

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	February 9, 2020
Time of Incident:	5:15 a.m. and 5:30 am
Location of Incident:	3611 N. Ashland Avenue and 1615-1617 W. Waveland Avenue
Date of COPA Notification:	February 9, 2020
Time of COPA Notification:	6:05 a.m.

On February 9, 2020, at approximately 5:15 a.m., Officers Elliot Tupayachi, #18875, assigned to Beat 1921, and Ashton McLean-Hall, #7370, assigned to Beat 1912, responded to a call of a battery in progress at Tai’s Til 4 Bar, located at 3611 N. Ashland Avenue. Upon arrival, the officers encountered ██████ outside the bar. ██████ related that he had a dispute with ██████ a patron of the bar and that ██████ threatened to kill him. ██████ the owner of the bar, came outside and told the officers that he heard ██████ threaten to kill ██████ at which time he called the police. A short time later, Officer Tupayachi asked ██████ to exit the bar. When ██████ exited the bar, he approached ██████ and refused to apologize to ██████ about the dispute in the bar. The men yelled at each other and confirmed that they had both threatened to kill the other. The men got into a physical altercation. Officer McLean-Hall’s Body Worn Camera (BWC)<sup>1</sup> captured the incident. The officers told ██████ and ██████ to leave the area. ██████ left first, crossing Ashland Avenue in a northwest direction towards his vehicle.<sup>2</sup> ██████ went northbound on Ashland Avenue, on the east side of the street with an unidentified Hispanic male. As Officers Tupayachi and McLean-Hall proceeded to walk to their vehicles, they observed ██████ cross westbound on Ashland Avenue and jump over the street planter medium towards ██████ then fired approximately fifteen times at ██████ striking him six times on his body. ██████ fell to the ground and ██████ ran northbound on Ashland Avenue towards Waveland Avenue. ██████ friend, ██████ stayed with ██████ Officer Tupayachi immediately followed ██████ in his police vehicle and Officer McLean-Hall drove to ██████ vehicle. Officer McLean-Hall observed ██████ on the ground, called for an ambulance, and then followed Officer Tupayachi’s vehicle.

The officers followed ██████ westbound on Waveland Avenue, southbound into the alley directly west from Ashland Avenue. The officers stopped their vehicles slightly south of Waveland Avenue. They exited and proceeded to follow ██████ on foot. ██████ turned westbound into a gangway, at 3643 N. Marshfield Avenue and fired once at the officers. ██████ then ran northbound on Marshfield Avenue and Officers Tupayachi and McLean-Hall proceeded to run northbound in the alley. At the mouth of the alley, on the south side of Waveland Avenue, Officer

<sup>1</sup> Attachment #13.

<sup>2</sup> Red Dodge Challenger, bearing license plate #Q58213, parked at approximately 3630 N. Ashland Avenue.

Tupayachi saw [REDACTED] at or near the sidewalk. [REDACTED] fired multiple shots at Officer Tupayachi and Officer Tupayachi fired twice. The officers heard [REDACTED] fire one final shot (later determined to be a self-inflicted gunshot to the head). The officers found [REDACTED] on the ground, near the curb, at 1615-1617 W. Waveland Avenue. [REDACTED] had one gunshot wound to the left side of his head. A black semi-automatic pistol<sup>3</sup> was removed from underneath [REDACTED] body. [REDACTED] was transported to the Cook County Medical Examiner’s Office.<sup>4</sup> [REDACTED] was transported by ambulance to Illinois Masonic Hospital. He sustained multiple gunshot wounds.

COPA’s investigation revealed that [REDACTED] committed suicide by a self-inflicted gunshot to his head. [REDACTED] posed a threat to Officers Tupayachi and McLean-Hall when he fired at them multiple times. Officer Tupayachi’s use of deadly force was within policy as outlined by General Order G03-02.

**II. INVOLVED PARTIES**

Involved Officer #1:	Elliot Tupayachi; Star #18875; Employee ID # [REDACTED] Date of Appointment; September 13, 1999; Police Officer; Unit 019; DOB: [REDACTED], 1971; Male/Hispanic.
Involved Officer #2:	Ashton McLean-Hall; Star #7670; Employee ID # [REDACTED] Date of Appointment; August 16, 2017; Police Officer; Unit 019; DOB: [REDACTED], 1985; Male/White.
Involved Individual #1:	[REDACTED] DOB: [REDACTED], 1999; Male/Black.

**III. ALLEGATIONS<sup>5</sup>**

Officer	Allegation	Finding
Officer Elliot Tupayachi	It is alleged that on or about February 9, 2020, at approximately 5:15 a.m., at or near 3611 N. Ashland Avenue, Officer Tupayachi:  1. Failed to comply with S03-14 by failing to timely activate his body worn camera in violation of Rule 6.	Sustained

<sup>3</sup> FNH-9 model, 9MM, Blue Steel semi-automatic, Serial # [REDACTED] An empty magazine clip laid on the parkway on the east sidewalk, slightly north of 3647 N. Marshfield Avenue. See attachment #19.

<sup>4</sup> Case No #2020-756.

<sup>5</sup> COPA found that the police shooting was within policy, but Officers Tupayachi and McLean-Hall failed to comply with other Chicago Police Department policies. See attachments #46 and #50. Officer McLean-Hall did not discharge his weapon.

	2. Failed to comply with U04-02 by failing to fully upload his firearm in violation of Rule 6.	Sustained
	3. Failed to comply with G04-01 by failing to conduct a thorough and accurate preliminary investigation in violation of Rule 6.	Sustained
Officer Ashton McLean-Hall	It is alleged that on or about February 9, 2020, at approximately 5:15 a.m., at or near 3611 N. Ashland Avenue, Officer McLean-Hall:  1. Failed to comply with G04-01 by failing to conduct a thorough and accurate preliminary investigation in violation of Rule 6.	Sustained

**IV. APPLICABLE RULES AND LAWS**

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Rules

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1. Rule 6: Disobedience of an order or directive, whether written or oral.

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General Orders

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1. G03-02: Use of Force (effective October 16, 2017 – February 28, 2020).
2. G03-02-01: Force Options (effective October 16, 2017 – February 28, 2020).
2. G04-01: Preliminary Investigations (effective October 15, 2017 to December 30, 2020).
3. U04-02: Department Approved Weapons and Ammunition (effective June 2, 2017 – February 29, 2020).

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Special Orders

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1. S03-14: Body Worn Cameras (effective April 30, 2018 to present).

**V. INVESTIGATION<sup>6</sup>**

COPA obtained and reviewed relevant video, audio, forensic, and documentary evidence associated with this officer-involved shooting. Additionally, COPA interviewed the involved

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<sup>6</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

officers. The following is a summary of the material evidence obtained and analyzed by COPA in this investigation.

### a. Interviews<sup>7</sup>

In a statement to COPA on February 13, 2020, ██████████ stated that he went to Tai's Til 4 Bar to meet a friend. Upon arrival, ██████████ saw another friend, ██████████ inside the bar. ██████████ approached ██████████ in the middle of the bar and the two began talking and playing around.<sup>10</sup> ██████████ playfully grabbed ██████████ and ██████████<sup>11</sup> who was standing next to ██████████ tapped ██████████ arm down.<sup>12</sup> ██████████ stated to ██████████ "Dude, I don't know you, why would you touch me? I know him, you know, we just joking around."<sup>13</sup> ██████████ responded, "I don't give a fuck who you know"<sup>14</sup> and "I have it on me."<sup>15</sup> ██████████ understood this to mean that ██████████ had a firearm on him.<sup>16</sup> ██████████ threatened to kill ██████████ inside the bar.<sup>17</sup> ██████████ also threatened to go to ██████████ job at Country Club Bar and kill him there.<sup>18</sup> ██████████ now known as ██████████ (the owner of the bar), informed ██████████ and ██████████ that he called the police.<sup>19</sup> ██████████ told ██████████ that if he does not "get [him]"<sup>20</sup> outside of Tai's Til 4 Bar, he would "get [him]" at Country Club Bar.<sup>21</sup>

██████████ believed approximately five to six uniformed officers<sup>22</sup> arrived and spoke to ██████████ outside.<sup>23</sup> ██████████ remained inside the bar with ██████████. After a while, ██████████ exited the bar and encountered ██████████ at the front door. ██████████ remained inside the bar. ██████████ asked ██████████ what his issue with him was and they both engaged in a verbal altercation. ██████████ and ██████████ did not have any physical contact in the presence of the officers. The officers instructed ██████████ to leave, and he complied. ██████████ stated that he crossed Ashland Avenue, westbound and then northbound to his car.<sup>24</sup> As ██████████ was about to enter his car, he saw ██████████ through the side mirror, crossing Ashland Avenue westbound. ██████████ turned and saw that ██████████ was walking towards him. The officers were still at the east sidewalk in front of the bar. ██████████

<sup>7</sup> COPA spoke to civilian witnesses; ██████████, ██████████, ██████████, and ██████████, who did not see ██████████ shoot ██████████ but heard multiple gunshots at or near 3626 N. Ashland Avenue. See attachment #6.

<sup>8</sup> Atts. #41-42. The statement was conducted at Illinois Masonic Hospital.

<sup>9</sup> ██████████ has known ██████████ for approximately five to six years.

<sup>10</sup> Att. #42, Pg. 9, Lns 4-6.

<sup>11</sup> ██████████ stated that he had seen ██████████ at the bar three to four times, but he never spoke to him. He did not know ██████████

<sup>12</sup> Att. #42, Pg. 9, Lns. 17-24, Pg. 10 Lns 1-5.

