

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	March 8, 2020
Time of Incident:	8:30 a.m.
Location of Incident:	5251 N. Lawler Ave.
Date of COPA Notification:	March 8, 2020
Time of COPA Notification:	9:20 a.m.

Officer Carlos Castillo was driving through his neighborhood on his way to work when he noticed a black Audi double-parked next to a white Mitsubishi. The Audi was blocking the street and had both front doors open. One individual, now identified as ██████ stood near the passenger side door of the Audi. An unidentified individual was underneath the Mitsubishi, purportedly trying to steal the catalytic converter. Officer Castillo exited his vehicle and identified himself as a police officer. ██████ fired one gunshot at Officer Castillo. Officer Castillo retreated to take cover and then discharged his weapon once, striking ██████ and the unidentified individual fled the scene in the Audi. ██████ later arrived at St. Bernard hospital with a gunshot wound to his hip. Officer Castillo positively identified ██████ as the person who fired a handgun at him. ██████ was subsequently arrested. The Civilian Office of Police Accountability’s (COPA) investigation finds that the use of deadly force by Officer Castillo was within Chicago Police Department (CPD) Policy.

II. INVOLVED PARTIES

Involved Officer #1:	Officer Carlos Castillo / Star# 11674 / Employee ID# ██████ / DOA: June 3, 2013 / Unit: 019 / Male / Hispanic
Involved Individual #1:	██████████ / Male / Black

III. ALLEGATIONS

COPA is notified whenever a CPD member discharges his or her firearm in a manner that could potentially strike another individual.¹ Pursuant to section 2-78-120 of the Municipal Code of Chicago, COPA has a duty to investigate all incidents in which a CPD member discharges their firearm. During its investigation of this incident, COPA did not find evidence to support allegations of excessive force related to Officer Castillo’s firearm discharge.

¹ See MUNICIPAL CODE OF CHICAGO § 2-78-120(c) (2016).

IV. APPLICABLE RULES AND LAWS

General Orders²

1. G03-02: Use of Force (effective February 29, 2020 to April 14, 2021)
2. G03-02-03: Firearm Discharge Incidents – Authorized Use and Post-Discharge Administrative Procedures (effective February 29, 2020 to April 14, 2021)

V. INVESTIGATION³

a. Interviews

In an interview with COPA on March 17, 2020,⁴ **Officer Carlos Castillo** stated at the time of the incident, he was driving to work in his personal vehicle, a blue Jeep Liberty.⁵ As Officer Castillo drove south on Lawler Avenue, he observed a black four-door Audi ahead, also facing south, double-parked alongside a white Mitsubishi that was parked on the east side of the street. The Audi's front doors were open. There was an individual underneath the Mitsubishi with his legs facing west onto the street. A second subject, now identified as ██████████⁶ stood on the passenger side of the Audi with his back toward the open door—facing Officer Castillo as he drove up the street—and his hand inside his jacket.⁷ Officer Castillo believed ██████████ and his acquaintance were ripping out the Mitsubishi's catalytic converter, as Officer Castillo knew from living in the neighborhood, there had been numerous catalytic converter thefts in the area.⁸ The street is a one-way going south and there was no room for Officer Castillo to go around the Audi.

Officer Castillo stopped roughly one car-length behind the Audi. He exited his vehicle, stood at his open driver side door, and announced, "Chicago Police." Before Officer Castillo could utter, "Officer," ██████████ removed his right arm from his jacket and fired one gun shot at Officer Castillo.⁹ Officer Castillo took cover behind his Jeep, drew his weapon, a Glock Model 26,¹⁰ and positioned himself at the rear passenger side of the Jeep. ██████████ acquaintance came from underneath the Mitsubishi carrying a Sawzall reciprocating saw and entered the driver seat of the Audi. ██████████ remained at the passenger side of the Audi, still pointing his gun in Officer Castillo's direction. Believing ██████████ would shoot at him again, Officer Castillo discharged his

² CPD general and special orders, also known as directives, "are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police." Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, *available at* <http://directives.chicagopolice.org/#directive> (last accessed Sept. 28, 2023).

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 Attachments 16-17.

⁵ Officer Castillo was wearing dark blue work pants, a sweatshirt, gray vest, and a Chicago Police Soccer hat.

⁶ Officer Castillo described ██████████ as a Black male, approximately six feet tall, wearing a gray, three-quarter length jacket with his hood up.

⁷ ██████████ stance led Officer Castillo to believe he was armed.

⁸ Officer Castillo is part of a group of officers residing in the 16th District who receive emails regarding thefts, burglaries, etc. that occur in the 16th District.

⁹ ██████████ was armed with a chrome, semi-automatic handgun.

