

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	June 2, 2017
Time of Incident:	11:10 p.m.
Location of Incident:	5834 S. Wabash Avenue (Alley)
Date of IPRA Notification:	June 2, 2017
Time of IPRA Notification:	11:40 p.m.

On June 2, 2017, at approximately 11:40 p.m., OEMC dispatch reported that there were three men with guns who were described as wearing all black on the 5500 block of Indiana Avenue. Officers [REDACTED] and [REDACTED] were working a detail assignment, Summer Mobile Unit # [REDACTED] and on routine patrol in the [REDACTED] District when the dispatch call was reported. Officers [REDACTED] and [REDACTED] began to search the immediate area. Officers [REDACTED] and [REDACTED] were driving southbound in the alley, west of Wabash Avenue, when they observed several individuals standing in the alley behind the area of 5834 S. Wabash Avenue. As the officers approached the group, several of the individuals ran away. Officers [REDACTED] and [REDACTED] observed a man, later identified as [REDACTED]² with a firearm in his hand. Officers [REDACTED] and [REDACTED] exited the police vehicle, at which time [REDACTED] pointed and discharged his firearm in the direction of the officers. In response, Officers [REDACTED] and [REDACTED] discharged their firearms at [REDACTED] striking [REDACTED] multiple times.

[REDACTED] fell on the alley pavement near the rear of a grey Chevy Equinox truck that was parked in a vacant lot behind 5834 S. Wabash Avenue. Officers [REDACTED] and [REDACTED] located [REDACTED] firearm on the pavement several feet from where [REDACTED] fell to the ground.

Officer [REDACTED] requested an ambulance, and [REDACTED] was transported to Stroger Hospital where he was pronounced deceased. [REDACTED] suffered from multiple gunshot wounds.

IPRA initiated this investigation on June 2, 2017. The investigation consisted of interviewing both CPD officers and civilian witnesses, as well as physical evidence, documentary evidence, and other evidence. A preponderance of the evidence demonstrates that Officer [REDACTED] and [REDACTED] use of deadly force was objectively reasonable under the totality of the circumstances.

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

² On the date of incident, [REDACTED] was 17 years of age.

II. INVOLVED PARTIES

Involved Officer #1:	██████████ Star # ██████████ Employee # ██████████ Date of Appointment: ██████████ 2015, Police Officer, Unit ██████████ DOB: ██████████ 1983, Male, Hispanic
Involved Officer #2:	██████████ Star# ██████████ Employee # ██████████ Date of Appointment: ██████████ 2014, Police Officer, Unit ██████████ DOB: ██████████ 1981, Male, Hispanic
Involved Individual #1:	██████████ DOB: ██████████ 1999, Male, Black

III. ALLEGATIONS

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

IV. APPLICABLE RULES AND LAWS**General Orders**

1. General Order 03-02-02

Federal Laws

1. The Fourth Amendment to the United States Constitution

State Laws

1. 720 ILCS 5/7-5

V. INVESTIGATION³**a. Interviews**

In a statement to IPRA on June 3, 2017, witness ██████████ ██████████ stated that on the date and approximate time of incident, she was at her residence, ██████████⁴ sitting in the backyard with her boyfriend, ██████████ ██████████ listening to music. While in the backyard, they were sitting in an area near her building and were facing in the direction of the alley (westbound). ██████████ described that there were two parked cars at the west end of the backyard, where the

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

⁴ ██████████ resides in the basement apartment.

backyard meets the alley, and that these cars blocked a clear view of the alley. She further described that there was a garage on the left side (south end) of the backyard and a large tree on the right side (north end) of the backyard, near the alley.

Approximately 30 to 40 minutes prior to the incident, ██████████ observed approximately 15 people standing in the alley behind the corner building south of ██████████ ██████████ stated that those individuals included men and women, but she did not know anyone of them by name. She stated that the individuals were drinking, smoking and “hanging out.”⁵ ██████████ stated that at some point before the incident occurred, she believed that these individuals left the alley because she no longer heard anyone outside.

According to ██████████ minutes prior to the incident, she and ██████████ were still in the backyard when she lowered the volume of the music they were listening to because she thought she heard a raccoon coming from the north side of the alley. ██████████ and ██████████ were facing north and observed a silver sedan driving southbound in the alley. Approximately 5 minutes later, a dark sedan, also driving southbound in the alley, came to a quick stop behind the residence north of ██████████ residence. She did not have a clear view of this vehicle as it was blocked by a large tree, but she was able to see the rear of the vehicle. After the vehicle stopped, she heard two car doors close and began to hear muffled voices yelling on the north side of the alley. ██████████ then heard two voices repeatedly yell “put the gun down” followed by multiple shots fired.⁶ ██████████ believed that she heard one (1) volley of five (5) to seven (7) gunshots in rapid succession. ██████████ described that the shots fired appeared to be coming from the alley to the north of her backyard where the vehicle had stopped.