<sup>13</sup> Att. #42, Pg. 10, Ln. 24, and Pg. 11, Lns. 1-3.

<sup>14</sup> Att. #42, Pg. 11, Lns. 4-5.

<sup>15</sup> Att. #42, Pg. 11, Lns. 13-14.

<sup>16</sup> ██████████ did not see a firearm on ██████████

<sup>17</sup> Att. #42, Pg. 13, Lns. 20-21.

<sup>18</sup> Att. #42, Pg. 13, Lns. 21-24, Pg. 14, Ln. 1 and Lns 16-17.

<sup>19</sup> Att. #42, Pg. 15, Lns. 23-24, Pg. 16, Lns 1-2.

<sup>20</sup> ██████████ interpreted this to mean shoot him. ██████████ stated that at no time did he threaten ██████████ with a firearm, nor did he have a firearm in his possession.

<sup>21</sup> Att. #42, Pg. 16, Lns. 10-19.

<sup>22</sup> Officers Tupayachi and McLean-Hall were the only officers that responded to the bar.

<sup>23</sup> Att. #42, Pg. 17, Lns. 8-22.

<sup>24</sup> Red Dodge Challenger. Parked at approximately 3626 N. Ashland Avenue.

removed a firearm from his waistband and cocked it back. [REDACTED] put his hands up in the air. He was approximately three to four feet from [REDACTED] heard someone yell, "hey, hey, hey"<sup>25</sup> and then [REDACTED] fired approximately four gunshots at him. [REDACTED] ran southbound on Ashland Avenue and [REDACTED] continued shooting at him.<sup>26</sup> [REDACTED] ran around the back of his car to the sidewalk. He tripped and fell on the sidewalk, close to the street curb, approximately one to two cars south of his car. [REDACTED] ran up to him and shot at him approximately two more times. [REDACTED] then took off running northbound on Ashland Avenue. [REDACTED] does not know at what point he was shot. [REDACTED] and [REDACTED]<sup>27</sup> a security guard from Tai's Til 4 Bar, arrived and they began to console him. Shortly thereafter, paramedics arrived and provided [REDACTED] with medical attention. The paramedics transported [REDACTED] to Illinois Masonic Hospital. [REDACTED] sustained a total of six gunshot wounds, five to the right side of his body (neck, shoulder, chest, back) and one to the left side of his body.

COPA obtained and reviewed the **Electronic Recorded Interview (ERI) of [REDACTED]** conducted on February 9, 2020, at approximately 8:36 a.m.<sup>29</sup> [REDACTED] stated that [REDACTED] and [REDACTED] engaged in a verbal altercation inside the bar.<sup>30</sup> [REDACTED] left the bar and returned but the doorman, [REDACTED] would not let him in. [REDACTED] exited the bar to speak to [REDACTED] [REDACTED] stated that [REDACTED] threatened to kill him and that he was going to kill [REDACTED] first. [REDACTED] was very upset, and [REDACTED] called the police.<sup>31</sup> [REDACTED] a mutual friend of [REDACTED] and [REDACTED] was outside trying to calm [REDACTED] Approximately five minutes later, Officer McLean-Hall arrived, and [REDACTED] told him that [REDACTED] threatened to kill [REDACTED] When Officer Tupayachi arrived, [REDACTED] relayed the same information. [REDACTED] asked Officer Tupayachi if [REDACTED] could exit the bar because he wanted to leave, and Officer Tupayachi said yes, so [REDACTED] exited. Approximately ten minutes later, [REDACTED] left the bar through the back door. He drove northbound and turned eastbound on Waveland Avenue. [REDACTED] heard five or six gunshots in the vicinity.<sup>32</sup> A neighbor of the bar called him and told him that there may have been a shooting near the bar. [REDACTED] returned to the bar and spoke to responding police officers. He provided officers with surveillance videos of the interior and exterior of the bar.

COPA obtained and reviewed the **ERI of [REDACTED]** conducted on February 9, 2020, at approximately 12:03 p.m.<sup>34</sup> On February 9, 2020, [REDACTED] was working at Tai's Til 4 Bar as a security guard stationed at the front entrance. Between 4:30 a.m. and 5:00 a.m., [REDACTED] arrived at the bar. [REDACTED] arrived an hour or an hour and half prior.<sup>35</sup> When [REDACTED] entered the bar, he shook [REDACTED] hand and then walked towards the back of the bar. A short time later, [REDACTED] observed that [REDACTED] and [REDACTED] were standing close to each other as if they were going

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<sup>25</sup> Att. #42, Pg. 31, Ln. 15.

<sup>26</sup> [REDACTED] does not know how many shots he fired.

<sup>27</sup> Black male. No further information provided (NFI).

<sup>28</sup> Att. #9. [REDACTED] is the owner of Tai's Til 4 Bar.

<sup>29</sup> The interview was conducted by IRT (Investigative Response Team) Detective Wade Golab, #21389.

<sup>30</sup> [REDACTED] does not know the reason the two men were arguing. He stated that [REDACTED] is a regular patron of his bar. He does not know [REDACTED]

<sup>31</sup> [REDACTED] did not see [REDACTED] with a firearm, nor did [REDACTED] say he had one.

<sup>32</sup> [REDACTED] heard the gunshots approximately two to three minutes after he left the bar.

<sup>33</sup> Att. #8

<sup>34</sup> Conducted by Detective Golab at the residence of [REDACTED] located at [REDACTED].

<sup>35</sup> [REDACTED] stated that he knew [REDACTED] and [REDACTED] from the bar industry.

to fight. This only lasted a couple of seconds. [REDACTED] left the bar and [REDACTED] remained inside. Approximately ten to fifteen minutes later, [REDACTED] went outside and saw [REDACTED] in front of the bar, and he notified [REDACTED] asked [REDACTED] to keep [REDACTED] inside the bar while he went outside to speak to [REDACTED] stood outside at the entrance approximately twenty to twenty-five feet from [REDACTED] and [REDACTED] was also outside. [REDACTED] could not hear the conversation between [REDACTED] and [REDACTED] believed, based on [REDACTED] loud volume, that [REDACTED] was frustrated and annoyed by something. [REDACTED] did not see [REDACTED] with any weapons, since [REDACTED] was wearing a coat that was zipped up and had nothing in his hands. [REDACTED] went inside the bar. [REDACTED] was still in the bar but eventually went outside. Approximately ten minutes after [REDACTED] exited the bar, [REDACTED] heard approximately two to three gunshots outside. He immediately ran outside and heard an additional five to seven gunshots across the street, on the west side of Ashland Avenue. [REDACTED] yelled for someone to call 911, he ran across the street, and observed [REDACTED] holding [REDACTED] on the ground. [REDACTED] stated that he then heard multiple gunshots nearby. [REDACTED] never saw anyone shooting. Shortly thereafter, the police arrived.

COPA obtained and reviewed the **ERI of [REDACTED] [REDACTED]** conducted on February 9, 2020, at approximately 8:01 a.m.<sup>37</sup> [REDACTED] arrived at Tai's Til 4 Bar at approximately 2:45 a.m. According to [REDACTED] was already inside the bar or came soon after [REDACTED] arrived shortly thereafter. As [REDACTED] was talking to [REDACTED] overheard the conversation, misinterpreted it, and said something to [REDACTED] in defense of [REDACTED]<sup>38</sup> [REDACTED] and [REDACTED] began to argue. [REDACTED] believes [REDACTED] was kicked out of the bar. [REDACTED] went outside and told [REDACTED] to leave. [REDACTED] walked northbound on Ashland Avenue. [REDACTED] stated that he thought that [REDACTED] was leaving, and he proceeded walking home, southbound on Ashland Avenue. [REDACTED] heard someone say that [REDACTED] was returning to the bar and that the police were on their way. [REDACTED] walked back to the bar, because he wanted to convince [REDACTED] to leave and not go to jail. [REDACTED] did not want to leave and had a "militant" demeanor.<sup>39</sup>

According to [REDACTED] Officers Tupayachi and McLean-Hall arrived and began speaking to [REDACTED] When [REDACTED] exited the bar, he tried to resolve the situation with [REDACTED] but [REDACTED] was upset and stood very close to [REDACTED] nose-to-nose. [REDACTED] and [REDACTED] were separated. [REDACTED] and [REDACTED] crossed Ashland Avenue, westbound. [REDACTED] walked northbound on Ashland Avenue in the street and [REDACTED] walked southbound on Ashland Avenue. [REDACTED] proceeded walking northbound on Ashland Avenue, on the east sidewalk. [REDACTED] turned around and observed [REDACTED] cross Ashland Avenue (westbound), jump over a three-foot median in the middle of the street with a gun in his hand. [REDACTED] began shouting at [REDACTED] to get others to see what he was doing. [REDACTED] began shooting approximately ten shots at [REDACTED] [REDACTED] proceeded walking towards [REDACTED] saw the muzzle flashes and fell to the ground to take cover behind a car. [REDACTED] began running southbound along parked cars on the west side of Ashland Avenue. [REDACTED] ran to [REDACTED] and fell on top of him. [REDACTED] observed that [REDACTED] was shot, and he began consoling him. [REDACTED] did not see [REDACTED] after the shooting.

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<sup>36</sup> Att. #7

<sup>37</sup> IRT Detective Alonzo conducted the interview at Area 3, interview room D.

<sup>38</sup> [REDACTED] does not recall what [REDACTED] said to him that resulted in [REDACTED] defending him.

<sup>39</sup> Att #7, at 08:02:09.

