did not know where it came from. Mr. [REDACTED] quickly turned around and discharged several rounds at a direction behind Officer [REDACTED]. The officer observed fire out of the muzzle of Mr. [REDACTED] firearm, and he ducked. Mr. [REDACTED] then ran northbound on the parkway. Officer [REDACTED] exited the Kia and pulled his revolver out of the pocket. Officer [REDACTED] ran in front of the Kia and entered the street running in a full sprint. Mr. [REDACTED] was running frantically northbound in the middle of the street and approaching the rear of the Nissan as it drove away. Officer [REDACTED] stated that Mr. [REDACTED] was positioned directly behind the trunk of the vehicle, approximately one or two feet behind. Mr. [REDACTED] then turned his torso to the left with the gun in his right hand and pointed the gun at the officer. Officer [REDACTED] stated that he did not have the opportunity to give verbal commands; the officer then raised his revolver in his right hand and, without coming to a stop, fired one shot at Mr. [REDACTED]. Officer [REDACTED] estimated that the distance between him and Mr. [REDACTED] was approximately two and a half house lengths. Mr. [REDACTED] did not discharge his firearm. The Nissan then stopped, and Mr. [REDACTED] approached the rear driver's side, opened the door and jumped inside. The Nissan then drove away, and Officer [REDACTED] ran back to Officer [REDACTED]. Officer [REDACTED] observed Mr. [REDACTED] lying on the ground and placed him in custody. Officer [REDACTED] then lifted Mr. [REDACTED] off the street and sat him on the parkway. Approximately twenty minutes later, the officer learned that it was Officer [REDACTED] who had discharged her firearm at the subjects. Officer [REDACTED] was separated from other team members and remained on the scene for two to three hours. He then proceeded to Area South where he observed video recordings and gave a statement to CPD detectives. The officer stated that the detectives informed him that he had shot at [REDACTED] Mr. [REDACTED] as a result, he entered Mr. [REDACTED] information in his Tactical Response Report. However, Officer [REDACTED] stated that he did not know whether Mr. [REDACTED] was the subject that had been on the Kia driver's side.

In response to the allegation that he had failed to qualify with his Smith & Wesson revolver, in violation of directive U04-02, Officer [REDACTED] responded that he had qualified with that weapon in the past but did not remember when he had done so. The officer added that he went to the Area South gun range in 2017 with his primary¹⁹ firearm and the revolver but was not allowed to qualify with the auxiliary at that time because priority was given to qualification to primary firearms, and there was not enough time to also qualify with the auxiliary firearm.²⁰

b. Digital Evidence²¹

Third-Party Surveillance Video,²² obtained from a residential video surveillance system at [REDACTED] S. [REDACTED] depicts a gray Kia, now known as the undercover vehicle, park on the street across the residence. Less than two minutes later, a dark gray Nissan stops just north of the Kia and two black male subjects, now known as Mr. [REDACTED] and Mr. [REDACTED] exit with firearms in their hands. The two subjects open the front doors to the Kia and appear to point their firearms at the front seat passengers. A silver Honda arrives and a white female, now known as Officer [REDACTED] opens the driver's door of the Honda and discharges her firearm. Mr. [REDACTED] begins to run back to

¹⁹ Department records indicate that Officer [REDACTED] qualified with his primary firearm on June 21, 2017. (Att. #115)

²⁰ Att. #53

²¹ Att. #65 (third-party surveillance video from a residence at 8051 S. [REDACTED] and #66 (video from POD # [REDACTED] did not capture the shooting.

²² The video recording is not equipped with audio.

the Nissan, while Mr. [REDACTED] returns fire in the direction of Officer [REDACTED] (see Figure 1) and then runs northbound.



Figure 1.

Officer [REDACTED] enters her vehicle and drives after the Nissan. Two black males, now known as Officers [REDACTED] and [REDACTED] exit the Kia. Officer [REDACTED] runs northbound and out of view of the camera, while Officer [REDACTED] pulls a black male, now known as [REDACTED] out of the back seat of the Kia and places him on the ground. Officer [REDACTED] comes back into view and assists in placing Mr. [REDACTED] in custody. The video recording does not capture the moment when Officer [REDACTED] discharges his firearm.²³

CPD Covert Video and Audio Recordings from two separate angles of a covert camera inside the undercover Kia depict Officers [REDACTED] (driver) and [REDACTED] (passenger) with the subject, [REDACTED] in the back seat. The Kia drives through unknown locations and parks at a residential area. Mr. [REDACTED] exits the Kia and then re-enters. A short time later, a gray vehicle appears to drive up through the passenger angle of the camera. One black male, now known as Mr. [REDACTED] approaches the Kia driver's side and points a firearm at Officer [REDACTED]. Mr. [REDACTED] then pulls open the door and begins to pat down Officer [REDACTED] (see Figure 2).