After the multiple shots were fired, she then observed two male uniformed officers slowly walking southbound down the alley, in a crouched position with their firearms drawn pointing southbound. The officers were repeatedly yelling words to the effect of “put the gun down” and walked past ██████████ backyard.⁷

According to ██████████ she then observed a marked police SUV driving from the area of State Street, down a gravel parking lot towards the alley. She continued to hear unknown police officers repeatedly yell “let me see your hands.”⁸ She also heard a different voice repeatedly yell “motherfucker.”⁹ ██████████ continued to hear multiple police sirens and additional units respond to the area. During the interview, ██████████ played a video recording that she had captured in which you can hear police sirens and a male voice appears to repeatedly yell “let me see your hands.”¹⁰

██████████ was unaware of anyone else being outside during the time of incident. ██████████ stated that after the incident, her first floor neighbor, Ms. ██████████ came outside. ██████████ stated that, at no time, did she hear anyone announce they were the police. ██████████ stated that she

⁵ Att. 60; Pg. 10, Ln. 10

⁶ Att. 60; Pg. 16, Ln. 12

⁷ Att. 60; Pg. 23, Ln. 12

⁸ Att. 60; Pg. 23, Lns. 20-21

⁹ Att. 60; Pg. 29, Lns. 1-2

¹⁰ Att. 65

essentially heard the shots fired from the north of the alley, but she did not actually see gunshots being fired.¹¹

In a statement to IPRA on June 6, 2017, witness ██████ stated¹² that on the date and approximate time of incident, he was at his girlfriend, ██████ house located at ██████ and ██████ were sitting outside in the backyard listening to music. ██████ described the backyard to be an open space, fenced in by a wrought iron gate that can be seen through, and a garage to the left side. ██████ heard the sound of a vehicle in the alley east of Wabash driving southbound from the north end of the alley. The vehicle came to an abrupt stop near, or in front of, the backyard of the neighbor's house to the north of ██████ house.¹³ ██████ was unable to see the vehicle. ██████ stated that where they were sitting in the backyard was approximately 20 to 30 yards in distance from the alley. ██████ further described the lighting conditions near the alley to be poor and whatever he was able to see possibly came from the headlights of the vehicle or artificial lighting.

According to ██████ as soon as the vehicle stopped, he heard two voices repeatedly state words to the effect of "put your hands up." ██████ then observed two male officers, walking side by side, southbound down the alley, with their guns drawn, pointed southbound with their arms extended at chest level. ██████ described the officers as being male white or Hispanic, wearing a vest and possibly in plain-clothes. ██████ suddenly observed, and heard, the two officers simultaneously fire their weapons multiple times southbound down the alley, in the direction of a person with whom they were speaking.

According to ██████ at the time the two officers began to fire their weapons, they were walking southbound in the alley and were to the north of the driveway of ██████ backyard. He stated the officers were slowly walking while they were firing their weapons. ██████ stated that after approximately 30 seconds from the time the officers had fired their weapons, they were in the alley walking past ██████ backyard and almost straight ahead, still approximately 20 yards from where ██████ was seated in the backyard. ██████ stated that the sound of the gunshots appeared to be from two different guns and he was able to see "sparks" coming from the gun(s).¹⁴ ██████ heard approximately seven (7) to eight (8) gunshots in rapid succession but further explained that as two guns were being fired simultaneously it may have been a total of approximately sixteen (16) gunshots.

██████ further heard the two officers yell words to the effect of "put your hands up" and possibly "put the gun down" or something about a "gun." ██████ heard a third male voice respond to the commands of the officers with possible curse words. ██████ did not hear this third male voice prior to the shots being fired.

Shortly thereafter, ██████ observed a police vehicle drive east over a lawn area towards the alley. Additional police units responded. ██████ and ██████ stayed outside in the backyard after a few minutes and then entered the home. At no time did ██████ see anyone injured. ██████ did not

¹¹ Atts. 58, 60

¹² During the statement with Mr. ██████ Ms. ██████ was also present in the room.

¹³ ██████ stated they had lowered the music prior to this point because ██████ thought she heard an animal.

¹⁴ Refer to approximately 24 minutes and 09 seconds into the audio statement.

hear any additional gunfire other than from the two guns. ██████ did not observe the two male officers react to any gunfire.

According to ██████ approximately 45 minutes prior to the incident, he had seen approximately seven to eight unknown men and women near ██████ backyard, who appeared to be approximately 18 to 25 years of age, hanging out and drinking in the alley. ██████ was unable to describe what they were wearing.¹⁵

In a statement to IPRA on June 7, 2017, **Officer ██████ # ██████** stated that on the date and approximate time of incident, he and his partner Officer ██████ were on-duty, in uniform, assigned to a Summer Mobile Unit, Beat ██████ with an unmarked Chevy Impala. Officer ██████ was the driver. After conducting a traffic stop in the area of 59th Street and State Street, a dispatcher announced over the radio that there were “several, individuals wearing all black, with guns, moving southbound from approximately 55th and Indiana.”¹⁶ Officers ██████ and ██████ traveled to 59th Street and Indiana Avenue and began to search the area. Officer ██████ announced a slow down over the radio after they did not observe any individuals on Indiana Avenue.

Officers ██████ and ██████ continued on routine patrol and several minutes later, as they were driving westbound on 58th Street near Wabash Avenue, they observed approximately 3 to 5 individuals, wearing all black or in dark clothing, in the northeast alley of 59th Street and State Street. The alley was ██████ by street lamps. According to Officer ██████ the group of individuals wearing all black fit the description that was reported over the radio. Officers ██████ and ██████ began to drive southbound down the alley, west of Wabash Avenue. They did not activate their police vehicle emergency lights or sirens, nor did they announce on the radio their observation of the individuals.