In a statement to COPA on February 20, 2020, Officer Elliot Tupayachi. #18875,<sup>40</sup> stated that on February 9, 2020, he was assigned to Unit 019, Beat 1921.<sup>41</sup> Officer Tupayachi responded to Tai's Til 4 Bar to assist Beat 1912, assigned to Officer Ashton McLean-Hall, regarding a battery in progress outside the bar.<sup>42</sup> Upon arrival, Officer Tupayachi parked his police SUV in front of the bar facing northbound on Ashland Avenue. Officer McLean-Hall was already at the scene speaking to [REDACTED] just north of the bar. Officer Tupayachi got on his radio and requested a slow-down because there was no one fighting in front of the bar. He exited his vehicle and approached Officer McLean-Hall and [REDACTED] was angry with someone inside the bar.

According to Officer Tupayachi, [REDACTED] came outside and told him that [REDACTED] had an argument with [REDACTED] inside the bar.<sup>43</sup> [REDACTED] stated that [REDACTED] threatened to fight and shoot [REDACTED]. Security separated the two men, [REDACTED] was asked to leave the bar, and [REDACTED] called the police. When asked if he interpreted the threat by [REDACTED] to [REDACTED] seriously, Officer Tupayachi said, no because [REDACTED] did not see [REDACTED] with a weapon. If [REDACTED] had said that he saw [REDACTED] with a weapon, Officer Tupayachi would have called for assisting units and would have taken proper action in securing [REDACTED].<sup>44</sup> Officer Tupayachi stated that [REDACTED] told him that [REDACTED] and [REDACTED] were involved in an argument inside the bar. Officer Tupayachi described [REDACTED] as "very intoxicated."<sup>45</sup> After speaking to [REDACTED] and [REDACTED] Officer Tupayachi returned to Officer McLean-Hall and [REDACTED] who were both approximately thirty feet north of the entrance to the bar. Officer Tupayachi stated that [REDACTED] appeared to be under the influence of alcohol because he could smell it "in an open area."<sup>46</sup> [REDACTED] was also slurring and mumbling his words and speaking in a low tone.<sup>47</sup> Officer Tupayachi gathered that [REDACTED] wanted an apology from [REDACTED].<sup>48</sup> Officer Tupayachi described the circumstances as "just a drunken nonsense disturbance"<sup>49</sup> and asked [REDACTED] if [REDACTED] were to apologize to him, would they call it quits and go home.<sup>50</sup> Officer Tupayachi went to [REDACTED] and asked him to get [REDACTED] from inside the bar.

Officer Tupayachi stated that he did not ask [REDACTED] if he had a firearm and did not search him for weapons because he did not have probable cause. He explained that [REDACTED] did not

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<sup>40</sup> Atts #47-48.

<sup>41</sup> Officer Tupayachi stated beat 1921 is not his normal beat of assignment. Officer Tupayachi stated his normal assignment is traffic car enforcement. Traffic enforcement officers respond to traffic related incidents. Similar to his typical assignment, Officer Tupayachi did not have a partner on the night in question.

<sup>42</sup> Officer Tupayachi received a message from OEMC dispatch indicating that a caller reported people were fighting outside the bar.

<sup>43</sup> According to [REDACTED] ERI, [REDACTED] does not know what [REDACTED] and [REDACTED] were arguing about.

<sup>44</sup> Att. #48, Pg. 37, Lns. 22-24, Pg. 38, Lns. 1-7.

<sup>45</sup> Att. #48, Pg. 33, Ln 15. [REDACTED] was "stumbling, staggering, mumbling, [and] slurring" his words. Pg. 33, Ln 16. Officer Tupayachi did not recall [REDACTED] name.

<sup>46</sup> Att. #48, Pg. 45, Lns. 9-14.

<sup>47</sup> The BWC of Officer McLean-Hall contradicts Officer Tupayachi's description of [REDACTED] demeanor. See attachment #13.

<sup>48</sup> Officer Tupayachi stated that he did not know why [REDACTED] wanted an apology from [REDACTED]

<sup>49</sup> Officer Tupayachi described "drunken nonsense disturbance" as individuals that are impaired or tipsy, who are involved in incidents at bars, and say things they do not mean. Att. #48, Pg. 37, Lns. 2-7.

<sup>50</sup> Att. #48, Pg. 24, Lns. 12-14.

display any signs that suggested he had a firearm, and he felt "safe" with ██████<sup>51</sup> Officer Tupayachi went on to explain that there was no sign that ██████ was going to carry out the threat.<sup>52</sup>

Officer Tupayachi stated that when ██████ exited the bar, he engaged in an argument with ██████ and both men intimidated and threatened to kill each other.<sup>53</sup> Officer Tupayachi asked ██████ to apologize to ██████ and ██████ refused. Officer Tupayachi stated that he and Officer McLean-Hall were able to de-escalate the situation by telling both men that they were arguing over stupid stuff, and it was, bar talk,<sup>54</sup> and asked them to leave. ██████ crossed Ashland Avenue, westbound and then northbound. When asked if he asked and/or searched ██████ for weapons before he left the scene, Officer Tupayachi said no, because the two men only threatened each other and there was no indication that they were going to carry out the threat. Nobody had said either had a weapon and ██████ had been wearing a tight jacket with no noticeable bulges to suggest he had a firearm.<sup>55</sup> Approximately twenty to thirty seconds after ██████ crossed Ashland Avenue, ██████ and an unidentified male Hispanic,<sup>56</sup> began walking northbound on Ashland Avenue on the east sidewalk. In the middle of the 3600 block of Ashland Avenue, ██████ crossed westbound and jumped over the median in the direction of ██████. Officer Tupayachi thought that ██████ and ██████ were going to fight, so he proceeded to get in his police vehicle. He then heard approximately six to seven gunshots from northwest on Ashland Avenue. Officer Tupayachi reported the gunshots over the police radio and drove northbound on Ashland Avenue. He observed ██████ running northbound on Ashland Avenue with a firearm in his left hand.<sup>57</sup> ██████ made a left turn, westbound on Waveland Avenue, and southbound at the first alley west of Ashland Avenue. Officer Tupayachi exited his vehicle<sup>58</sup> and followed ██████ on foot. ██████ turned westbound into a gangway at approximately 3641 N. Marshfield Avenue. Officer Tupayachi did not follow ██████ into the gangway. Officer McLean-Hall arrived moments later. While in the alley, Officer Tupayachi heard one gunshot coming from ██████ location. Officer Tupayachi notified OEMC and reported ██████ location. He then retreated to the northeast side at the mouth of the alley and removed his firearm from the holster.<sup>59</sup> Officer McLean-Hall was at the northwest side of the alley.

Officer Tupayachi next saw ██████ northbound on Marshfield Avenue headed eastbound on Waveland Avenue. ██████ had a two-hand grip on a firearm. Officer Tupayachi ordered ██████ to drop the weapon and ██████ fired one shot at Officer Tupayachi. Officer Tupayachi

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<sup>51</sup> Att. #48, Pg. 40, Lns. 15-21, Pg. 41, Lns. 1-17.

<sup>52</sup> Officer Tupayachi stated that ██████ and ██████ verbally threatened each other, and he thought it was "a bunch of BS (bullshit) talking at both ends." Att. #48, Pg. 145, Ln. 9.

<sup>53</sup> Att. #48, Pg. 51, Lns. 20-24, Pg. 52, Lns. 1 and Pg. 74, Lns. 2-4.

<sup>54</sup> Att. #48, Pg. 50, Lns. 14-15.

<sup>55</sup> Att. #48, Pg. 53, Lns. 8-19, Pg. 54, Lns. 1-11.

<sup>56</sup> Officer Tupayachi said that the Hispanic male came walking from south on Ashland Ave. He described the male as very intoxicated but could not provide any further information.

<sup>57</sup> ██████ firearm was an FNH, model FNS-9, Serial # ██████ 9mm, semi-automatic. Inventory #14656292. See attachment #20.

<sup>58</sup> PO Tupayachi stopped his vehicle just north of the gangway of 3647 N. Marshfield Ave.

<sup>59</sup> Officer Tupayachi had a Sig Sauer, P228 model, Serial # ██████ 9mm, semi-automatic pistol. Inventory #14656321. He last qualified with this firearm on January 16, 2020. FOID card expiration date is November 1, 2029.

shot two to three times at [REDACTED] from the mouth of the alley. [REDACTED] stood between parked vehicles on the south side of Waveland Avenue in front of an apartment building at 1615-17 W. Waveland Avenue. Officer Tupayachi proceeded to walk northbound towards Waveland Avenue, and [REDACTED] shot approximately four times at Officer Tupayachi. Officer Tupayachi returned to the alley and slipped and fell on gravel. Officer McLean-Hall was in the alley approximately fifteen feet behind Officer Tupayachi and he was making notifications to OEMC. Officer Tupayachi again proceeded northbound towards Waveland Avenue, and [REDACTED] shot approximately two more times at Officer Tupayachi. Officer Tupayachi stated that he heard one last gunshot from [REDACTED] direction. Officer Tupayachi began walking northwest to Waveland Avenue at which time, he observed [REDACTED] lying on the ground in between two parked vehicles. [REDACTED] appeared to have a gunshot wound to his head and he was motionless.<sup>61</sup> Officer Tupayachi went into shock and never got close to [REDACTED]. Responding officers arrived and took over the scene. Approximately five to ten minutes later, Officer Tupayachi was transported to Swedish Covenant Hospital. He suffered bruising to the left side of his body from the fall in the alley.