Figure 2.

²³ Att. #63

A second black male, now known as ██████████ approaches the Kia passenger side and points his firearm at Officer ██████████ (see Figure 3).



Figure 3.

Mr. ██████████ then opens the passenger door and demands money from Officer ██████████. Both subjects then divert their attention away from the Kia, and shots are heard in the background. Mr. ██████████ moves away from the Kia. Mr. ██████████ discharges his firearm several times and then runs away. Both undercover officers exit the Kia; Officer ██████████ runs out of the view of the camera, and one shot is heard. Officer ██████████ draws his firearm and orders Mr. ██████████ out of the Kia. Officer ██████████ places Mr. ██████████ on the ground, and Officer ██████████ returns back in view from the left of the passenger camera and assists in handcuffing Mr. ██████████. Officer ██████████ then escorts Mr. ██████████ to the parkway and places him on the ground as more officers respond. The video recordings do not capture the moments when Officers ██████████ and ██████████ discharge their firearms.²⁴

c. Physical Evidence

Property Inventory Sheet # ██████████ documents that a Ruger Model LCP, 380 caliber, was recovered from Officer ██████████. The firearm included a six-round capacity magazine which contained five “WIN 380 Auto” live cartridges. In addition, one “WIN 380 Auto” fired cartridge case was recovered from the ejection port of the firearm.²⁵

Property Inventory Sheet # ██████████ documents that a Smith & Wesson, 38 caliber, was recovered from Officer ██████████.²⁶ One “Winchester 38 SPL +P” fired cartridge case and four “Winchester 38 SPL +P” live²⁷ cartridge cases were recovered from the revolver cylinder.²⁸

²⁴ Att. #'s 61-62

²⁵ Att. #87

²⁶ Although the property inventory sheet does not list the capacity of this firearm, a Crime Scene Processing Report (Att. #89) depicts a graph of the firearm’s cylinder, indicating a capacity of five.

²⁷ The property inventory erroneously indicates that the four cartridge cases were fired. The Crime Scene Processing Report (Att. #89) documents that one cartridge was “spent” and four were “loaded.”

²⁸ Att. #86

Property Inventory Sheet # [REDACTED] documents that a Kel-Tec Luger 9mm semi-automatic pistol was recovered from the rear passenger floor of the 2006 Nissan Maxima at [REDACTED] S. [REDACTED] Street and inventoried. A magazine with a capacity of ten rounds²⁹ was recovered from the pistol and also inventoried.³⁰

Property Inventory Sheet # [REDACTED] documents that a Sar Arms Luger 9mm semi-automatic pistol was recovered from the floor in front of the driver's seat of the 2006 Nissan Maxima at [REDACTED] S. [REDACTED] Street and inventoried. One magazine of unknown³¹ number of live rounds and one live round from the chamber were also recovered and inventoried.³²

Crime Scene Processing Report # [REDACTED] documents that a fired cartridge case head stamped "WIN 40 S&W" was labeled "Crime Scene Marker #1" on the street pavement at [REDACTED] S. [REDACTED] and inventoried under # [REDACTED]. A fired cartridge case head stamped "WIN 380 Auto" was recovered on the street at [REDACTED] S. [REDACTED] it was labeled "Crime Scene Marker #3" and inventoried under Inventory Sheet # [REDACTED]. Three fired cartridge cases head stamped WIN 9MM LUGER" and one fired cartridge case head stamped "FC 9MM LUGER" were recovered from the grass parkway, labeled crime scene markers 5-8 and inventoried under # [REDACTED].³³

Evidence Technician Photographs of Officer [REDACTED] covert vehicle, a Nissan Sentra, indicate one bullet hole to the front bumper and one bullet hole to the passenger side view mirror.³⁴

A **Crime Scene Worksheet** provides a diagram of the scene and indicates the locations of the crime scene markers (*see Figure 4*).³⁵

²⁹ The ISP lab report indicates that the magazine contained four Winchester and one Federal 9 mm Luger caliber live rounds (Att. 141).