As Officers ██████ and ██████ drove towards the area where the individuals were standing, Officers ██████ and ██████ were scanning their surroundings. Officer ██████ began to repeatedly yell “gun.”¹⁷ Officer ██████ then observed a male, standing on the east side of the alley which was to the left of the driver’s side of the police vehicle, holding a gun in his right hand. Officer ██████ described the gun as a semi-automatic. Officer ██████ responded by immediately stopping the police vehicle approximately 15 feet or more from where the individual with the gun was standing. According to Officer ██████ he did not know where the other individuals were as his focus was on the subject with the gun.

Officer ██████ stated that after he stopped the police vehicle, both officers immediately opened their doors and exited. Officer ██████ left the driver’s side door open to use as cover. Officer ██████ drew his firearm with both of his hands extended and using his sights. Officers ██████ and ██████ began to yell words to the effect of “drop the gun” and “Chicago police.”¹⁸ The male subject looked towards the officers, while still holding a gun in his right hand, but did not verbally respond.

¹⁵ Att. 62

¹⁶ Att. 78; Pg. 9, Lns 18-20

¹⁷ Att. 78; Pg. 13, Ln. 13

¹⁸ Att. 78; Pg. 14, Lns. 20-21

According to Officer [REDACTED] the male subject then raised his right hand, pointed a gun in the direction of the officers, and began “firing off rounds.”¹⁹ Officer [REDACTED] responded by returning fire towards the male subject. Officer [REDACTED] stated that Officer [REDACTED] also returned fire, but at the time of incident, he was not aware that Officer [REDACTED] was firing. Officer [REDACTED] stated that as he was returning fire, the male subject moved eastbound into a driveway area which was behind a garage that blocked his line of sight. It was at this time that Officer [REDACTED] stopped firing his weapon. Officer [REDACTED] stated he did not know how many times he fired. He later learned that he fired fifteen (15) times.

Officer [REDACTED] stated that after he stopped firing, he and Officer [REDACTED] moved southbound in the alley using a tactical maneuver called “slicing the pie.”²⁰ Officer [REDACTED] explained that he and Officer [REDACTED] moved at a wide angle around the corner of the garage while they continued to yell verbal commands. Officer [REDACTED] announced over the radio shots fired at and by police. Officer [REDACTED] then observed the male subject laying on his stomach, almost completely underneath a vehicle that was parked in the driveway facing eastbound. Officer [REDACTED] stated that he observed a gun on the ground where the subject was initially standing during the incident. Officer [REDACTED] stated the gun was on the ground slightly west of the parked vehicle in the driveway. In addition, Officer [REDACTED] observed multiple shell casings in the area. Officer [REDACTED] could not recall how many shell casings he observed or if they were all in the alley or in the driveway.

Officer [REDACTED] stated that he was not able to see the subject’s left hand. Officer [REDACTED] continued to repeatedly yell “let me see your hands”²¹ and did not see any movement from the male subject nor did he hear him say anything. At this time, Officers [REDACTED] and [REDACTED] did not engage with the subject and waited for additional police units to arrive. Officer [REDACTED] stated unknown responding officers had pulled out the male subject from underneath the car. Officer [REDACTED] called for EMS.²²

In a statement to IPRA on June 7, 2017, Officer [REDACTED] # [REDACTED] stated that on the date and time of incident, he and his partner, Officer [REDACTED] were on-duty, in uniform, assigned to a Summer Mobile Unit Beat [REDACTED] in an unmarked black Chevy Impala # [REDACTED]. Officer [REDACTED] was the driver. The officers were on routine patrol near the area of incident when they heard a dispatch call of several men, in dark colored clothing with guns near 55th Street and Indiana Avenue. Officer [REDACTED] and his partner drove to the area and did not see anyone in the area matching this description. Therefore, Officer [REDACTED] and his partner announced a “slow down”²³ over the radio.

After approximately three to five minutes of touring the area, Officers [REDACTED] and [REDACTED] were driving westbound on 58th Street, approaching Wabash Avenue, when Officer [REDACTED] observed a group of males matching the description of the previous dispatch call in the alley west of Wabash Avenue. Officer [REDACTED] also observed the same group at the south end of the alley, closest

¹⁹ Att. 78; Pg. 16, Ln. 1

²⁰ Att. 78; Pg. 22, Lns. 5-6

²¹ Att. 78; Pg. 24, Lns. 23-24

²² Atts. 77, 78

²³ Att. 81; Pg. 8, Ln. 8

to 59th Street. The males appeared to be standing around and talking. Officer ██████ turned the police vehicle left into the alley and continued to drive southbound.

Officer ██████ then observed one of the male subjects, who he described as being “closest to us,” with a handgun in his right hand alongside his right leg. The gun appeared to be a black semi-automatic pistol. When Officer ██████ first observed the man with the gun, the distance between them was approximately five to six houses in length. Officer ██████ had a clear view of the gun²⁴ and notified Officer ██████. Officer ██████ stated that the male was facing westbound while conversing with the other males. Officer ██████ was able to see the right side of the male subject holding the gun. Initially, the male appeared to have no knowledge that the officers were approaching his direction. Officer ██████ stated that their police car headlights were on, however, they did not activate their emergency equipment.