Regarding the allegation of his firearm not being fully loaded,<sup>62</sup> Officer Tupayachi stated that he thought his firearm was fully loaded at the time of the incident. The last time Officer Tupayachi inspected his firearm was on or about January 16, 2020, when he last qualified at the police academy.

Regarding the allegation of failure to timely activate his body worn camera, (BWC), Officer Tupayachi stated that he thought he had activated his body worn camera at Tai's Til 4 Bar,<sup>63</sup> but later realized it was off and activated it in the alley west of Ashland Avenue. Officer Tupayachi believes he has had his body worn camera since 2017 or 2016. Officer Tupayachi understood that body-worn camera is to be activated, "[w]hen you get a call before you have any interaction" with anybody.<sup>64</sup>

Regarding the allegation of not conducting a thorough and accurate investigation, Officer Tupayachi denied the allegation and explained that he and Officer McLean-Hall did not complete any Department reports to include, a Case Incident Report or Investigatory Stop Reports (ISR) because no crime had been committed. Officer Tupayachi stated that they did not detain [REDACTED] or search him. Though the officers spoke to [REDACTED] for ten to fifteen minutes, Officer Tupayachi said [REDACTED] was free to leave at any time. When asked what if anything he would have done different regarding how he handled the incident at Tai's Til 4 Bar, Officer Tupayachi stated he would not have done anything differently.

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<sup>60</sup> Officer Tupayachi's TRR indicates that he shot three times. The crime scene processing report and inventory receipts indicate that only two expended casings were recovered belonging to Officer Tupayachi firearm. See attachment's #19-20.

<sup>61</sup> Officer Tupayachi does not believe he struck [REDACTED] and stated that he did not see [REDACTED] shoot himself in the head.

<sup>62</sup> Officer Tupayachi's firearm round capacity is sixteen (15+1). During the inspection of his firearm, ETs removed twelve rounds from Officer Tupayachi's magazine and one in the chamber (12+1). Including the two fired rounds and the 13 rounds removed from his firearm, Officer Tupayachi was short one round.

<sup>63</sup> Axon body X81142247, attachment # 15.

<sup>64</sup> Att. #48, Pg. 131, Lns. 13-19.

In a statement to COPA on February 25, 2020, Officer Ashton McLean-Hall, #7370,<sup>65</sup> stated that on February 9, 2020, he was assigned to Unit 019, Beat 1912, in police uniform, and he did not have a partner. Officer McLean-Hall essentially reiterated the same account of the incident as Officer Tupayachi regarding the incident at Tai's Til 4 Bar. Officer McLean-Hall described ██████ as being drunk, childish with a bruised ego, and not thinking clearly. When asked to explain what indicators ██████ demonstrated that made him appear to be under the influence of drugs and/or alcohol, Officer McLean-Hall stated ██████ showed no signs, he just assumed ██████ had consumed some beers since he was a patron of the bar.

During the statement, MCS<sup>66</sup> Sanchez played Officer McLean-Hall's BWC and asked him questions about the video.<sup>67</sup> Officer McLean-Hall acknowledged that in the video, ██████ told him that ██████ said that he had a gun and that he was going to shoot ██████ when he comes out of the bar. When asked if he interpreted ██████ statements to be serious, Officer McLean-Hall said "no."<sup>68</sup> He stated that he did not find the threats credible by either party. ██████ and ██████ threatened to kill each other. When asked why he never entered the bar to speak to ██████ about the accusation made by ██████ Officer McLean-Hall said that he wanted to stay with Officer Tupayachi.

In the video, Officer McLean-Hall asks ██████ "Is your friend talking big talk, is he talking like a big man that he has a gun?"<sup>69</sup> When asked to explain what he meant by the question, Officer McLean-Hall stated that because ██████ and ██████ were friends, he wanted corroboration. He was trying to confirm if ██████ was intimidating ██████ and/or was this normal behavior for ██████ Officer McLean-Hall never asked ██████ if he saw ██████ with a firearm.

In the video, ██████ has his right hand in his jacket pocket for approximately six minutes prior to ██████ exiting the bar. When asked why he did not ask ██████ to show his hands, Officer McLean-Hall stated that when he arrived on scene, ██████ had his hands out, so he just thought ██████ was cold. Officer McLean-Hall stated that ██████ never showed signs of having a firearm; therefore, he never asked him if he had a firearm.

Regarding the allegation of not conducting a thorough and accurate investigation, COPA asked why he failed to take police action after hearing ██████ and ██████ threaten to kill each other outside the bar. Officer McLean-Hall stated that both men were mutual combatants, and he did not have any reasonable articulable suspicion to detain ██████ Officer McLean-Hall's goal was to deescalate the situation and get ██████ and ██████ to leave. Officer McLean-Hall did not obtain ██████ and ██████ name and contact information and did not complete any Department reports, regarding the incident at Tai's Til 4 Bar.

According to Officer McLean-Hall, after ██████ and ██████ threatened each other outside the bar, ██████ crossed northwest on Ashland Avenue. ██████ and an unidentified male began

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<sup>65</sup> Atts. #51-52

<sup>66</sup> Major Case Specialist.

<sup>67</sup> Att. #13. The BWC is summarized in this SRI report on page 11. Officer McLean-Hall identified himself, Officer Tupayachi, ██████ and ██████ on the video. Time referenced in the summary is Zulu time (AKA Universal Time Co-ordinated (UTC).

<sup>68</sup> Atts. #51-52, Pg. 20, Ln 6.

<sup>69</sup> Att. #13, BWC-11:23:57.

walking northbound on Ashland Avenue, on the east sidewalk. [REDACTED] then crossed westbound on Ashland Avenue towards [REDACTED]. Officer McLean-Hall starts yelling to get [REDACTED] attention.

Officer McLean-Hall heard approximately fifteen gunshots across the street from the bar,<sup>70</sup> he entered his vehicle,<sup>71</sup> made a U-turn, and drove northbound on Ashland Avenue, in the southbound traffic lanes. He observed [REDACTED] on the ground with gunshot wounds. [REDACTED] was with [REDACTED]. Officer McLean-Hall called OEMC reported the shots fired and requested an ambulance for [REDACTED]. He then proceeded to follow Officer Tupayachi northbound on Ashland Avenue and westbound on Waveland Avenue. They made an immediate left into the alley, between Marshfield and Ashland Avenue. They stopped halfway down the alley and Officer Tupayachi exited his vehicle. Officer Tupayachi reported over the radio [REDACTED] route. Officer McLean-Hall exited his vehicle and began looking around for access into backyards. He heard one gunshot south of his location at approximately 3643 N. Marshfield Avenue.

Officer McLean-Hall took out his firearm and began yelling verbal commands to drop the gun.<sup>72</sup> Officer McLean-Hall heard yelling and proceeded to the mouth of the alley. He then heard approximately three gunshots at the mouth of the alley.

A few seconds later, he heard approximately five gunshots from the northwest direction on Waveland Avenue. Officer Tupayachi was running towards Officer McLean-Hall from Waveland Avenue. Officer McLean-Hall was on the west side of the alley and Officer Tupayachi was on the east side. Approximately twenty to thirty seconds later, Officer McLean-Hall heard two gunshots from the west side of Waveland Avenue. Approximately twenty seconds later, Officer McLean-Hall heard one final gunshot from the same direction. The officers proceeded to move forward northbound onto Waveland Avenue. While searching the area, the officers located [REDACTED] on the ground, on his back, in between parked vehicles at approximately 1609 W. Waveland Avenue. Officer McLean-Hall thought [REDACTED] had been shot but he did not see any gunshot holes/wounds. [REDACTED] was motionless.

The officers communicated with OEMC and shortly thereafter, responding officers arrived and assisted. The responding officers rolled [REDACTED] to his side and they found a black semi-automatic firearm underneath him.

Upon inquiry, Officer McLean-Hall stated that he never saw [REDACTED] shooting but assumed it was him.

Officer McLean-Hall also stated that he never saw Officer Tupayachi discharge his weapon and learned of the discharge post incident.<sup>73</sup>

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<sup>70</sup> At approximately 3622 N. Ashland Avenue. Reference attachment #63 (ambulance report).

<sup>71</sup> Officer McLean-Hall thought that he could possibly distract [REDACTED] with his police sirens or horn. He also thought it would be faster to drive to [REDACTED] rather than run. Atts. #51-52, Pg. 58, Lns. 18-21.

<sup>72</sup> Officer McLean-Hall did not see [REDACTED] shooting but assumed he was the person shooting.

<sup>73</sup> Officer McLean-Hall found two shell casings on the ground in the alley where Officer Tupayachi was positioned. He also stated that he does not recall hearing Officer Tupayachi report the shots fired over the police radio.

**b. Digital Evidence**<sup>74</sup>

COPA obtained and reviewed the **Body Worn Camera (BWC) of Officer McLean-Hall**<sup>75</sup> relative to this incident. At 11:20:50, the video shows Officer McLean-Hall arriving at Tai's Til 4 Bar. [REDACTED] and [REDACTED] are outside the bar. [REDACTED] tells Officer McLean-Hall several times that [REDACTED] threatened to kill him inside the bar. At 11:21:41, Officer Tupayachi arrives in his police vehicle. Officer McLean-Hall speaks to [REDACTED] states, not verbatim, that he knows [REDACTED] and [REDACTED] and has never had a problem with either man before. He stated that this incident was a misunderstanding between [REDACTED] and [REDACTED] states that he called the police after [REDACTED] said he had a gun and that he was going to kill [REDACTED] when [REDACTED] came out of the bar. [REDACTED] told the officers approximately seven times that [REDACTED] made threats to kill and/or shoot [REDACTED] and told them that he was concerned that [REDACTED] might shoot [REDACTED] through the window or shoot him outside of the bar. [REDACTED] states he told [REDACTED] to not come outside. [REDACTED] mentioned that the people outside were trying to get [REDACTED] to go home for half an hour. When asked, [REDACTED] told officers that [REDACTED] was "in the back" and pointed at the bar. [REDACTED] said he did not want [REDACTED] running up to the window of the bar.

