

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	June 16, 2013
Time of Incident:	2:33 a.m.
Location of Incident:	1658 South Springfield Avenue, Chicago, Illinois 60623
Date of IPRA Notification:	June 16, 2013
Time of IPRA Notification:	3:34 a.m.

On June 16, 2013, Officers [REDACTED] (“PO [REDACTED]” and [REDACTED] (“PO [REDACTED]” were on patrol and heard an unidentified subject yell, “lock it up,” in the direction of a silver or tan minivan. The phrase “lock it up” is street terminology for the police are coming. The minivan then sped off westbound on 16th Street. The officers followed. The officers ran the license plate of the minivan and discovered that the color of the mini-van associated with the plate was reported as black. The minivan turned southbound onto Springfield Avenue. The officers observed at least five occupants in the minivan. The minivan then weaved several times between the curb and the street. The officers then saw the rear passenger door open and [REDACTED] flee from the minivan. The officers observed a gun in [REDACTED] rear waistband. [REDACTED] fell as he ran. When [REDACTED] came to his feet, it was reported that he reached for the gun with his right hand. At that time, PO [REDACTED] fired two shots, one of which fatally struck [REDACTED] in the mid-back.

This case was previously investigated by IPRA. A summary report, completed on April 4, 2014, concluded the conduct of PO [REDACTED] was within the policies of the Chicago Police Department and the laws of the State of Illinois. That report and its contents are incorporated by reference herein.

Pursuant to COPA’s authority under §2-78-120(x) of the Municipal Code of Chicago, the investigation into the circumstances surrounding [REDACTED] death was reopened for further investigation, including interviewing multiple civilians not available during the IPRA investigation as well as the re-interview of several officers. COPA’s investigation, also included serving an allegation that PO [REDACTED] violated CPD’s deadly force policy. Due to insufficient evidence to prove or disprove PO [REDACTED] assertion that [REDACTED] turned and pointed a firearm at him, the allegation served is Not Sustained.

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

II. INVOLVED PARTIES

Accused Officer #1:	[REDACTED] Star# [REDACTED] Employee# [REDACTED] DOA: [REDACTED] 2006, Police Officer, DOB: [REDACTED] 1966, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1989, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
PO [REDACTED]	1. It is alleged that on or about June 16, 2013, at approximately 2:33 am, in the vicinity of 1658 S. Springfield, in Chicago, Illinois, PO [REDACTED] discharged his firearm at [REDACTED] in violation of General Order 03-02-03.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 6: Disobedience of an order or directive, whether written or oral.
General Orders
1. General Order G03-02-03, § IIA, Deadly Force (effective October 1, 2002 – February 10, 2015)
State Laws
1. 720 ILCS 5/7-5 (1986)
Federal Laws
1. The Fourth Amendment to the United States Constitution

V. INVESTIGATION²

a. Interviews

² COPA conducted a thorough and complete investigation. The following is a summary of material evidence gathered and relied upon in our analysis.

Civilian Witness Interviews³

On January 8, 2018, an **in-person interview was conducted with witness** [REDACTED]⁴ at [REDACTED] Street in Chicago. Mr. [REDACTED] reported on June 16, 2013, he, [REDACTED] and several other people celebrated [REDACTED] birthday party at [REDACTED] Street. Mr. [REDACTED]⁵ [REDACTED] Mr. [REDACTED] nieces [REDACTED] and [REDACTED] (last names unknown), and [REDACTED] left the birthday party in a Venture van to go to another party at Homan and Maypole. Mr. [REDACTED] drove the car. [REDACTED] was the passenger. [REDACTED] and Mr. [REDACTED] were in the row behind the driver (left to right), and [REDACTED] and Mr. [REDACTED] were in the very back row. Mr. [REDACTED] pulled over to pick up [REDACTED] at 16th and Central Park, but Mr. [REDACTED] did not get in the van. After they pulled away from Mr. [REDACTED] the police pursued the van from the rear. The police followed them to 16th Street and Springfield Avenue and then activated the emergency lights. Mr. [REDACTED] pulled over, and [REDACTED] said he had a warrant and did not want to go to jail. [REDACTED] “hopped out” of the van and ran. Mr. [REDACTED] did not hear the police say anything to [REDACTED] when he got out of the vehicle.⁶ The police pursued [REDACTED] Approximately one to two minutes after [REDACTED] ran from the van, Mr. [REDACTED] heard two to three gunshots in quick succession. Mr. [REDACTED] parked the van, and they all exited and ran to the scene. Mr. [REDACTED] saw [REDACTED] face down in the alley. [REDACTED] leg moved for about 10 seconds. Mr. [REDACTED] did not see anything on the ground at the scene. As soon as Mr. [REDACTED] and the others from the minivan arrived, the officer yelled at them to get back. Both officers had their guns out. Mr. [REDACTED] said one officer stood by [REDACTED] body and one by [REDACTED] head.