As they continued to drive down the alley, the male subject “does see us [...] and starts walking in our direction with the gun to his side.”²⁵ Officer ██████ focused his attention on the male subject and did not notice where the other individuals went. Officer ██████ stated that the male subject began to walk northbound towards the officers. At that time, Officers ██████ and ██████ exited their vehicle. Officer ██████ began to repeatedly yell, “Chicago police” and “drop the gun.” Officer ██████ stated that he used the open car door as cover. The male subject continued to walk towards the officers, slightly crouched, and then raised his right-hand with the gun pointed in the direction of the officers. Officer ██████ does not recall if the male subject held the gun with one hand or two. At this time, the distance between the male subject and Officer ██████ may have been approximately four to five houses in distance. He described the male subject as closing the distance.

According to Officer ██████ the male subject then fired his gun. Officer ██████ heard “a loud bang” and responded by firing his firearm towards the male subject. Officer ██████ did not know how many times the male subject fired his weapon. Officer ██████ fired his weapon southbound, towards the subject, and learned after the incident that he fired seven (7) times.²⁶ Officer ██████ held his firearm with two hands and used his sights. Officer ██████ fired his weapon while standing behind the car door.

The male subject then ran or fell eastbound into a vacant lot on the east side of the alley. At that time, Officer ██████ lost sight of the male subject because there was a garage on the east side immediately next to the vacant lot that blocked a clear view into the lot. At that time, Officers ██████ and ██████ began to slowly move towards the vacant lot in a manner he referred to as “slicing the pie” to ensure that the man would not attempt to “ambush” them.²⁷ As the officers got closer, Officer ██████ then observed the male subject moving, or possibly rolling or pulling himself, underneath the passenger rear side of a SUV parked in the vacant lot. The vehicle was facing east. Officer ██████ began to yell at the subject “not to move.” At that time, Officer ██████ observed a gun near the rear bumper of the parked SUV, close to the alley. Officer ██████ called over the radio that shots were fired and requested assistance. He then observed that the subject stopped moving, at

²⁴ Att. 81, page 13; lines 6-9, page 14; line 18-20 and, page 16; lines 14 – 16.

²⁵ Refer to 11 minutes and 9 seconds into the audio statement of Officer ██████

²⁶ Officer ██████ did not know how many times he fired his weapon during the time of incident.

²⁷ Refer to approximately 17 minutes of the audio statement.

which time Officer █████ announced over the air that the subject may have been “hit” and he requested “to roll EMS or something of that nature.”²⁸

Shortly thereafter, assisting police units arrived and surrounded the parked vehicle. Officer █████ yelled out for no one to touch the gun that was on the ground. Other unknown officers removed the male subject from underneath the vehicle. Officer █████ observed that the male subject was not moving when he was removed from underneath the vehicle.

It was not until after the incident that Officer █████ learned that Officer █████ also fired his weapon.²⁹

b. Digital Evidence³⁰

Evidence Technician (ET) Photographs depict the scene and the recovered evidence.^{31,32}

Medical Examiner (ME) Photographs depict photos of █████ during the course of his autopsy.³³

Video footage from the cellular phone of █████ which she uploaded to Snapchat,³⁴ is approximately 10 seconds in length and in color. The video depicts a caption that reads “they shot his butt.”³⁵ The video depicts a view of what appears to be patio furniture and a distant view of what appears to be the rear of a backyard with vehicles parked in a small lot. An unknown person appears to be standing in the distance at the corner of a wall that meets an alley. Blue police lights can be seen and police sirens can be heard in the background. A male voice can be heard yelling words to the effect of “(inaudible)...let me see your hands...let me see your hands... let me see them.” A female voice is then heard saying “they shot him.” The video then abruptly stops.³⁶

External **video surveillance footage** from Xpress Car Wash, at 5820 S. State Street, includes three camera views titled as “channel 1,” “channel 2,” and “channel 3” from the date and approximate time of incident. The videos provided did not depict the incident but did capture police responding to the area.³⁷

²⁸ Refer to 19 minutes and 33 seconds of the audio statement. EMS stands for Emergency Management Services.

²⁹ Atts. 20, 80, 81

³⁰ Officer █████ and Officer █████ were not assigned Body Worn Cameras while detailed to the Summer Mobile Unit. The unmarked squad car that they were driving on the date of incident was not equipped with an In Car Camera. Therefore, there is no BWC or ICC footage which captures the shooting.

³¹ Att. 20

³² Such photographs are described under Crime Scene Processing Report # █████

³³ Att. 85

³⁴ Snapchat is a social media application.

³⁵ This caption is believed to have been written by █████

³⁶ Att. 65

³⁷ Att. 67

Portable Observation Device (POD) #7300, at 5859 S. Wabash Avenue, starting at 10:10 p.m. on June 2, 2017 and ending 12:10 a.m. on June 3, 2017, does not capture the incident and depicts responding police vehicles after the incident.³⁸

Office of Emergency Management Communications (OEMC) 911 calls and CPD transmissions are consistent with OEMC Event Queries. The following information as it relates to this incident is as follows:

- 911 Caller, Event # [REDACTED] 23:01:27 to 23:02:31 hours
An unknown male caller reports that he observed three male blacks with guns on 55th and Indiana wearing all black. He stated that they were running southbound on Indiana. The female dispatcher announced they would send the police.
- 911 Caller, Event # [REDACTED] 23:12:28 to 23:12:51 hours
A male, self-identified as [REDACTED], reports that he heard “a whole bunch of shots” in the area of 51st and Calumet Avenue. The female dispatcher announced they would send the police.
- CPD Transmission, Zone 5, Event # [REDACTED] 23:01:24 to 23:10:37 hours
A female dispatcher announces a report of three male blacks with guns wearing all black on the 5500 block of Indiana Avenue.³⁹ Police units acknowledge the job. Beat [REDACTED] on scene and requests a “slowdown”⁴⁰ A male announces “3-2 shots fired” and a second male repeatedly yells in the background “shots fired.” A male then states “59th and State, 59th and State,” “in the alley, State in the alley.”⁴¹
- CPD Transmission, Zone 5, Event # [REDACTED] 23:10:28 to 00:11:01 hours
The following is a continuation from Event # [REDACTED] A female dispatcher announces “59th and State alley” and announces for Citywide. A male begins to yell “(inaudible)...emergency, 5-9 and State, 5-9 and State, shots fired by police and at police.”⁴² The female dispatcher announces a 10-1 at 5-9 and State. Additional police units began to announce their response to the scene. Unit announces “4493... (inaudible)... ems...roll (inaudible)” and dispatch announces that “ems is rolling.”⁴³

The remainder of the transmissions include additional police units announcing their response and police activities to secure the area.⁴⁴

Office of Emergency Management Communications (OEMC) Chicago Fire Department (CFD) transmissions depict EMS South transmissions.⁴⁵

³⁸ Att. 55

³⁹ Refer to 3 minutes and 40 seconds into the transmission.

⁴⁰ Refer to approximately 5 minutes into the transmission.

⁴¹ Refer to 9 minutes and 4 seconds into the transmission.

⁴² Refer to 18 seconds into the transmission.

⁴³ Refer to 1 minutes and 15 seconds into the transmission.

⁴⁴ Att. 37-41

⁴⁵ Att. 42-45

c. Physical Evidence

A **Chicago Fire Department Report** # [REDACTED] documents that CFD Ambulance 1 and Engine 84 responded to the scene after being dispatched on June 2, 2017, at 23:12:59 hours. The narrative section documents that upon arrival, CFD personnel “found [a] patient unresponsive with no pulse... patient has a GSW to the left side of chest and abdomen.” The report further documents that CFD personnel initiated CPR on [REDACTED] and treated him for “traumatic arrest.” [REDACTED] was transported to Stroger Hospital and to the care of the emergency room staff. [REDACTED] had no identification on him.⁴⁶

The **Medical Records** from **Stroger Hospital of Cook County (SHCC)**, document that [REDACTED] was identified at the hospital as [REDACTED] with Medical Record # [REDACTED].⁴⁷ The records document that [REDACTED] was admitted on June 2, 2017, at 23:48 hours. The attending physician was Dr. [REDACTED]. [REDACTED] injuries were described as three (gunshot wounds) to include; “left mid axillary line at level of nipple, left posterior axillary line just below tip of left capula [and] third in the RLQ of abdomen with evisceration of bowel.” The comments section documents that [REDACTED] was received to Stroger already intubated and with “CPR compressions [while] PEA⁴⁸ on arrival.” [REDACTED] remained in PEA despite ACLS⁴⁹ protocol. He had no vital signs after attempts were made to resuscitate. It is further documented in the ‘discharge summary’ section that CFD brought in [REDACTED] for traumatic cardiac arrest and EMS notified the hospital that [REDACTED] was found “face down in dirt.” [REDACTED] time of death was 23:54 hours.⁵⁰

The **Medical Examiner (ME) Report** for [REDACTED] under #ME [REDACTED] documents his date of death as June 2, 2017, and he was examined on June 3, 2017, at approximately 10:20 a.m. by Dr. [REDACTED]

The ‘evidence of injury’ section of the report documents a perforating gunshot wound to the left chest, a perforating gunshot wound to the abdomen; and, abrasions to both sides of the face and left shoulder, elbow/forearm and hand area. The report documents that under the gunshot wound to the left chest the bullet “does not penetrate the chest cavity.” In the left upper back area of [REDACTED] there is a “gunshot wound of exit.” The wound direction is front to back.

The report documents that in regard to the gunshot wound to the abdomen, “there is a loop of protruding small bowel through the entrance wound.” In the left lateral back area, the [REDACTED] revealed a “deformed metal jacket bullet recovered.” “The wound direction is front to back and right to left.”

⁴⁶ Att. 83

⁴⁷ These identifiers were shown on the identification tag placed on [REDACTED]

⁴⁸ PEA stands for “pulseless electrical activity.”

⁴⁹ ACLS stands for “Advanced Cardiac Life Support.”

⁵⁰ Att. 88

Toxicology results were reported as positive and it was documented as “Delta 9 Carboxy THC⁵¹ level in central blood: 7.9 ng/ml” and “Delta 9-THC level in central blood: 1.6 ng/ml.”