At 11:23:43, [REDACTED] is attempting to get [REDACTED] to leave. Officer McLean-Hall asks [REDACTED] if "his friend ([REDACTED] is talking big talk, is he talking like a big man that he has a gun." [REDACTED] states, "No he's not real." [REDACTED] states that he is "90%"<sup>76</sup> sure that he does not have a gun and that [REDACTED] was just "hammered up." [REDACTED] states that [REDACTED] and [REDACTED] were engaged in an argument inside the bar over something that was a misunderstanding.

At 11:25:38, Officers McLean-Hall and Tupayachi approach [REDACTED] who confirms that he and [REDACTED] were engaged in an argument inside the bar. [REDACTED] alleges that [REDACTED] put his finger on his face and threatened to kill him. [REDACTED] states that he does not know [REDACTED] Officer Tupayachi tells [REDACTED] to go home. [REDACTED] admits that he threatened [REDACTED] after [REDACTED] threatened him first. Specifically, [REDACTED] said that [REDACTED] threatened to kill him. When Officer McClean-Hall pointed out that [REDACTED] said the same thing to [REDACTED] said, "Of course, yeah." At 11:27:33, [REDACTED] asks multiple times for the officers to go inside the bar to speak with [REDACTED] Officer Tupayachi tells [REDACTED] that he is not going to tell him what to do. [REDACTED] requests that [REDACTED] come outside and apologize to him, and he will leave. For approximately six minutes, [REDACTED] has his right hand in his right jacket pocket and neither officer asked him to show his hands.<sup>77</sup> [REDACTED] did, however, have his hands out when Officer McLean-Hall arrived and during their initial conversation.

At 11:31:08, [REDACTED] exits the bar, tells [REDACTED] that he is not going to apologize to him and engages in a verbal altercation with him. At 11:31:19, an unidentified Hispanic male, approaches and Officer McLean-Hall instructs him to step back. [REDACTED] and [REDACTED] join in a scuffle and threaten each other. Officer McLean-Hall tells [REDACTED] to use his words not hands

<sup>74</sup> COPA obtained and reviewed numerous residential and commercial videos from the vicinity of Tai's Til 4 Bar, 3643 N. Marshfield Avenue, and 1615-1617 W. Waveland Avenue. Only the videos that captured footage relating to the incident, is summarized in this report. All videos are uploaded in Column.

<sup>75</sup> Att. #13, Axon body X81366610 (20:41). Time stamps cited in this section of the SRI are in Zulu time, also known as Universal Time, which uses a 24-hour system of time notation.

<sup>76</sup> Att. #13, BWC-11:23:57.

<sup>77</sup> Att. #13, 11:25:28 to 11:31:19 Zulu time.

and to be the bigger mature man. He tells ██████ that if and ██████ were to get into a fight, they will both go to jail.<sup>78</sup> Officer McLean-Hall can be heard telling ██████ after the scuffle, “He comes here regularly. He knows your friend. You know how to get back at him through your friend. You know his name.”<sup>79</sup> At 11:33:43, ██████ crosses Ashland Avenue westbound and then northbound. At 11:33:53, ██████ and the Hispanic male begin walking northbound on Ashland Avenue on the east sidewalk. The officers begin to trail ██████ northbound on Ashland Avenue. At 11:34:17, Officer McLean-Hall states to Officer Tupayachi, “now they’re about to cross the street” and he yells “hey.”<sup>80</sup> Officer McLean-Hall enters his police SUV, turns on the ignition and at 11:34:32, approximately fifteen shots are fired from the vicinity of the bar. Officer McLean-Hall reports the shots fired to OEMC and begins to drive. He requests an ambulance for a person shot across the street from the bar.<sup>81</sup> At 11:35:21, he exits his vehicle at an alley west of Ashland Avenue. PO Tupayachi’s squad is seen ahead of his location within the alley. At 11:35:25, a gunshot is heard in the area and Officer Tupayachi reports the shot fired and 10-1 over the police radio. Officer McLean-Hall enters a residential backyard looking for ██████ he yells for ██████ to put the gun down and to announce his location.

At 11:35:59, three gunshots are heard in the area and Officer McLean-Hall runs northbound in the alley calling out for Officer Tupayachi. As Officer McLean-Hall is running in the alley (11:36:09) approximately five gunshots are heard. At 11:36:14 two more gunshots are heard. Officer Tupayachi is on his knees at the mouth of the alley on the east side.<sup>82</sup> Officer Tupayachi states that he sees ██████ At 11:36:24, one gunshot is heard. Sirens are heard in the area. Officers Tupayachi and McLean-Hall communicate with OEMC. At 11:37:23, Officer McLean-Hall approaches ██████ body on Waveland Avenue. ██████ is on the ground between two parked vehicles. He appears to be motionless and there is blood on the ground near his head. Officer McLean-Hall and other responding officers’ search ██████ and find a firearm underneath him.<sup>83</sup>

COPA obtained and reviewed the **BWC of Officer Tupayachi**.<sup>84</sup> relative to this incident. The buffering period begins at 11:33:35 (Zulu time) and shows Officers Tupayachi and McLean-Hall outside Tai’s Til 4 Bar speaking with ██████ Officer Tupayachi does not activate his BWC until he is in the alley, west of Ashland Avenue. The audio is activated at 11:36:35 (Zulu time) and shows Officer Tupayachi running northbound in the alley toward Waveland Avenue. He communicates with OEMC that ██████ is across the street. When Officer Tupayachi arrives at the mouth of the alley at or near 1617 W. Waveland Avenue, he states that he can see ██████ and yells, “Hey, drop the motherfucker right now.”<sup>85</sup> ██████ fires approximately three shots at Officer Tupayachi.<sup>86</sup> Officer Tupayachi reports shots fired and that ██████ is shooting at him over the radio. ██████ fires approximately five more shots<sup>87</sup> at Officer Tupayachi and he retreats to the

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<sup>78</sup> Att. #13, 11:32:29.

<sup>79</sup> Att. #13, 11:32:40.

<sup>80</sup> Att. #13, 11:34:12.

<sup>81</sup> ██████ is at the street curb at approximately 3622 N. Ashland Avenue.

<sup>82</sup> Att. #13, 11:36:12.

<sup>83</sup> The remainder of the footage is post incident.

<sup>84</sup> Att. #15, Axon Body X8114227.

<sup>85</sup> Att. #15, 11:35:57.

<sup>86</sup> Att. #15, 11:35:58.

<sup>87</sup> Att. #15, 11:36:08.

alley and in doing so falls. Officer Tupayachi fires twice at ██████ from the mouth of the alley.<sup>88</sup> He reports a 10-1 (officer in need of assistance). ██████ fires one more time.<sup>89</sup> The officers move out of the alley, and they find ██████ him on the ground between two parked vehicles.

COPA obtained and reviewed the **In-Car Camera (ICC) Video**<sup>90</sup> for Beat 1912, assigned to Officer McLean-Hall. The video captures similar footage as in Officer McLean-Hall's BWC.

COPA obtained and reviewed **Portable Observation Device (POD) #2936**.<sup>91</sup> The POD is located at the southwest corner of 3600 N. Ashland Avenue. The video captures similar footage as in Officer McLean-Hall's BWC. In addition, at 5:29:42 a.m. an individual<sup>92</sup> exits the shell gas station at the northwest corner of Ashland Avenue and Addison Street, crosses Ashland Avenue (eastbound), and joins the group outside the bar.

The **Office of Emergency Management and Communications (OEMC)**<sup>93</sup> 911 calls and CPD radio transmissions are consistent with OEMC event queries. The relevant information is summarized in the BWC of Officer McLean-Hall.

COPA received and reviewed **surveillance video from Tai's Til 4 Bar**, located at 3611 N. Ashland Ave.<sup>94</sup> The following are relevant videos from five cameras that captured the incident involving ██████ and Officers Tupayachi and McLean-Hall.

At approximately 5:42:22 a.m., ██████ approaches ██████ and an unidentified male wearing a baseball cap.<sup>95</sup> ██████ walks over to the bar and orders shots for the three of them. At 5:47:54 a.m., ██████ and the unidentified male take the shot. At 5:49:26 a.m., ██████ enters the bar and hugs the security guard at the door.<sup>96</sup> At 5:50:13 a.m., ██████ walks over to ██████ and the male with the baseball cap and engages in a conversation. ██████ touches ██████ chest and ██████ gets into a fighting stance.<sup>97</sup> At approximately 5:50:30 a.m., ██████ interferes and stands in between ██████ and ██████ and ██████ engage in an argument. ██████ points his finger at ██████ face and pushes him several times. ██████ and security staff interfere by pushing ██████ away from ██████<sup>98</sup> At

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<sup>88</sup> Att. #15, 11:36:12. Casings are heard falling to the ground.

<sup>89</sup> Att. #15, 11:36:22.

<sup>90</sup> Att. #16.

<sup>91</sup> Att. #64.