Mr. [REDACTED] did not see [REDACTED] with a gun and did not know [REDACTED] to have a gun. Mr. [REDACTED] stated no one in the vehicle had a gun. Mr. [REDACTED] did not see a magazine in the grass where [REDACTED] ran. Mr. [REDACTED] said more police officers arrived, and it was hectic. Mr. [REDACTED] spoke with a witness named [REDACTED] at the scene. Mr. [REDACTED] also stated there is a security camera in the alley attached to the large apartment building at the scene.

On January 8, 2018, an **in-person interview was conducted with witness** [REDACTED]⁸ [REDACTED] stated that on June 16, 2013, he went to [REDACTED] house at [REDACTED] Street for approximately thirty minutes before leaving the house in the van.

³ [REDACTED] mother, [REDACTED] identified [REDACTED] and [REDACTED] as being in the van with [REDACTED]. The occupants of the van were initially unwilling to cooperate with IPRA without the presence of Ms. [REDACTED]. With her assistance, COPA was able to interview several of them. In his interview with COPA, [REDACTED] identified his nieces [REDACTED] and [REDACTED] as also being present. Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] nieces have reportedly left Chicago since the time of this incident. The phone numbers [REDACTED] provided for Mr. [REDACTED] and Mr. [REDACTED] were disconnected.

⁴ Att. 81, 125.

⁵ [REDACTED] did not provide last names of most witnesses he mentioned during his statement. However, through additional investigation, COPA determined the last names of several and included them in this report.

⁶ Att. 81 audio at 19:45.

⁷ COPA was unable to contact [REDACTED] or confirm his last name. Att. 81 audio at 13:31.

⁸ Att. 83, 124.

drove the van, and was in the front passenger seat; three women⁹ and were sitting in the row of seats behind the driver; and and were in the furthest row of seats to the rear. They drove to 16th Street to pick up Mr. initially did not want to get in the car, and talked to him about it.

During the interaction with Mr. noticed a police car nearby. questioned Mr. about his driver's license status, and Mr. mentioned he missed a court date. told Mr. to drive away, which he did. The police car followed them. told Mr. not to go through any yellow lights or run into anything.¹⁰ They were headed to Mr. house near 16th Street and Springfield Avenue. Mr. turned left onto Springfield Avenue. The officers in the car behind them activated their police lights. Mr. pulled over in front of Mr. house, but then pulled off again. does not know why Mr. kept stopping and going. told the group he had a warrant. Once they approached the stop sign at the opposite end of the block, unlocked the door, opened it, and ran. The officers pursued heard two gunshots less than a minute after ran. Mr. parked the van at a fire hydrant and the occupants exited and ran to who was lying face-down on his stomach. When approached the officers, he saw one officer put handcuffs on The other officer stood near head. yelled out to by name and saw feet moved initially, but later stopped suddenly.¹¹ was sure did not have a gun. stated no one in the van had a weapon. did not see anything on the ground near Police secured the scene and moved and the other van occupants away. saw the police vehicle was parked at the mouth of the alley.

On January 8, 2018, an **in-person interview was conducted with witness**¹² inside a parked COPA fleet vehicle. Mr. stated, on June 16, 2013, at approximately 2:30 a.m., he,¹³ and two other females were at house at Street. They all entered the van to pick up After picking up Mr. was going to his girlfriend's house. The van was at approximately Springfield Avenue and 16th Street when the police began following them and activated their emergency lights. The driver, Mr. was nervous about his license not being valid. After he initially curbed the van, he pulled off again. Mr. was sitting in the passenger seat and, in the row directly behind him, were the three females and While they were at a stop sign, jumped out of the van because he had an active warrant and feared the police. turned right and ran to the alley.¹⁵ Mr. also hopped out of the van because he was scared. He went in the

⁹ did not provide the women's names but said two were nieces.

¹⁰ Att. 84 audio at 6:40.

¹² Att. 85, 126.

¹² Att. 85, 126.

¹³ did not provide last names of most witnesses he mentioned during his statement. Through additional investigation, COPA determined the last names of several and included them here.

¹⁴ Att. 85 audio at 1:40.

¹⁵ Att. 85 audio 7:00.

opposite direction of [REDACTED] to leave the scene. The police followed [REDACTED] in their squad car. Mr. [REDACTED] heard two to three gunshots fired back to back approximately eight to fifteen seconds after [REDACTED] ran.