¹⁰ The weapon used in the shooting is Officer Castillo's auxiliary weapon. His duty weapon was stored in his work locker.

weapon once at [REDACTED]¹¹ [REDACTED] flinched and leaped onto the hood of the Audi. Officer Castillo was unsure if he struck [REDACTED]

The Audi turned left and fled southeast onto Elston Avenue. Officer Castillo entered his vehicle, dialed 911 and reported the incident. Officer Castillo was nervous that [REDACTED] and his associate might return to confront him, so he turned left and drove southeast on Elston. Officer Castillo did not initially see the Audi when he drove onto Elston; however, he saw the handgun on the side of the road in the bike lane.¹² Officer Castillo then saw the involved Audi returning, driving northwest on Elston. Officer Castillo drove past [REDACTED] and his acquaintance. The Audi pulled alongside the gun and one of the occupants retrieved the gun.¹³

Officer Castillo provided the 911 dispatcher information regarding the gun on the road and the Audi's location. Officer Castillo drove to the next intersection and made a right onto Carmen Avenue to return to the vicinity of the scene. Officer Castillo observed a responding officer in a squad car on LaPorte Avenue, one block east of Lawler. Officer Castillo parked his vehicle on Laporte, approached the squad car and identified himself as the officer involved in the shooting. The responding officer drove Officer Castillo to the scene, where Officer Castillo provided a sergeant an account of the incident.¹⁴ Officer Castillo later positively identified [REDACTED] in a photo array.

[REDACTED] attorney refused to allow [REDACTED] to provide a statement to COPA.¹⁵

In an **Electronically Recorded Interview** on March 8, 2020,¹⁶ [REDACTED] told detectives she was driving north on Elston Avenue when she observed a car turn left onto Elston from Lawler Avenue. There was an African American male laying across the hood of the car, parallel to the windshield, holding a silver gun in his right hand. The male rolled off the car, dropping the handgun onto the street. The vehicle stopped and the male picked up the gun. He then entered the car, and the vehicle sped away. [REDACTED] dialed 911 and reported the incident.

[REDACTED] viewed a **Photo Array** with detectives,¹⁷ and she identified the photograph of [REDACTED] stating that he resembled the person she saw with the gun.¹⁸

COPA investigators conducted a **canvass** of the area near the shooting scene on March 16, 2020.¹⁹ [REDACTED] of [REDACTED] reported he heard two gunshots, a large caliber gun followed by a smaller caliber, but he did not see the incident. Investigators did not locate any additional witnesses to the incident.²⁰

¹¹ Officer Castillo was approximately three car-lengths from [REDACTED] when he discharged his weapon.

¹² Officer Castillo observed the gun approximately two to two-and-a-half blocks from Lawler.

¹³ Officer Castillo was unsure who picked up the gun.

¹⁴ Sgt. Philip Banaszkiwicz, #1695.

¹⁵ Attachments 44-45.

¹⁶ Attachment 13.

¹⁷ Attachment 14.

¹⁸ Attachment 61, page 21.

¹⁹ Attachment 35.

²⁰ A Detective's Supplementary Report documents that during a CPD canvass, multiple civilian witnesses reported hearing gunshots, but none of them observed the shooting. Attachment 52, pages 43-54.

b. Digital Evidence

COPA obtained and reviewed **third-party surveillance video**,²¹ and **Body Worn Camera** video from the responding officers.²² The following summary reflects the most material evidence to the investigation. Third-party surveillance video depicts the black Audi drive to the scene and double-park next to a white vehicle.²³ A male identified as ██████ exits the front passenger seat of the Audi; the driver also exits. Both individuals approach the white vehicle. Moments later a Jeep Liberty driven by Officer Castillo drives up behind the Audi. ██████ returns to the passenger side of the Audi and points his arm in Officer Castillo's direction.²⁴ ██████ and his acquaintance retreat to the Audi. The driver of the Audi drives away, and ██████ lays across the hood as the Audi flees the scene.²⁵

COPA obtained and reviewed **Office of Emergency Management and Communications (OEMC) Event Queries**,²⁶ **Radio Transmissions, and 911 calls**.²⁷ These materials document the following relevant and material communications. At 8:35 a.m. on the date of incident, Officer Castillo dialed 911 and reported that he was on his way to work when he observed two Black males in a black four-door Audi cutting out a catalytic converter at 5251 N. Lawler. Officer Castillo reported that he announced his office, and the passenger fired a gun at him. Officer Castillo returned fire but was not sure if he struck the subject. Officer Castillo related the subjects were headed eastbound on Elston, near Foster. The passenger dropped the gun and stopped to pick it up. Also, at 8:35 a.m., a citizen (██████) reported that a Black male with a gun in his hand was on the roof of a black car. As the car sped away, the subject fell off the car and entered the vehicle.