<sup>92</sup> Presumably, the Hispanic male that is captured in Officer McLean-Hall's BWC that walks away with ██████ northbound on Ashland Avenue before ██████ shoots at ██████

<sup>93</sup> Atts. #21-34.

<sup>94</sup> Att. #65. There are approximately 500 video clips for channels, 01, 03, 09, 10 and 13. A zip file was created in Column (attachment #66) that only contains relevant videos capturing the incident. The time stamp on the videos are approximately an hour and twenty minutes ahead of real time for all channels. Channels 01 and 03 are internal views of the bar and channels 09, 10, 13 are external views.

<sup>95</sup> Channel 03 filename ch03\_20200209051350. They are standing across the bar against a booth (middle of the bar). ██████ has a dark colored jacket and ██████ is heavy build with a bald head.

<sup>96</sup> Ch10\_20200209054812 and Channel 03 filename ch03\_20200209051350. ██████ has on a hooded sweater. ██████ (wearing a dark colored blazer) is standing in the middle of the bar (frame) talking to an unidentified male. ██████ is standing to the right of ██████ speaking to the male with the baseball cap.

<sup>97</sup> ██████ is standing to the right of ██████

<sup>98</sup> Channel 03 filename ch03\_20200209051350. From 5:50:30 a.m. to 5:56:18 a.m.

approximately 5:56:18 a.m., ██████ is escorted out of the bar by a security guard.<sup>99</sup> He crosses Ashland Avenue in a northwest direction.

At approximately 6:00:32 a.m., ██████ returns and stands in front of a property just north of the bar out of the camera view.<sup>100</sup> ██████ and unidentified males come outside and speak with ██████ attempts to re-enter the bar and ██████ stands in front of him preventing him from entering the bar. At 6:35:24 a.m., Officer McLean-Hall arrives in his police vehicle.<sup>101</sup> Shortly thereafter Officer Tupayachi arrives. At Approximately 6:44:19 a.m., ██████ exits the bar and walks towards ██████ and the officers.<sup>102</sup> ██████ and ██████ engaged in an altercation.<sup>103</sup> At approximately 6:47:16 a.m., ██████ crosses Ashland Avenue, in a northwest direction. Seconds later, ██████ follows behind ██████<sup>104</sup> At approximately 6:47:16 a.m., ██████ walks northbound on Ashland Avenue.<sup>105</sup> At approximately 6:48:30 a.m., Officers Tupayachi and McLean-Hall enter their police vehicles, activate their emergency lights, and drive northbound on Ashland Avenue.<sup>106</sup>

**Residential external video footage from 3629 N. Ashland Avenue,**<sup>107</sup> at approximately 5:27:50 a.m., depicts ██████ walking northbound on Ashland Avenue and then he crosses the street westbound, jumps over the median, removes a firearm from his left coat pocket, and points it at ██████ At approximately 5:28:11 a.m., ██████ shoots at ██████ numerous times and then runs northbound on Ashland Avenue. At approximately 5:28:24 a.m., Officer Tupayachi drives northbound on Ashland Avenue with his emergency lights on. Seconds later, Officer McLean-Hall follows in his police vehicle.

**External video footage from Fine Food & Liquor Store located at 3642 N. Ashland Avenue,**<sup>108</sup> depicts ██████ running northbound on Ashland Avenue on the west sidewalk with a firearm in his left hand. A marked police SUV, presumably Officer Tupayachi's vehicle, is driving northbound on Ashland Avenue and makes a left turn westbound on Waveland Avenue. Seconds later, another police SUV, presumably Officer McLean-Hall, makes a left turn westbound on Waveland Avenue. At approximately 6:36:40 a.m., additional police vehicles arrived from all directions. A Chicago Fire Department (CFD) fire truck and an ambulance head northbound on Ashland Avenue and westbound on Waveland Avenue.

**External video footage from a residence located at 3641 N. Marshfield Avenue,**<sup>109</sup> at approximately 5:35:01 a.m., video clip labeled, alley view, depicts ██████ running southbound

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<sup>99</sup> Channel 03 filename ch03\_20200209051350, Ch01\_20200209055457 and ch10\_2020020955612. ██████ remains inside the bar.

<sup>100</sup> Ch10\_20200209055949 and clip ending in 20200209060038.

<sup>101</sup> Ch10\_20200209063530

<sup>102</sup> Ch01\_20200209064415, Ch09\_202002090643104, Ch10\_20200209064418.

<sup>103</sup> Ch10\_20200209064435, 065444, 064613.

<sup>104</sup> Ch10\_20200209064711.

<sup>105</sup> Ch10\_20200209064744.

<sup>106</sup> Ch10\_20200209064814.

<sup>107</sup> Att. #67

<sup>108</sup> Att. #69. Video labeled Ch 05. Captured at 13:48 from the start of the video.

<sup>109</sup> Att #70- Clips labeled, Alley view, front North, front south, gangway north, and garage north.

in the alley<sup>110</sup> and runs through a back yard. Officers Tupayachi and McLean-Hall arrived in the alley in their police vehicles.

### c. Physical Evidence

The **Chicago Fire Department (CFD) Ambulance Report** for ██████████ ██████████ indicates that at approximately 5:43 a.m., Engine 78 and ambulance 6 arrived at 3622 N. Ashland Avenue. CFD personnel found ██████████ in stable condition with multiple gunshot wounds to his body. Paramedics transferred ██████████ to Illinois Masonic Hospital for medical attention.

The **CFD ambulance report for Officer Tupayachi**<sup>112</sup> indicates that at approximately 5:50 a.m., paramedics from ambulance 31 arrived at 3701 N. Ashland Avenue and transported Officer Tupayachi to Swedish Covenant Hospital for medical attention. Officer Tupayachi complained of pain to his right knee from tripping and falling to the ground.

The **CFD ambulance report for** ██████████ ██████████ indicates that at approximately 5:44 a.m., paramedics from ambulance 6 found ██████████ on the ground at approximately 1629 W. Waveland Avenue. He was unresponsive, pulseless, and had a gunshot wound to his head. Brain matter was located on the street. Paramedics did not remove ██████████ from the scene.

**Medical Records from Illinois Masonic Hospital for** ██████████ ██████████ indicate that he arrived at the hospital by ambulance on February 9, 2020, with multiple gunshot wounds to his chest and neck area. ██████████ underwent surgery to his chest and was admitted to the hospital and discharged on February 18, 2020.

**The Autopsy Report for** ██████████ ██████████ indicates that Dr. Eimad Zakariya of the Cook County Medical Examiner's Office performed the postmortem examination of ██████████ on February 10, 2020. The report indicates that ██████████ died of a gunshot wound to his head and the manner of death was suicide.

**Medical Examiners (ME) Photographs**<sup>116</sup> depict photos of ██████████ during his autopsy.

**Evidence Technician (ET) Photographs**<sup>117</sup> depict the shooting scene from various angles at 1617 W. Waveland Avenue, the area at 1607 W. Waveland Avenue, the scene at 3647 N. Marshfield Avenue, the scene at 3626 and 3630 N. Ashland Ave, photographs of ██████████ and vehicles that were damaged from bullets during the incident.

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<sup>110</sup> The alley is one block west of Ashland Avenue.

<sup>111</sup> Att.#63.

<sup>112</sup> Att.#62.

<sup>113</sup> Att. #61.

<sup>114</sup> Att. #60.

<sup>115</sup> Att. #81.

<sup>116</sup> Att. #55.

<sup>117</sup> Att. #17.

**Crime Scene Processing Report #423630** and **Inventory Sheets**<sup>118</sup> document the recovery of evidence identified, collected, and inventoried in connection with the incident. The crime scene processing report also includes crime scene photograph descriptions of evidence to include, but not limited to:

- Officer Tupayachi's semi-automatic Sig Sauer, P228, 9mm firearm, serial # [REDACTED] recovered from the Chicago Police command van, inventory #14656321.
- One (1) fired WIN 9mm Luger + P cartridge casing recovered from the sidewalk at 1607 W. Waveland Avenue identified as being fired from Officer Tupayachi's firearm evidence marker #1, inventory # 14656277.
- One (1) fired WIN 9mm Luger + P cartridge casing recovered from the alley at 1607 W. Waveland Avenue identified as being fired from Officer Tupayachi's firearm, evidence marker #2, inventory # 14656277.
- A semi-automatic 9mm, FNH, model FNS-9, serial # [REDACTED] recovered from the street at 1617 W. Waveland Avenue, near [REDACTED] body, evidence marker #11, inventory # 14656292.<sup>119</sup>
- Three (3) fired cartridge casings from the parkway and five (5) casings from the street at 1617 W. Waveland Avenue, head stamped GFL 9mm, Luger identified as being fired from [REDACTED] firearm, evidence markers # 3-10, inventory #14656282.
- One (1) fired GFL 9mm, Luger cartridge casing recovered from the area underneath where [REDACTED] body was at 1617 W. Waveland Avenue, evidence marker #30, inventory #14656282.
- One (1) fired GFL 9mm, Luger cartridge casing recovered from the gangway at 3643 N. Marshfield Avenue and one FN brand empty firearm magazine recovered from 3647 N. Marshfield Avenue. Evidence markers #12-13, inventory #'s 4656369 and 14656375.
- Five (5) fired GFL 9mm, Luger cartridge casings recovered from the street at 3630 N. Ashland Avenue and ten (10) casings recovered from the street at 3632 N. Ashland Avenue, evidence markers #14-28 inventory #'s 14656314 and 14656315.