³⁰ Att. #151

³¹ The ISP lab report indicates that the magazine contained sixteen (16) Remington 9 mm Luger caliber live rounds (Att. #141).

³² Att. #152

³³ Att. #90

³⁴ Att. #'s 99-100

³⁵ Att. #88

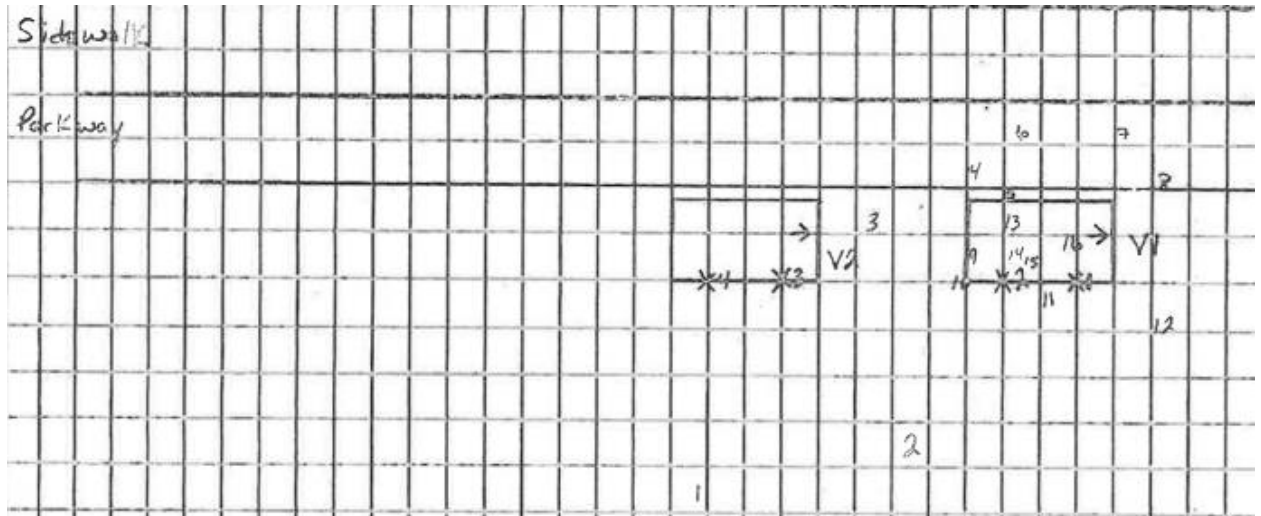


Figure 4.

Property Inventory Sheet # [REDACTED], dated February 21, 2018, indicates that a fired bullet was recovered from the inside of the right front door panel of the KIA Optima.³⁶

An **Illinois State Police lab report**, dated March 14, 2018, indicates that the recovered contraband was found to be cannabis.³⁷

An **Illinois State Police lab report**, dated July 11, 2018, documents that two firearms recovered from Mr. [REDACTED] and Mr. [REDACTED] did not reveal any latent impressions suitable for comparison.³⁸

An **Illinois State Police lab report**, dated July 20, 2018, indicates that the firearms of the involved officers and involved individuals were operable as received and test fired. No further examinations were conducted on the fired cartridge case recovered from the revolver cylinder of Officer [REDACTED] firearm and on the fired cartridge case recovered from the ejection port of Officer [REDACTED] firearm. The lab report documents that the Winchester 380 Auto caliber fired cartridge, inventoried under # [REDACTED], and the fired bullet inventoried under # [REDACTED] were fired in Officer [REDACTED] firearm. The lab report further indicates that the four fired cartridges inventoried under # [REDACTED] were fired from the Kel-Tec that was inventoried under # [REDACTED]. Finally, the report indicates that none of the inventoried firearms fired the expended cartridge case which was inventoried under # [REDACTED].³⁹

d. Documentary Evidence

An **Arrest Report** for [REDACTED] indicates that he was positively identified as a subject who, in the commission of an attempted armed robbery, fired a handgun at responding officers. Mr. [REDACTED] was subsequently placed into custody. A custodial search revealed

³⁶ Att. #150

³⁷ Att. #130

³⁸ Att. #135

³⁹ Att. #141

approximately 18.4 grams of cannabis. Mr. ██████ was then transported to Area South for processing.⁴⁰ As of May 2, 2019, Mr. ██████ criminal case remained pending.⁴¹