Mr. [REDACTED] spent approximately three minutes walking the circumference of the block and ended up back at the scene of the incident where he observed [REDACTED] laying face-down on the ground in the alley. The other occupants of the van were on scene when he arrived. Mr. [REDACTED] did not see a gun. When asked if [REDACTED] had a gun, Mr. [REDACTED] said, “no, not that I know of.”¹⁶ When asked if he knew [REDACTED] to ever have a gun, Mr. [REDACTED] stated “I mean, all us do.” Mr. [REDACTED] added that “he would’a [sic] said it,”¹⁷ meaning that [REDACTED] would have said he had a gun as he exited the van. Police arrived and secured the scene. Mr. [REDACTED] and the occupants of the van went to a nearby family member’s house until [REDACTED] mother, arrived.

On July 18, 2018, a telephone interview was conducted with [REDACTED] M.D.,¹⁸ Chief Medical Examiner for the Cook County Medical Examiner’s Office. Dr. [REDACTED] spoke in lieu of [REDACTED] M.D., who conducted the Post Mortem Examination of [REDACTED] on June 16, 2013,¹⁹ as Dr. [REDACTED] was no longer with the Cook County Medical Examiner’s Office. Dr. [REDACTED] had an opportunity to review Dr. [REDACTED] report prior to speaking to COPA.

Dr. [REDACTED] reported the distant-range gunshot wound to the right mid-back which had a trajectory of traveling upward, forward, and leftward is consistent with the officers’ description of [REDACTED] position when he was shot, which was that [REDACTED] was hunched over bent at the waist and had come to his feet or was attempting to come to his feet with the shooting officer standing behind [REDACTED]²⁰ This bullet came to rest in [REDACTED] left medial anterior neck. Dr. [REDACTED] reported there is nothing in the medical report that would indicate otherwise.

Dr. [REDACTED] explained the bullet trajectory in the body is found by observing the hemorrhage or bleeding associated with the bullet going through tissue, which documents the path of the bullet. The trajectory or track in the body will not change and is an accurate way to determine trajectory.²¹

CPD Interviews

On June 16, 2013, Officer [REDACTED] Star # [REDACTED] provided a statement to IPRA. PO [REDACTED] stated that on June 16, 2013, he and his partner PO [REDACTED] were on patrol, with PO

¹⁶ Att. 85, at 9:23.

¹⁷ Att. 85, at 9:29.

¹⁸ Att. 102, 120.

¹⁹ Att. 61.

²⁰ Att. 102 audio at 3:50.

²¹ Att. 102 audio at 4:43.

²² Att. 25, 42.

■■■■ driving their ■■■■ SUV. He observed a tan or silver Chevrolet minivan parked in front of a convenience store near 16th and Millard Avenue, with several pedestrians around it. When the pedestrians saw the police, one yelled “lock it, lock it,” which is street terminology for the police are coming.²³ The van then pulled from a parked position into traffic without signaling and at a high rate of speed. POs ■■■■ and ■■■■ followed the van as it turned southbound from 16th Street onto Springfield Avenue, and ran the plate on the PDT.²⁴ The vehicle pulled over slightly, as if it was going to stop, then it kept going. PO ■■■■ activated his emergency equipment as the van continued to pull over as if it was going to stop a couple times. PO ■■■■ told PO ■■■■ that the back-passenger door was opened, and he thought someone was going to run. PO ■■■■ called out the officers’ position over the radio. PO ■■■■ observed the door open and several people in the vehicle. As they neared 18th Street at the end of the block,²⁵ a man, now known as ■■■■ exited the van and began to run. PO ■■■■ immediately observed a black handgun sticking out the rear right waistband of ■■■■. PO ■■■■ called over the radio that the running man had a gun. ■■■■ initially ran south on Springfield Avenue towards 18th Street and then turned westbound on 18th Street. The officers pursued him in their vehicle, with PO ■■■■ ordering ■■■■ to stop. ■■■■ turned into the alley west of Springfield Avenue and fell flat to the ground as the officers pulled into the alley.

■■■■ was in prone position.²⁶ PO ■■■■ gave verbal commands for ■■■■ to stop. ■■■■ put his left hand on the ground, turned and looked at the squad car, moved his right hand, and grabbed the pistol grip²⁷ that was sticking out of his waistband, at which time PO ■■■■ heard PO ■■■■ fire his weapon twice. PO ■■■■ estimated they were fifteen to twenty feet away from ■■■■ when PO ■■■■ fired.

PO ■■■■ then drew his weapon and approached ■■■■. PO ■■■■ pulled the gun out of ■■■■ waistband and moved it away from ■■■■. ■■■■ was still moving. PO ■■■■ then began cuffing ■■■■ and kicked the gun toward the building. ■■■■ hands were covered in blood which PO ■■■■ touched, so he stepped away while PO ■■■■ finished the cuffing. PO ■■■■ then called for EMS. After more units arrived on scene, PO ■■■■ went to inspect the weapon and noticed the magazine was missing. He then backtracked to the area where ■■■■ exited the van (approximately 1656 or 1658 S. Springfield Avenue) and observed a loaded magazine in the grass.