Evidence Technician's also processed Officer Tupayachi's firearm, which had a sixteen-round capacity. The firearm was found to have twelve live rounds of ammunition in the magazine and one live round in the chamber (all Win 9mm Luger +P).<sup>120</sup>

**Illinois State Police (ISP) Forensic Science Laboratory Report-Firearms/Toolmarks**<sup>121</sup> documents the examination of recovered firearms evidence in this investigation. An examination of Officer Tupayachi's Sig Sauer Model P228, 9mm semi-automatic pistol determined that the weapon was operable as received and was test fired using laboratory ammunition. Two Winchester 9mm Luger + P fired cartridge cases were recovered and identified as having been fired from Officer Tupayachi's weapon. An examination of [REDACTED]

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<sup>118</sup> Atts. #19-20.

<sup>119</sup> Firearm was not registered.

<sup>120</sup> Officer Tupayachi fired two shots during the incident. He was one bullet short of being fully loaded.

<sup>121</sup> Att. #76-77.

FNH Model FNS-9, 9mm semi-automatic weapon determined that the weapon was operable as received and was test fired using laboratory ammunition. Twenty-five G.F.L. 9mm Luger fired cartridge cases were recovered and identified as having been fired from [REDACTED] weapon.

#### d. Documentary Evidence

The **Major Incident Notification Report (MIN)**<sup>122</sup> documents the identifiers of all involved parties and weapons used during the incident. The summary section of the report indicates that [REDACTED] shot [REDACTED] multiple times and subsequently shot at officers to defeat the arrest. Officer Tupayachi shot back at [REDACTED]. The report also confirms that Officer Tupayachi's firearm holds a fifteen-round capacity in the magazine and one round in the chamber (15 +1). Following the shooting, Officer Tupayachi's firearm had twelve rounds in the magazine and one in the chamber.

The **Tactical Response Reports (TRR)**<sup>123</sup> of Officers Tupayachi and Ashton McLean-Hall, indicate that [REDACTED] was armed, sustained a fatal injury, and received medical treatment by CFD/EMS. The report indicates that [REDACTED] did not follow verbal directions, fled the scene, was an imminent threat of battery and used force likely to cause death or great bodily harm with a weapon. Officer Tupayachi's report indicates that he fired his weapon three (3) times during the incident.

**Additional Evidence** The **Synoptic Report**<sup>124</sup> for Officer Tupayachi contains the result of his drug and alcohol tests following the incident. Officer Tupayachi, who was breathalyzed at 11:02 a.m., on February 9, 2020, had a BAC of .000. He also submitted to a urine drug test, which revealed negative results.

## VI. 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.

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<sup>122</sup> Att. #59

<sup>123</sup> Atts. #11-12

<sup>124</sup> Att. # 53.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>125</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, 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.<sup>126</sup> 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."<sup>127</sup>

## A. Applicable Department Policies

### 1. G03-02: Use of Force<sup>128</sup>

The Department's highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved. 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.<sup>129</sup>

Factors to be considered by the officer include but are not limited to: whether the subject is posing an imminent threat to the officer or others; the risk of harm, level of threat or resistance presented by the subject; and the subject's proximity or access to weapons.

Department members will use only the force that is proportional to the threat, actions, and level of resistance offered by a subject. This may include using greater force or a different type of force than that used by the subject. The greater the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that maybe necessary to overcome it. When or if the subject offers less resistance, however, the member will decrease the amount or type of force accordingly.

Deadly force is force by any means that is likely to cause death or great bodily harm. It includes but is not limited to: firing of a firearm in the direction of the person to be arrested; firing of a firearm at a vehicle in which the person to be arrested is riding; intentional striking of a subject's head with an impact weapon; and application of a chokehold, defined as applying direct pressure to a person's trachea(windpipe) or airway (front of the neck) with the intention of reducing the intake of air.

A threat is imminent when it is objectively reasonable to believe that: the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is

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<sup>125</sup> 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).

<sup>126</sup> See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>127</sup> *Id.* at ¶ 28.

<sup>128</sup> G03-02,.

<sup>129</sup> *Id.* at (III)(B)(1).

taken; and the subject has the means or instruments to cause death or great bodily harm; and the subject has the opportunity and ability to cause death or great bodily harm.

## 2. G03-02-01: Force Options<sup>130</sup>

Consistent with the Department policy that all uses of force must be objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by a subject.

An assailant is a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury. Assailants are divided into two categories: (1) a subject whose actions are aggressively offensive with or without weapons; and (2) a subject whose actions constitute an imminent threat of death or great bodily harm to a Department member or to another person. When dealing with an assailant whose actions constitute an imminent threat of death or bodily harm, Department policy authorizes the use of firearms and other deadly force responses.

Department members must use de-escalation techniques, known as “principles of force mitigation,” when it is safe and feasible. Those techniques include (1) “continual communication” (2) “tactical positioning” and (3) “time as a tactic”.<sup>131</sup>

1. “Continual communication” is using verbal control techniques to avoid or minimize confrontations before resorting to physical force. This includes using persuasion, advice, instruction, and warning prior to any use of force and consider using a different member for assistance with a noncompliant individual;
2. “Tactical positioning” is using positioning, distance, and cover to contain an individual and create a zone of safety for officers and the public; and
3. “Time as a tactic” uses time to permit the de-escalation of an individual’s emotions and allow the individual to comply with verbal direction, to allow for continued communication, and to allow for the arrival of additional members or special units and equipment.<sup>132</sup>

## 3. S03-14: Body-worn Cameras.

To increase transparency and improve the quality and reliability of investigations, Department policy requires law-enforcement-related encounters to be electronically recorded. Law-enforcement encounters include, but are not limited to, vehicle pursuits, traffic stops, investigatory stops, high risk situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene.<sup>133</sup> The decision to record is mandatory, not discretionary. Members must activate at the beginning of an incident and record the entire incident. If there are circumstances preventing the member from activating of the Body

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<sup>130</sup> G03-02-01.

<sup>131</sup> G03-02-03(III)(A)-(C).

<sup>132</sup> See G03-02-03(III)(A)-(C).

<sup>133</sup> S03-04(III)(A).

Worn Camera at the beginning of the incident, Department policy provides that it shall be activated as soon as practical.

#### **4. U04-02: Uniform and Property.**

The Department requires members' firearms to be fully loaded.<sup>134</sup>

#### **5. G04-01: Preliminary Investigations.**

Department policy requires that upon receipt of an assignment, officers will conduct a thorough and accurate preliminary investigation.<sup>135</sup> Officers are also expected to determine if there is a reasonable belief that a crime has been or is being committed, take steps to stop the crime if in progress, and arrest the offender if still on scene and probable cause exists.<sup>136</sup>

### **VII. ANALYSIS**

#### **A. Officer Elliot Tupayachi's use of deadly force was authorized under Department policy.<sup>137</sup>**

COPA finds Officer Tupayachi's use of force was authorized under Department policy. A preponderance of evidence demonstrates that ██████ presented an imminent threat of death or great bodily harm to Officers Tupayachi and McLean-Hall. Based on the evidence obtained and analyzed in this investigation, ██████ fired his weapon several times at ██████ fled the scene of the shooting, failed to listen to officers' directives to drop his weapon, and fired shots in the officers' direction.

The gunshots fired by ██████ were heard in Officer Tupayachi and McLean-Hall respective BWCs. In response to ██████ active threat, Officer Tupayachi discharged his weapon in ██████ direction. It was objectively reasonable for Officer Tupayachi to believe ██████ actions were immediately likely to cause death or great bodily harm to himself or others unless action was taken. Moments earlier, ██████ shot ██████ and ██████ shot in the direction of Officer Tupayachi. It was also objectively reasonable for Officer Tupayachi to believe that ██████ had the means or instruments to cause death or great bodily harm – in this case, a firearm. Finally, it was objectively reasonable for Officer Tupayachi to believe that ██████ had the opportunity and ability to cause death or great bodily harm given ██████ was actively shooting at officers.

There is no evidence contradicting Officers Tupayachi and McLean-Hall's accounts of what occurred during this police involved shooting. Based on the totality of the circumstances, Officer Tupayachi's use of force against ██████ was objectively reasonable, necessary under the circumstances, and proportional to the threat, actions, and level of resistance offered by

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<sup>134</sup> U04-02(II)(N).

<sup>135</sup> G04-01(III)(1).

<sup>136</sup> G4-01(IV)(2)-(4).

<sup>137</sup> COPA applied a preponderance of the evidence standard to determine whether allegations of excessive force were warranted in this incident.

██████████<sup>138</sup> For these reasons, COPA did not serve allegations in this case because the use of force was authorized under Department policies.

**B. Officer Tupayachi failed to timely activate his bodyworn camera.**

It is alleged that Officer Tupayachi failed to comply with S03-14<sup>139</sup> by failing to timely activate his body worn camera . Pursuant to S03-14, the decision to electronically record a law-enforcement-related encounter is mandatory, not discretionary, except where specifically indicated. Pursuant to S03-14, Officer Tupayachi was required to activate the system to event mode at the beginning of an incident and record the entire incident for all law-enforcement-related activities. Here, on-duty officers responded to Tai's Til 4 Bar regarding a battery in progress outside the bar. Upon arrival, officers spoke to witnesses regarding the call for service. Officer Tupayachi failed to activate his BWC during this initial law-enforcement-related encounter.

During his interview, Officer Tupayachi stated that he thought he had activated his BWC at Tai's Til 4 Bar, but he later realized his BWC was off and activated his BWC in the alley west of Ashland Avenue.<sup>140</sup> Officer Tupayachi did not cite any circumstances present that prevented him from activating his BWC at the beginning of the incident. For these reasons, COPA concludes that allegation #1 is **Sustained**.