Evidence Technician (ET) Photographs depict the shooting scene, involved vehicles, and recovered evidence from various angles.²⁸

c. Physical Evidence

The **Bureau of Internal Affairs' Synoptic Report** documents that on March 8, 2020, at 12:45 p.m., Officer Castillo took a breathalyzer test and returned a breath alcohol concentration reading of .000.²⁹ On the same date, at 12:59 p.m., Officer Castillo submitted to a urine drug test which revealed negative results.

²¹ Attachments 15, 20, 22-26, 29-33, and 51.

²² Attachment 21. The Body Worn Camera footage depicts post-incident activity.

²³ Obtained from 5266 N. Elston. The relevant files are in the converted folder, labeled AMDV8M16-H5_ch2_main_20200308073156_20200308073215.mp4 through AMDV8M16-H5_ch2_main_20200308074743_20200308074858.mp4. Attachment 51.

²⁴ Due to the distance and graininess of the video, Officer Castillo is not entirely visible.

²⁵ Third-party video from 4958 W. Foster and 5066 N. Elston depicts the Audi leaving the scene. Attachments 26, 24.

²⁶ Attachments 7, 56.

²⁷ Attachment 27.

²⁸ Attachment 54.

²⁹ Attachment 10.

Medical records document that on March 8, 2020 at 9:00 a.m., ██████ presented to St. Bernard Hospital with a gunshot wound to his left lower abdominal area and left hip.³⁰ ██████ reported he was a passenger in a car when he heard a gunshot and felt pain in his left hip and back. ██████ was subsequently transported to Stroger Hospital at 9:44 a.m. by private ambulance.³¹

d. Documentary Evidence

The **Arrest Report** documents that ██████ arrived at St. Bernard Hospital with a gunshot wound to his left hip.³² Hospital surveillance video revealed that ██████ was dropped off and exited the passenger seat of a black Audi. ██████ was transported by a private ambulance to John Stroger Hospital and subsequently placed into custody. Officer Castillo positively identified ██████ through a photo lineup as the person who pointed and fired a handgun in his direction.³³

The **Tactical Response Report** documents that ██████ did not follow verbal direction, fled, posed an imminent threat of battery with a weapon, and used a semi-automatic pistol against Officer Castillo commensurate with force likely to cause death or great bodily harm. Officer Castillo discharged his firearm once, striking ██████³⁴

A **Detective's Supplementary Report** documents that Officer Castillo provided detectives with an account of the incident consistent with the statement he provided to COPA. Additionally, he reported that he observed the gun ██████ dropped on the ground at approximately Foster and Elston Avenues.³⁵

The report further notes that CPD members responded to a report of a gunshot victim at St. Bernard Hospital. Responding officers met with ██████ who stated that he was shot at approximately 64th and Sangamon. ██████ said he was meeting a girl at 64th and May, but she stood him up. ██████ then stated he was supposed to meet a man who was selling tires when he was shot while on the corner. An innocent man then drove ██████ to St. Bernard Hospital.

The Supplementary Report documents that the Audi involved in this incident was reported stolen under RD# JD176863. On March 8, 2020, at approximately 2:20 p.m., detectives learned that following the officer-involved shooting, the Audi was involved in a traffic crash at 1703 S. Halsted and subsequently abandoned. CPD Forensic Services photographed and recovered evidence from the vehicle, which was subsequently towed and impounded.

The **Inventory and Crime Scene Processing Reports** document the recovery of evidence following the shooting.³⁶ ETs recovered one (1) fired cartridge case stamped "Win 9mm Luger"

³⁰ Attachment 53. Also described in the records as one gunshot wound to ██████ left anterior lateral thigh and one to his posterior lateral left back. The Case Supplementary Report documents it as a through-and-through gunshot wound. Attachment 61, page 23.

³¹ Attempts to obtain ██████ medical records from Stroger Hospital were unsuccessful.

³² Attachment 3.

³³ As of December 15, 2021, the criminal case is still pending in court.

³⁴ Attachment 4.

³⁵ Attachment 61.

³⁶ Attachments 36-41.

from the street at 5249 N. Lawler; and one (1) fired cartridge case stamped “Win 9mm Luger +P” from the street at 5254 N. Lawler.

ET’s subsequently relocated to Auto Pound 4 located at 5555 W. Grand where they photographed and processed the Audi. During the execution of a search warrant, ETs recovered one (1) “Win 9mm Luger” cartridge from the passenger side rear floor of the Audi; one (1) saw blade from underneath the front passenger seat; two (2) saw blades from the rear passenger side floor; and other miscellaneous items. The Audi was fingerprinted and swabbed for DNA.