An **Arrest Report** for ██████ indicates that he was positively identified as a subject involved in an attempted murder/attempted armed robbery where a firearm was discharged. Mr. ██████ was then placed in custody and transported to Area South for processing.⁴² As of May 2, 2019, Mr. ██████ criminal case remained pending.⁴³

An **Arrest Report** for ██████ indicates that he was placed into custody after being positively identified as the subject who delivered narcotics to undercover officers documented under several police report numbers. Mr. ██████ was transported to Area South for processing.⁴⁴ As of May 2, 2019, Mr. ██████ had several drug-related criminal cases pending.⁴⁵

An **Arrest Report** for ██████ indicates that he was positively identified as a subject who possessed a firearm in the commission of an attempted murder/attempted armed robbery. Mr. ██████ was placed into custody and transported to Area South for processing.⁴⁶ As of May 2, 2019, Mr. ██████ case remained pending.⁴⁷

According to the **Tactical Response Report (TRR)** completed by **Officer ██████** the subject,⁴⁸ who was armed with a semi-automatic pistol, posed an imminent threat of battery with weapon and used force likely to cause death or great bodily harm. The officer responded by firing a total of two shots.⁴⁹

According to the **TRR** completed by **Officer ██████** the subject,⁵⁰ who was armed with a semi-automatic pistol, posed an imminent threat of battery with weapon and used force likely to cause death or great bodily harm when he discharged his firearm. The officer responded by firing one shot after the subject fired first. The TRR also indicates that Officer ██████ did not fire at a vehicle. Deputy Chief ██████ #█████ commented that “[█████ did not qualify with his weapon.”⁵¹

According to the **TRR** completed by **Officer ██████** the subject, ██████ did not follow verbal direction and pulled away. The officer responded with member presence,

⁴⁰ Att. #8

⁴¹ Att. #144 (case number 18 CR ██████).

⁴² Att. #9

⁴³ Att. #145 (case number 18 CR ██████).

⁴⁴ Att. #6

⁴⁵ Att. #146 (case numbers 18 CR ██████, 18 CR ██████, 18 CR ██████, 18 CR ██████, 18 CR ██████, 18 CR ██████).

⁴⁶ Att. #7

⁴⁷ Att. #147 (case number 18 CR ██████).

⁴⁸ Although the TRR indicates that the subject is ██████ it is now known that Mr. ██████ did not discharge his firearm at Officer ██████

⁴⁹ Att. #30

⁵⁰ Although the TRR indicates that the subject is ██████ it is now known that Mr. ██████ did not discharge his firearm at Officer ██████

⁵¹ Att. #28

verbal direction/control techniques and additional unit members. Officer ██████ employed emergency handcuffing as a control tactic.⁵²

A **Narcotics Division Supplementary Report** related that the Narcotics Team Squad ██████ and ██████, working mission “The Sequel,” formulated a plan to conduct a controlled narcotic purchase in the area of ██████ and ██████. The team members were working in an undercover capacity wearing civilian dress and driving undercover vehicles. The undercover officers informed the team members that a phone call was placed to target ██████ to conduct a controlled purchase of narcotics. The undercover officers had previously made narcotics purchases with Mr. ██████ on several occasions. Mr. ██████ informed the undercover officers of a meeting location, and the undercover officers relayed the information to the team members. The undercover and surveillance officers relocated to the ██████ block of ██████ and set up both fixed and mobile surveillance. The undercover officers parked their undercover vehicle at approximately ██████ S. ██████. Mr. ██████ entered the rear passenger side of the vehicle and engaged in conversation with the undercover officers. Mr. ██████ then exited the vehicle and walked through the rear gate of approximately ██████ W. ██████ Street, as three other vehicles pulled up and parked on the same block in front of and behind the undercover vehicle. Two unknown black males exited a grey Nissan and entered the same building as Mr. ██████. Several minutes later, surveillance observed two unknown black males exit from the rear of that building with Mr. ██████ following behind. Mr. ██████ re-entered the undercover vehicle, and the two unknown black males entered the Nissan. The vehicles headed southbound on ██████ and the undercover officers notified team members that the narcotics purchase would take place in the ██████ block of ██████.