**C. Officer Tupayachi and Officer McLean-Hall failed to conduct a thorough investigation.**

Based on the totality of the circumstances, the officers failed to conduct a thorough and accurate investigation as required by G04-01.<sup>141</sup> The investigation revealed that the officers did not identify ██████████ or ██████████ investigate ██████████ for a possible weapon, obtain ██████████ account of the incident, take appropriate police action when ██████████ and ██████████ threatened to kill each other outside the bar, nor document the incident. The officers knew or should have been aware of the likelihood that ██████████ may be in possession of a firearm given ██████████ statement to officers that ██████████ said he had a gun and that he was going to kill ██████████

First, the investigation revealed that Officers Tupayachi and McLean-Hall spoke to ██████████ for approximately thirteen minutes and never asked him for his name and identification. The officers' failure to request ██████████ name and identification was not reasonable considering the totality of the circumstances. Here, at 5:15 a.m. on the night in question, the officers reported to the scene of a battery in progress at Tai's Til 4. The nature of the call and time of day call required officer investigation. Upon arrival to the scene of the bar, officers learned that ██████████ and ██████████ had exchanged threats to kill each other. Even though there was no active battery in progress outside the bar upon their arrival, there were sufficient circumstances warranting officer investigation of a potential crime. Notably, upon arrival to the scene of the bar, Officer McLean-Hall learned that ██████████ called the police because ██████████ stated that he had a gun and was going

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<sup>138</sup> COPA also concludes that it was not safe or feasible for officers to employ de-escalation techniques after ██████████ fired at ██████████ and then in the officers' direction.

<sup>139</sup> S03-14.

<sup>140</sup> Att. #48, Pg. 129, Lns. 18-24, Pg. 130, Lns. 1-6.

<sup>141</sup> G04-01.

to kill ██████ when ██████ came out of the bar. At minimum, the officers should have obtained ██████ name and identification. Even if the officers were not concerned after their initial interactions with the witnesses, the officers continued to gain information warranting further investigation of ██████

Second, the officers did not ask ██████ to remove his hands from his jacket or otherwise check for weapons. The officers' failure to establish whether ██████ had a weapon was not reasonable given the totality of the circumstances. The officers had a sufficient basis to ask ██████ if he had a weapon or search ██████ for weapons but failed to do so. Specifically, ██████ informed officers that ██████ said he had a gun and was going to shoot ██████ told the officers approximately seven times that ██████ made threats to kill and/or shoot ██████ and told them that he was concerned that ██████ might shoot ██████ through the window or shoot him outside of the bar. Officers did not ask ██████ to remove his hands from his jacket pocket for the six minutes immediately preceding ██████ exiting the bar nor did they perform a protective pat-down of ██████. By his own admission, Officers Tupayachi did not interpret the threat by ██████ to ██████ seriously because ██████ did not see ██████ with a weapon. Officer McClean-Hall, by his own admission, did not interpret ██████ statement regarding ██████ threat to shoot and kill ██████ to be serious.<sup>142</sup>

According to the officers, the officers did not have reason to believe that ██████ had a firearm because ██████ never showed signs of having a firearm. However, there were sufficient circumstances indicating that the officers should have investigated ██████ for a possible weapon. Here, ██████ perspective and statement to officers was credible. ██████ informed officers that he knows ██████ and ██████ and has never had a problem with either man before. ██████ mentioned that this incident was a misunderstanding between ██████ and ██████. However, on the night in question, ██████ was concerned enough to call the police after ██████ told him he had a gun and that he was going to kill ██████ when he came out of the bar. ██████ was also concerned enough to ask ██████ to not come outside, fearing that the incident would escalate. When asked, ██████ told officers that ██████ was in the back and pointed at the bar, noting that he did not want ██████ running up to the window of the bar and shooting ██████. A reasonable officer in Officer Tupayachi and McClean-Hall's position would have put more weight on ██████ statements to officers. Notably, ██████ mentioned that the people outside were trying to get ██████ to go home for half an hour. Even after the officers arrived at the scene, ██████ refused to leave the scene until ██████ came outside and apologized to him. The officers disregarded the fair possibility that ██████ may carry out his threat to ██████ or that the situation may escalate.

Third, officers did not take police action after observing ██████ and ██████ threaten each other and engage in an altercation outside the bar. Officers Tupayachi and McLean-Hall stated that they did not have any reasonable articulable suspicion to detain ██████ and ██████ despite confirming the threats of violence. When asked if he asked and/or searched ██████ for weapons before he left the scene, Officer Tupayachi said no, because the two men only threatened each other and there was no indication that they were going to carry out the threat. Officer McLean-Hall stated in his statement that both men were mutual combatants, which, even if true, warranted further investigation. Officer McLean-Hall indicated his goal was to deescalate the situation and

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<sup>142</sup> Atts. #51-52, Pg. 20, Ln 6.

get [REDACTED] and [REDACTED] to leave. Rather than taking the threats seriously or searching either party for a weapon, the officers merely separated the parties and permitted the parties to leave the bar at approximately the same time despite evidence of a crime. The officers also had evidence the parties were not likely to deescalate given their willingness to scuffle with each other in police presence.

The Officers never conducted a pat-down search for weapons on [REDACTED] or [REDACTED]. The never asked [REDACTED] if he had a weapon on his person. They allowed [REDACTED] and [REDACTED] to encounter each other in close proximity, knowing that one or both of them made threats to kill the other. Moreover, Officer McLean-Hall can be heard telling [REDACTED] after the scuffle, “He comes here regularly. He knows your friend. You know how to get back at him through your friend. You know his name.”<sup>143</sup> [REDACTED] responds that he’s not even trying to get back at him. For these reasons, COPA concludes that allegation #2 against Officer Tupayachi and allegation #1 against Officer McLean-Hall are **Sustained**.

#### **D. Officer Tupayachi’s firearm was not fully loaded.**

It is alleged that Officer Tupayachi failed to have his firearm fully loaded in violation of U04-02. The crime scene processing report and inventory sheets indicate that Officer fired his weapon two times. Officer Tupayachi’s firearm holds a fifteen-round capacity in the magazine and one round in the chamber (15 +1). Following the shooting, Officer Tupayachi’s firearm had twelve rounds in the magazine and one in the chamber.

Therefore, his firearm had one less round in the magazine. According to Officer Tupayachi, the last time he inspected his firearm was on January 16, 2020, and he thought his firearm was fully loaded at the time of the incident. None the less, the evidence is undisputed that Officer Tupayachi’s firearm was not fully loaded, therefore allegation #3 is **Sustained**.

### **B. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

#### **a. Officer Elliot Tupayachi, #18875**

**i. Complimentary and Disciplinary History:** Officer Tupayachi has received 39 awards and recognitions and has no recent disciplinary history.

#### **ii. Recommended Penalty**

Officer Tupayachi violated Department policy when he failed to activate his BWC in a timely manner, failed to fully load his firearm, and failed to conduct a thorough and accurate preliminary investigation. COPA has considered his complimentary history and lack of disciplinary history. COPA has also considered his lack of accountability for failing to conduct a thorough and accurate preliminary investigation and notes that in his statement he admitted he would not do anything differently now. His failure to conduct a thorough and accurate preliminary investigation contributed to the shooting of [REDACTED] by [REDACTED] resulting in [REDACTED] sustaining

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<sup>143</sup>Att. #13, 11:32:40.

multiple gunshot wounds and the officer involved shooting that subsequently transpired. The failure to take basic steps including inquiring about the existence of a firearm, conducting a protective pat-down, asking [REDACTED] to show his hands, ensuring the safety of everyone involved, and preventing further confrontation between [REDACTED] and [REDACTED] was a failure to operate with the Department’s core mission and principals in mind. He showed no concern for public safety and no willingness to uphold his duty to protect and serve the people of Chicago. This conduct severely undermines trust in the Department and demonstrates a lack of care, professionalism, and dedication. Thus, COPA recommends a suspension of 180 days up to separation from the Department.

**b. Officer Ashton McLean-Hall, #7370**

**i. Complimentary and Disciplinary History:** Officer McLean-Hall has received 14 awards and recognitions and has 1 SPAR from 2022 (Absence without permission).

**ii. Recommended Penalty**

Officer McLean-Hall violated Department policy when he failed to conduct a thorough and accurate preliminary investigation. COPA has considered his complimentary history and lack of disciplinary history. COPA has also considered his lack of accountability and denial that he could have done anything differently. His failure to conduct a thorough and accurate preliminary investigation contributed to the shooting of [REDACTED] by [REDACTED] resulting in [REDACTED] sustaining multiple gunshot wounds and the officer involved shooting that subsequently transpired. The failure to take basic steps including inquiring about the existence of a firearm, conducting a protective pat-down, ensuring the safety of everyone involved, and preventing further confrontation between [REDACTED] and [REDACTED] was a failure to operate with the Department’s core mission and principals in mind. He showed no concern for public safety and no willingness to uphold his duty to protect and serve the people of Chicago. This conduct severely undermines trust in the Department and demonstrates a lack of care, professionalism, and dedication. Thus, COPA recommends a suspension of 180 days up to separation from the Department.

**Approved:**

[REDACTED]

Sharday Jackson  
*Deputy Chief of Investigations*

February 28, 2023

Date

[REDACTED]

Andrea Kersten  
*Chief Administrator*

February 28, 2023

Date