One fired bullet was recovered from by the Cook County Medical Examiner’s Office and inventoried by the Chicago Police Department as Inventory # [REDACTED]

The manner of death was documented as a Homicide due to multiple gunshot wounds.⁵²

Crime Scene Processing Reports # [REDACTED] and [REDACTED] document evidence identified, collected and inventoried in connection with the incident. In addition, report # [REDACTED] provides crime scene photograph descriptions of evidence including, but not limited to:

- a semi-automatic Taurus firearm, .45 caliber recovered from the alley pavement, near a puddle, at 5834 S. Wabash Avenue, serial # [REDACTED]
- three (3) expended shell casings, R-P 45 recovered from the alley pavement at 5834 S. Wabash and identified as markers 1, 2 and 3;
- twenty-two (22) expended shell casings, Win 9mm Luger + P, recovered from the pavement near the driver’s side, passenger side and/or on the unmarked police vehicle located in the alley near 5828 S. Wabash Avenue were identified as marker #'s 5-26;⁵³
- photos of bullet strikes to the garbage cans at 5832 S. Wabash Avenue labeled as A-G;
- photos of bullet strikes on the wooden panels of the rear alley fence at 5836 S. Wabash Avenue labeled as H-N;
- photos of a bullet hole to the passenger side front bumper of a CPD unmarked police vehicle with its headlights on;
- one (1) fired bullet on the alley pavement that fell from the hole of the front bumper of the unmarked police vehicle;
- one (1) fired bullet recovered from the alley “cement apron” at 5832 S. Wabash Avenue;
- one (1) fired bullet recovered from the inside of a City of Chicago garbage can # [REDACTED] behind 5836 S. Wabash Avenue;
- a semi-automatic Glock, Gen 17m 9x19 recovered from Officer [REDACTED] at Area Central, serial # [REDACTED] and

⁵¹ THC is an acronym for “tetrahydrocannabinol.” Per page 9 of Att. 35, Delta-9-THC is the principal ingredient of marijuana. “Delta-9-carboxy-THC (THCC) is the inactive metabolite of THC and may be detected for up to one day or more in blood.”

⁵² Att. 35

⁵³ Refer to ET photographs under Att. 20

- a semi-automatic Glock, Gen 17m 9x19 recovered from Officer ██████ at Area Central, serial # ██████.⁵⁴

Illinois State Police (ISP) Forensic Science Laboratory Reports⁵⁵ dated October 18, 2017, of Latent laboratory results and, a report dated December 21, 2017, for Ballistic laboratory results document the following:

Examination of Inventory # ██████ consists of: Exhibit 13 - one (1) pistol, a Taurus semi-automatic, serial # ██████ recovered from the cement in the alley of 5834 W. Wabash Avenue; Exhibit 14 – one (1) magazine; and, Exhibit 15 – five (5) live cartridges all revealed no latent impressions suitable for comparison. Examination of Inventory # ██████ Exhibit 4, one (1) fired bullet,⁵⁶ was tested and determined to have been fired from Exhibit #13, under inventory # ██████ the Taurus semiautomatic pistol. Furthermore, an examination of Exhibit #10, consisting of three (3) Remington 45 auto caliber fired cartridge cases under inventory # ██████ were determined to be fired from the same Taurus semiautomatic pistol, i.e., Exhibit 13.

Examination of Inventory # ██████ documents Exhibit 16, a Glock model 17, semiautomatic pistol, 9 mm Luger, Serial # ██████ belonging to Officer ██████ was operable as received and test fired. The record further reports that seven (7) recovered fired cartridge cases were fired from Officer ██████ firearm.⁵⁷ Furthermore, Exhibits 3, 11 and 12⁵⁸ could not be “identified or eliminated as having been fired” from Officer ██████ firearm (Exhibit 16).

Examination of Inventory # ██████ documents Exhibit 20, a Glock model 17, Gen4, semiautomatic pistol, 9 mm Luger, Serial # ██████ belonging to Officer ██████ was operable as received and test fired. The record further reports that fifteen (15) recovered fired cartridge cases were fired from Officer ██████ firearm.⁵⁹ Furthermore, Exhibits 3, 11 and 12⁶⁰ could not be “identified or eliminated as having been fired” from this firearm.⁶¹

d. Documentary Evidence

Original Case Incident Reports for RD # ██████ document date, time and location of incident and involved parties. In the reports dated June 3, 2017, by Officer ██████ # ██████ the Illinois Uniform Crime Reporting (IUCR) title was documented as “Assault: Aggravated PO:

⁵⁴ Att. 49, 50, 93

⁵⁵ COPA had requested GSR testing from ISP, but ISP has not concluded such testing.

⁵⁶ According to inventory sheet # ██████ it was documented that this fired bullet was recovered from the ground after falling from the bumper area of Officer ██████ and Officer ██████ unmarked police vehicle in the alley at 5828 S. Wabash Ave. The Detective Supp. Report identifies this vehicle as an unmarked CPD vehicle. Atts. 52, 79.

⁵⁷ This is consistent with Officer ██████ TRR which documents he fired seven (7) times. See Att. 11.

⁵⁸ Exhibits 3, 11, and 12, each consisted of one fired bullet recovered. Exhibit 3 was recovered from inside a city garbage can behind 5836 S. Wabash; Exhibit 11 was recovered from the alley cement apron at 5832 S. Wabash; and Exhibit 12 was recovered from the body of ██████ by the Cook County Medical Examiner’s office, ME # ██████. The ME provided CPD a sealed envelope containing the fired bullet.

⁵⁹ This is consistent with Officer ██████ TRR which documents he fired fifteen (15) times. See Att. 9.

⁶⁰ Exhibits 3, 11, and 12, each consistent of one fired bullet recovered from the scene of the incident.

⁶¹ Att. 76

Handgun.” ██████ was documented as ██████ and Officer ██████ and Officer ██████ were identified as victims. Chicago Fire Department Ambulance 1 responded on scene and ██████ was taken to Cook County Hospital. The report further documents the results of the autopsy performed at the Medical Examiner’s office on June 3, 2017.⁶²

Detective Supplementary Reports for RD # ██████ document information collected and reported by CPD regarding this incident.