The undercover vehicle travelled southbound on ██████ then eastbound on ██████ Street, and then northbound on ██████ to ██████ Street. The undercover officers conducting mobile surveillance observed the grey Nissan traveling northbound on ██████ from ██████ Street, apparently paralleling the undercover vehicle. The undercover vehicle continued eastbound on ██████ Street, then southbound on ██████, and westbound to ██████ Street until it reached ██████ where it turned northbound and parked at approximately ██████ S. ██████. Mr. ██████ exited the rear passenger seat of the undercover vehicle and walked to the sidewalk while talking on a cell phone and looking southward on the block. Mr. ██████ then returned to the vehicle and re-entered the rear passenger seat. Moments later, the grey Nissan was observed traveling northbound on ██████ from ██████ Street. The Nissan pulled up next to the undercover vehicle and stopped slightly past it. ██████ and ██████ who were the passengers in the Nissan, emerged from the vehicle brandishing hand guns. Both Mr. ██████ and Mr. ██████ pointed their weapons toward the undercover officers inside the undercover vehicle. Surveillance officers observed Mr. ██████ and Mr. ██████ open the driver’s and front passenger’s door, point their handguns into the vehicle and appear to be making demands. Surveillance Officer ██████ alerted team members via the narcotics radio that a robbery was occurring.

Officer ██████ and fellow surveillance Officer ██████ moved forward in their undercover vehicles. Officer ██████ exited her vehicle and opened fire in the direction of Mr. ██████ who was standing on the passenger’s side of the undercover vehicle. Mr. ██████ then started shooting at Officer ██████. Mr. ██████ returned to the front passenger’s side of the Nissan, which started moving northbound on ██████. Mr. ██████ started running after the Nissan, pursued on

⁵² Att. #29

foot by Officer [REDACTED]. The Nissan slowed down for Mr. [REDACTED] to enter the rear driver's side. Officers [REDACTED] and surveillance Officer [REDACTED] pursued the Nissan, while the undercover officers ordered Mr. [REDACTED] out of the undercover vehicle and placed Mr. [REDACTED] into custody. Enforcement officers traveling southbound on [REDACTED] from [REDACTED] Street observed the Nissan traveling northbound on [REDACTED] and pursued it as it travelled eastbound on [REDACTED] Street. As the Nissan attempted to turn southbound on [REDACTED] it struck the high embankment on the southeastern curb. The driver and the front passenger put their hands out of the vehicle in plain view. All three subjects were placed into custody and advised of their *Miranda* rights.⁵³

e. Additional Evidence

Firearms Training and Certification records, obtained from the Education and Training Division, indicate that "No Qualification History data" was found regarding Officer [REDACTED] auxiliary firearm. The records further indicate that Officer [REDACTED] qualified with her primary weapon on June 1, 2017.⁵⁴

Firearms Training and Certification records, obtained from the Education and Training Division, indicate "Negative records response for firearms certification" for Officer [REDACTED] auxiliary firearm. On the other hand, the records indicate that Officer [REDACTED] qualified with his primary weapon on June 21, 2017.⁵⁵

Firearms Registration records for Officer [REDACTED] indicate that the officer registered his auxiliary firearm on November 19, 2009.⁵⁶

VI. ANALYSIS

a. Legal Standard

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

⁵³ Att. #121

⁵⁴ Att. #'s 40, 114

⁵⁵ Att. #'s 41, 48, 115

⁵⁶ Att. #149

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.⁵⁷ Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; and (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.⁵⁸

"The use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."⁵⁹ Thus, a Department member may use deadly force only in two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. In addition, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.⁶⁰ "A threat is imminent when it is objectively reasonable to believe that:

- a. the subject's actions are likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm."⁶¹

Department policy recognizes that Department members must "make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a

⁵⁷ General Order G03-02(III)(B)(1).

⁵⁸ *Id.*; *Graham v. Connor*, 490 U.S. 386, 396 (1989).

⁵⁹ General Order G03-02(III)(C)(3).

⁶⁰ *Id.*

⁶¹ General Order G03-02(III)(C)(2).

reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”⁶²

Uniform and Property U04-02 requires officers to qualify annually with prescribed firearms, alternate prescribed firearms, and auxiliary firearms prior to carrying that firearm on or off duty. The order defines an auxiliary firearm as a firearm that a sworn officer may use or carry in addition to a prescribed firearm.

b. Officer ██████ Use of Deadly Force

A preponderance of the evidence shows Officer ██████ use of deadly force was within policy, as the force she used was necessary to prevent death or great bodily harm from an imminent threat posed to Officer ██████ and the other officers.

Officer ██████ was conducting surveillance for Officer ██████ and Officer ██████ undercover narcotics purchase operation when she observed two individuals approaching Officer ██████ and Officer ██████ undercover vehicle with guns pointed. Officer ██████ believed these individuals were going to kill Officers ██████ and ██████. Officer ██████ then fired two shots.