The reports also document the processing of Officer Castillo’s Glock Model 26 pistol and Glock magazine.³⁷ The weapon, which magazine’s capacity is ten (10) plus one (1) chambered round, was found to have ten (10) live rounds of ammunition in the magazine and one (1) live round in the chamber (all stamped “Win 9mm Luger +P”).³⁸

The **Illinois State Police (ISP) Laboratory Report—Firearms/ Toolmarks** documents the examination and testing of Officer Castillo’s weapon.³⁹ The pistol was operable as received and test fired using the magazine submitted with the weapon. A Forensic Scientist determined that the “Win 9mm Luger +P” fired cartridge case recovered from the scene was fired by Officer Castillo’s weapon. The “Win 9mm Luger” fired cartridge case recovered from the scene was eliminated as being fired by Officer Castillo’s weapon.

VI. ANALYSIS

a. Legal Standard

1. Standard of Proof

COPA applies a preponderance of the evidence standard to determine whether allegations of excessive force are warranted or well-founded.⁴⁰ A preponderance of evidence is evidence indicating that it is more likely than not that the alleged conduct occurred. For example, if the evidence COPA gathers in an investigation establishes that it is more likely than not that misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

2. Applicable Department Policies

i. Use of Force

³⁷ Generation 4, 9mm semi-automatic, Serial Number [REDACTED].

³⁸ In his interview, Officer Castillo described the weapon’s capacity as “ten plus one,” meaning it can hold ten rounds in the magazine and one in the chamber. Following the incident, Officer Castillo learned from an Evidence Technician and his Commander during the break down of his weapon that the magazine can hold eleven rounds and one in the chamber. Officer Castillo was not aware he had the extra round in his magazine. Attachment 57, pages 45-48. The Case Supplementary Report documents that the magazine can be loaded with one additional round. Attachment 52, page 79.

³⁹ Attachment 46.

⁴⁰ See MUNICIPAL CODE OF CHICAGO § 2-78-110.

The “Department’s highest priority is the sanctity of life.”⁴¹ Department members are expected to act with the utmost regard for preserving human life and must comply with Department use of force orders. Department policy provides that a Department member’s use of force must be evaluated based on the totality of the circumstances known by the member at the time of the incident, from the perspective of a reasonable department member in the same or similar circumstances, and without the benefit of 20/20 hindsight.⁴² Department policy recognizes that Department members must “make split-second decisions – in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation.”⁴³

Department policy provides that a member’s use of force must be “objectively reasonable, necessary, and proportional, explaining each as follows:”⁴⁴

1. *Objectively Reasonable*: In evaluating use of force, Department policy provides that the key issue is whether the Department member’s use of force was objectively reasonable under the totality of the circumstances at the time force is used. Factors that should be considered when determining reasonableness include but are not limited to:
 - a. whether the subject is posing an imminent threat;
 - b. the risk of harm, level of threat, or resistance presented by the subject; and
 - c. the subject’s proximity or access to weapons.
2. *Necessary*: Department members are limited to using only the amount of force required under the circumstances to serve a lawful purpose.
3. *Proportional*: A Department member’s use of force must be proportional to the threat, actions, and level of resistance offered by a subject.

Department members are only permitted to use deadly force as a “last resort” when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.⁴⁵ A threat is defined as “imminent” when it is objectively reasonable to believe that:

1. the subject’s actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken;
2. the subject has the means or instruments to cause death or great bodily harm; and
3. the subject has the opportunity and ability to cause death or great bodily harm.⁴⁶

⁴¹ General Order G03-02, effective February 29, 2020.

⁴² *Id.* at (II)(D).

⁴³ *Id.*

⁴⁴ *Id.* at (III)(B).

⁴⁵ General Order G03-02 (III)(C)(3), effective February 29, 2020.

⁴⁶ *Id.* at (III)(C)(2).

ii. Force Options

To reduce or avoid the need for the use of force, Department policy instructs members to use de-escalation techniques known as “Principles of Force Mitigation” when it is safe and feasible under the circumstances. These techniques include:

1. “Continual Communication,” which means 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;
2. “Tactical Positioning,” which involves use of positioning, distance, and cover to contain a subject and create a zone of safety for officers and the public; and
3. Using “Time as a Tactic” to, among other things, permit the de-escalation of a subject’s emotions and provide time for the subject to comply with police orders, provide time for continued communication, and allow for the arrival of additional members or special units and equipment.