The Clear/Closed Report documents that Officer ██████ performed a tactical reload during the incident. In addition, the Taurus semiautomatic pistol, serial # ██████ was documented as belonging to ██████ and, upon being recovered on scene at 5834 S. Wabash Avenue on the ground in the alley, was found to have five (5) live “RP 45 Auto rounds” and was not registered.

Reporting detectives interviewed Officer ██████ and Officer ██████ individually, and each essentially reported the same information as provided to IPRA. Furthermore, reporting detectives interviewed two tactical officers, Officer ██████ # ██████ and Officer ██████ # ██████ from the ██████ District who heard the initial call of “males with guns” near 55th and Michigan Avenue, and then shortly thereafter, responded to the scene of shots fired. Officers ██████ and ██████ stated that upon their arrival to the scene, they observed two uniformed male officers in the alley of 5834 S. Wabash Avenue. They then observed an individual, now known to be ██████ underneath a parked gray SUV in the rear of this same address. “The officers observed a black handgun on the ground in the alley near the gray SUV.” The officers issued verbal commands to ██████ and he did not respond. Therefore, they pulled him out from underneath the SUV and handcuffed him for officer safety. Officer ██████ then tore ██████ tank top and used it to apply pressure to his wounds.⁶³

The remainder of the report documents observation of evidence on scene. Furthermore, reporting detectives were informed during their investigation that ██████ succumbed to his injuries. The report documents that due to the death of ██████ the CPD investigation of Aggravated Assault/Police Officer would be “Exceptionally Cleared /Closed: Other” and that the Use of Force investigation regarding the fatal shooting of ██████ would be conducted by IPRA.⁶⁴

A Major Incident Notification Report (MIN) documents the identifiers of all involved parties as well as involved personnel that responded to the incident. The narrative section documents that IPRA would be conducting the Use of Force investigation. There is no further information reported.⁶⁵

Tactical Response Reports (TRR) completed by Officer ██████ and Officer ██████ document that ██████ was armed, sustained fatal injury and was medically treated at Stroger Hospital by Dr. ██████. The report documents that ██████ did not follow verbal directions, was an imminent threat of battery, and used force likely to cause death or great bodily harm with a weapon.

⁶² Att. 5-7

⁶³ No further details were documented.

⁶⁴ Att. 79

⁶⁵ Att. 26

Officer [REDACTED] and Officer [REDACTED] responded with member presence, verbal commands, and use of their firearms.

It is documented that Officer [REDACTED] fired his weapon fifteen (15) times. It is documented that Officer [REDACTED] fired his weapon seven (7) times. Both reports document that the “offender” fired first at a distance over 15 feet. Furthermore, a car door was used as protective cover. In addition, the narrative of the reports document that the subject fired multiple times at the reporting officers (R/O’s), Officer [REDACTED] and Officer [REDACTED].⁶⁶

Officer Battery Reports (OBR) completed by Officer [REDACTED] and Officer [REDACTED] document essentially the same information. Both officers documented that they were in uniform, on-duty, in a squad car, and with one partner. The type of activity was documented as “man with a gun.” The manner of attack was being “shot at.” The type of weapon and threat was documented as a semi-automatic, .45 caliber with the “officer at gunpoint.” There was no injury to the officers. The lighting conditions were documented as “good,” “artificial light,” and the weather conditions were “clear.”⁶⁷

The **Office of Emergency Management and Communications (OEMC) Event Queries** document 911 calls, dispatch announcements and CPD transmissions related to this incident to include, but not limited to, activity by responding units after the incident to include crowd control, traffic control and medical service requests.⁶⁸

e. Additional Evidence

An **Internal Affairs Division (IAD) Synoptic Report** documents that Officer [REDACTED] and Officer [REDACTED] were given alcohol and drug testing. Both officers submitted to breath testing that resulted in a reading of .000 Br.A.C.⁶⁹ Both officers submitted to urine drug analysis which returned negative results.⁷⁰

A **To/From summary report** documents that on June 6, 2017, Investigator [REDACTED] spoke to the owner of the 2006 Chevy Equinox, [REDACTED]. [REDACTED] stated that although she is the owner of the vehicle, she is disabled and her brother, [REDACTED] drives the vehicle. [REDACTED] stated that she was not involved in, nor had any knowledge of the incident. She stated that on the date and approximate time of incident her brother, [REDACTED] had driven to the location of incident and was in a building nearby to get a haircut. [REDACTED] was on the phone with [REDACTED] when she heard loud sounds in the background. [REDACTED] ended the telephone call with [REDACTED] to see what was taking place. [REDACTED] later informed [REDACTED] that gunshots had taken place near her vehicle and as a result, her vehicle was being held. [REDACTED] also told [REDACTED] that he had observed a man lying slightly underneath her vehicle. [REDACTED] stated that she did not know who was involved in the incident. Inv. [REDACTED] requested contact information for [REDACTED].

⁶⁶ Att. 9, 11

⁶⁷ Att. 10, 12

⁶⁸ Att. 17, 46

⁶⁹ Breath Analysis Concentration

⁷⁰ Att. 53

refused to provide it. She further stated that she would provide [REDACTED] with the investigator's phone number.