Based on the circumstances, a reasonable officer in Officer ██████ position would have believed the individuals pointing their guns at Officers ██████ and ██████ were likely to cause death or great bodily harm to Officers ██████ and ██████ unless Officer ██████ fired her weapon. A reasonable officer would also have believed, based on the individuals' actions of approaching Officers ██████ and ██████ with guns pointed, that the individuals had the means or instruments and ability to cause death or great bodily harm. Accordingly, Officer ██████ use of deadly force was within policy.

c. Officer ██████ Use of Deadly Force

A preponderance of the evidence also shows Officer ██████ use of deadly force was within policy, as the force Officer ██████ used was necessary to prevent death or great bodily harm from an imminent threat to Officer ██████.

A preponderance of the evidence indicates that as Officer ██████ was running after Mr. ██████, Mr. ██████ started to turn in Officer ██████ direction while Mr. ██████ was holding a firearm. Directly before this chase ensued, Mr. ██████ had pointed his gun at Officer ██████ face, and his trigger finger had been “inching” on the gun. Mr. ██████ had also fired his weapon in the direction toward where Officer ██████ had fired her gun, and he was attempting to flee after committing an attempted armed robbery. Given these circumstances, it would have been reasonable for Officer ██████ to believe that Mr. ██████ was not afraid to fire his weapon at Mr. ██████. Based on this, a reasonable officer in Officer ██████ position would have believed Mr. ██████ was likely to cause death or great bodily harm to Officer ██████ as Mr. ██████ turned toward Officer ██████ with a gun in his hand. A reasonable officer also would have believed Mr. ██████ had the means or instruments

⁶² General Order G03-02(II)(2)(D)

and ability to cause death or great bodily harm given Mr. █████ possession of a gun. Accordingly, Officer █████ use of deadly force was within policy.

d. Officers █████ and █████ Weapons Qualifications

Finally, a preponderance of the evidence shows that Officers █████ and █████ both failed to qualify with their auxiliary weapons as required by U04-02.

Officer █████ said that she thought that she had qualified with her auxiliary firearm, though she did not recall the last time that she had qualified with that weapon. However, Officer █████ training records indicate that “No Qualification History data” was found regarding Officer █████ auxiliary firearm. Accordingly, a preponderance of the evidence indicates she failed to qualify with her weapon and COPA recommends Allegation 1 against Officer █████ be Sustained.

Likewise, a preponderance of the evidence establishes Officer █████ failed to qualify with his weapon. The training records show a “[n]egative records response for firearms certification” for Officer █████ auxiliary firearm. Officer █████ said that he intended to qualify with the auxiliary firearm on one particular date in 2017 but did not have enough time to do so, as priority was given to qualification to primary firearms. He never returned to complete his qualification. Thus, COPA recommends that Allegation 1 against Officer █████ be Sustained.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

A. Officer █████

1. Complimentary and Disciplinary History

Officer █████ has been a CPD member since █████ 2006. In that time, she has received four Department Commendations, three Complimentary Letters, one Unit Meritorious Performance Award and eighty-seven Honorable Mentions. In the last seven years, Officer █████ has not received any discipline.

2. Recommended Penalty, by Allegation

COPA recommends a 1-day suspension.

B. b. Officer █████

1. Complimentary and Disciplinary History

Officer █████ has been a CPD member since █████ 2001. In that time, he has received one Police Blue Star Award, one Life Saving Award, one Superintendents Award of Valor, three Complimentary Letters, one Unit Meritorious Performance Award and fifty-five Honorable Mentions. In the last seven years, Officer █████ has not received any discipline.

2. Recommended Penalty, by Allegation

COPA recommends a 1-day suspension.

VIII. CONCLUSION

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

Officer	Allegation	Finding
Officer ██████████ #██████	1. Officer ██████████ failed to qualify with her Ruger LCP semi-automatic pistol, Serial #████████, as required by directive U04-02, in violation of Rule 6.	Sustained/ 1-Day Suspension
Officer ██████████ #██████	1. Officer ██████████ failed to qualify with his Smith & Wesson revolver, Serial #████████, as required by directive U04-02, in violation of Rule 6.	Sustained/ 1-Day Suspension

Approved:

████████████████████

August 20, 2019

Andrea Kersten
Deputy Chief Administrator

Date

████████████████████

August 20, 2019

Sydney R. Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

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