Additionally, Department policy outlines the various force options available to Department members and the circumstances in which their use is authorized.⁴⁷ The force options authorized are categorized based on the amount of and type of resistance offered by an individual. The use of deadly force is only authorized when dealing with an assailant⁴⁸ whose actions constitute an imminent threat of death or great bodily harm to the department member or another person.

iii. Firearm Discharge and Officer-Involved Death Incident Response and Investigation

For every firearm discharge incident, the involved member is required to immediately notify the Office of Emergency Management and Communications (OEMC) to provide all relevant information and request additional resources.⁴⁹

b. Legal Analysis

1. There is no evidence Officer Castillo’s use of force was not authorized under Department policy.

As noted above, COPA has completed its investigation and determined that the available evidence did not support allegations of excessive force against Officer Castillo. In making the

⁴⁷ General Order G03-02-01.

⁴⁸ Pursuant to Department policy, an assailant is defined as 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 further subdivided 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. General Order G03-02-01(IV)(C).

⁴⁹ General Order G03-06 (V)(A), effective February 29, 2020.

determination, COPA weighed the credibility and reliability of all available statements and evidence discussed above.

2. Officer Castillo's use of deadly force was a last resort.

The incident occurred on a one-way street in which his path of travel was restricted. Officer Castillo would not have been able to drive away from Mr. [REDACTED]. Additionally, the force used was necessary to prevent great bodily harm to the officer as Mr. [REDACTED] presented Officer Castillo with an imminent threat to life. Though COPA was not able to receive a statement from Mr. [REDACTED] third-party surveillance footage supports Officer Castillo's account of the events. Moreover, prior to discharging his weapon, Officer Castillo retreated and took cover behind his vehicle door. Officer Castillo informed COPA that he discharged his weapon one time, believing that Mr. [REDACTED] would shoot at him again as Mr. [REDACTED] continued to point a firearm in his direction.

3. Officer Castillo was confronted with an assailant whose actions constituted an imminent threat of death or great bodily harm.

COPA finds that Mr. [REDACTED] was an assailant whose actions constituted an imminent threat. First, his action, firing at Officer Castillo, was immediately likely to cause death or great bodily harm unless Officer Castillo acted. Second, third-party surveillance video and Inventory and Crime Scene Processing Reports support the claim that Mr. [REDACTED] had a weapon and fired that weapon. Lastly, Mr. [REDACTED] had the opportunity and ability to cause death or great bodily harm by firing his weapon in the direction of Officer Castillo. Officer Castillo was authorized to use deadly force because he faced an imminent threat.

4. Officer Castillo's use of deadly force was objectively reasonable, necessary, and proportional.

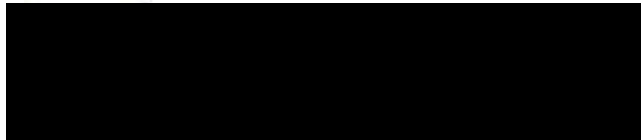
Officer Castillo did not discharge his weapon until after he was fired upon. After retreating and taking cover, Officer Castillo fired once in response to the shot fired in his direction and his belief that he would be fired upon again. Based on these facts, and the fact that he faced an imminent threat, COPA finds that Officer Castillo's firearm discharge was objectively reasonable, necessary, and proportional to the threat he faced.

5. Officer Castillo's notifications were proper.

Officer Castillo informed COPA that once the Audi fled, he dialed 911 to report the incident. The records obtained from the Office of Emergency Management and Communications support this, detailing that at 8:35a.m, both Officer Castillo and a citizen reported the incident. Officer Castillo informed OEMC of the offense observed, the location of the incident, that he was fired upon, and that he returned fire, unaware if he struck the individual. The citizen reported seeing a Black male with a gun in his hand on the roof of a car, who falls off and enters the vehicle, further corroborating Officer Castillo's account. Lastly, Officer Castillo approached

responding officers, identified himself as being involved, and provided his account of the event. COPA finds Officer Castillo's notifications in this instance reasonable and adequate under the circumstances.

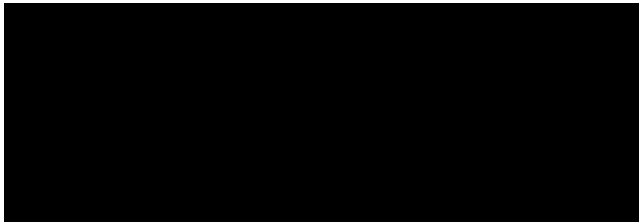
Approved:



9-28-2023

Angela Hearts-Glass
Deputy Chief Investigator

Date



9-28-2023

Andrea Kersten
Chief Administrator

Date