A **To/From summary report** documents that on June 3, 2017, while at the Area Central Detectives office at 5101 S. Wentworth Avenue, Investigator [REDACTED] observed Forensic Investigator (FI) [REDACTED] # [REDACTED] recover and clear the firearm of Officer [REDACTED] and the firearm of Officer [REDACTED]. FI [REDACTED] processed Officer [REDACTED] and Officer [REDACTED] semi-automatic firearms. Both were found to be a Glock model 17, 9mm caliber, black in color with an attached flashlight.

From Officer [REDACTED] firearm, FI [REDACTED] cleared one (1) live round from the chamber. The magazine inside of the gun was found to be fully loaded, with a capacity of seventeen (17). Officer [REDACTED] provided a second magazine that was recovered from inside his pocket. The second magazine was the one inside of Officer [REDACTED] firearm during the firearm discharge incident. FI [REDACTED] then cleared the second magazine, which also had a capacity of seventeen (17) and emptied two (2) live rounds. Officer [REDACTED] fired fifteen (15) live rounds. The ammunition that was cleared from the firearm and magazines were described as all being "Win. 9mm + P." The serial number of Officer [REDACTED] firearm was # [REDACTED]

From Officer [REDACTED] firearm, FI [REDACTED] cleared one (1) live round from the chamber and emptied ten (10) live rounds from the magazine. The magazine capacity was seventeen (17) rounds. Officer [REDACTED] fired seven (7) live rounds. The ammunition that was cleared from the firearm was described as all being "Win. 9mm + P." The serial number of Officer [REDACTED] firearm was # [REDACTED]⁷¹

VI. ANALYSIS

a. Legal Standard

1. Deadly Force

The applicable Chicago Police Department's General Order is 03-02-03, II,⁷² 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:

⁷¹ Att. 92

⁷² 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 in administrative cases investigated by COPA 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

A preponderance of evidence demonstrates that ██████ possessed a firearm and presented an imminent threat of death or great bodily harm to Officer ██████ and Officer ██████ by firing his weapon multiple times towards the direction of both officers.

Officers ██████ and ██████ both stated that they personally observed ██████ walk northbound towards their police vehicle while holding a firearm in his right hand. Officers ██████ and ██████ stated that they exited their vehicle and repeatedly commanded ██████ to "drop the gun" but that ██████ subsequently discharged his firearm northbound in their direction. Officers ██████

and [REDACTED] stated that in response to [REDACTED] discharging his firearm northbound at them, they discharged their firearms southbound at [REDACTED] and that [REDACTED] then fled southbound behind a garage. Officers [REDACTED] and [REDACTED] state that they observed [REDACTED] under a parked vehicle and a firearm near the parked vehicle. Officers [REDACTED] and [REDACTED] arrived at the scene shortly after the shooting incident and stated that they observed [REDACTED] under a parked vehicle and a black handgun on the ground near the parked vehicle. A Taurus semiautomatic pistol was recovered by evidence technicians near a puddle at 5834 S. Wabash Avenue.

The physical evidence corroborates Officers [REDACTED] and [REDACTED] account of the incident. Officers [REDACTED] and [REDACTED] firearms were processed after the incident, and the processing report demonstrates that Officer [REDACTED] discharged his firearm at [REDACTED] fifteen (15) times and Officer [REDACTED] discharged his firearm at [REDACTED] seven (7) times for a total of twenty-two (22) shots. However, Chicago Police Department evidence technicians recovered a total of twenty-five (25) shell casings from the area. Twenty-two (22) shell casings were recovered on pavement near the driver’s side, passenger side and/or Officer [REDACTED] and [REDACTED] police vehicle located in the alley near 5828 S. Wabash. The Illinois State Police ballistic testing demonstrates that fifteen (15) of the shell casings came from Officer [REDACTED] firearm and seven (7) of the shell casings came from Officer [REDACTED] firearm. Three (3) additional shell casings were recovered from the alley pavement at 5834 S. Wabash. The Illinois State Police ballistic testing demonstrates that these shell casings came from the Taurus semiautomatic pistol, the firearm recovered near [REDACTED] shortly after the shooting incident. Furthermore, Chicago Police Department evidence technicians recovered a fired bullet near the front bumper of Officers [REDACTED] and [REDACTED] police vehicle. ET photographs also reflect that the front, left bumper of Officer [REDACTED] and [REDACTED] police vehicle was struck by a bullet.

Although [REDACTED] and [REDACTED] only heard gunshots from the north end of the alley—where Officers [REDACTED] and [REDACTED] were located—[REDACTED] and [REDACTED] corroborated other material aspects of Officers [REDACTED] and [REDACTED] account of the incident. Specifically, both [REDACTED] and [REDACTED] stated that they heard Officers [REDACTED] and [REDACTED] yell words to the effect of “gun” and/or “put the gun down” as Officers [REDACTED] and [REDACTED] allege. A reasonable officer with police training would likely only yell words to the effect of “gun” and/or “put the gun down” if he or she actually observed an individual with a firearm. A reasonable officer with police training would do so to alert their partner and as an attempt to de-escalate the situation.

For these reasons, based on the totality of the circumstances, Officers [REDACTED] and [REDACTED] use of deadly force against [REDACTED] was objectively reasonable, and therefore, complied with Chicago Police Department Policy.

VII. CONCLUSION

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

Officer	Allegation	Finding/ Recommendation
Officer [REDACTED]	1. N/A	Within Policy

Officer [REDACTED]	1. N/A	Within Policy
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Approved:

[REDACTED]

October 22, 2019

Andrea Kersten
Deputy Chief Administrator

Date

[REDACTED]

October 22, 2019

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

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