On July 2, 2013, **Officer ■■■■ Star # ■■■■**²⁸ provided an additional statement to IPRA, in which he briefly added to his original statement. PO ■■■■ stated that he and PO ■■■■ gave ■■■■ multiple opportunities to surrender. ■■■■ disregarded verbal commands to surrender, fell while running from the police, chose to get up, look back at the squad

²³ Att. 25 audio at 7:00.

²⁴ Portable Data Terminal.

²⁵ 17th Street does not intersect Springfield Avenue, so the south end of the 1600 block is 18th Street.

²⁶ Att. 42, pg. 9, line 32.

²⁷ Att. 42, pg. 10, line 10.

²⁸ Att. 44, 46. Due to an error with PO ■■■■ statement on 6/13/13, the end of that statement was not recorded.

car, and grabbed his weapon which placed officers in fear of their lives.²⁹ PO [REDACTED] believed PO [REDACTED] used the force necessary to eliminate the threat because he had no other option.³⁰

On May 10, 2018, **Officer [REDACTED] Star # [REDACTED]** provided a statement to COPA in which he reiterated essentially the same account of the incident as he did in his previous statements to IPRA. PO [REDACTED] added that when the officers ran the license plate, they found it was associated with a van of a different color. The van they were pursuing was light colored, and the plate was associated with a black van. PO [REDACTED] described [REDACTED] exiting the van about two houses north of 18th Street and that he never lost sight of [REDACTED] as he was running. PO [REDACTED] recalled that [REDACTED] fell into the prone position, proceeded to get up to his feet, crouched forward, turned right toward the squad car, reached back with his right hand, and grabbed the weapon. PO [REDACTED] then heard Officer [REDACTED] fire two shots. PO [REDACTED] did not know which officer originally found the magazine. When asked if he or his partner planted a gun on [REDACTED] PO [REDACTED] stated, "No."³² PO [REDACTED] added if he were in the same position as PO [REDACTED] he would have done the exact same thing.

On June 17, 2013, **Officer [REDACTED] Star # [REDACTED]** provided a statement to IPRA. PO [REDACTED] stated that he and his partner were on patrol and observed a subject shouting "lock it up."³⁴ PO [REDACTED] observed a silver Chevrolet van near that subject and then observed the van speed off, while failing to signal. The van turned left, heading southbound on Springfield Avenue from 16th Street. PO [REDACTED] observed at least five occupants in the van. The van repeatedly pulled toward the curb as if it were pulling over and then immediately came back into traffic. He observed the passenger side³⁵ sliding door of the van was open. The officers had already activated their emergency lights and sirens by that point. The van continued to travel southbound on Springfield Avenue approaching 18th Street when [REDACTED] jumped from the vehicle. PO [REDACTED] heard PO [REDACTED] say "he's got a gun."³⁶ PO [REDACTED] then observed a black semi-automatic handgun³⁷ in [REDACTED] rear waistband. The officers pursued [REDACTED] in their vehicle as he ran into the mouth of the west alley on Springfield Avenue heading northbound. At that time, [REDACTED] fell face-down. PO [REDACTED] immediately exited the vehicle, announced his office and shouted "stop, show us your hands."³⁸ [REDACTED] then got to his feet³⁹ and, as he was pushing himself off the ground with his left hand,⁴⁰ he turned his head right and looked in the direction of the officers, and with his right hand he reached for the handgun in his waistband. PO [REDACTED] feared for his life and fired two rounds. Officers [REDACTED] and [REDACTED] then approached [REDACTED] PO [REDACTED] removed the gun from the waistband and began cuffing [REDACTED] because [REDACTED] was still moving. PO [REDACTED]

²⁹ Att. 46, pg. 5-6, line 22-24 and 1-4.

³⁰ Att. 46, pg. 6, line 15-16.

³¹ Att. 97, 122.

³² Att. 97 audio at 13:30.

³³ Atts. 27, 43.

³⁴ Att. 43, pg. 7, line 16.

³⁵ Att. 43, pg. 13, line 12.

³⁶ Att. 43, pg. 9, line 6.

³⁷ Att. 43, pg. 15, lines 27-28

³⁸ Att. 43, pg. 9, line 29.

³⁹ Att. 43, pg. 21, lines 3-4

⁴⁰ Att. 43, pg. 20, line 29-30.

finished the handcuffing. PO [REDACTED] kicked the weapon away from [REDACTED] body. PO [REDACTED] then called for EMS. While observing the scene, he noticed the magazine was missing from the gun. Once assisting units arrived, PO [REDACTED] and assisting units canvased the area and discovered the magazine in the approximate area where [REDACTED] ran from the van.

PO [REDACTED] stated that [REDACTED] had opportunities to comply with the verbal direction and police presence, to stay on the ground for his own safety and the safety of the officers, and to discard the weapon. PO [REDACTED] felt that his only option was to fire at [REDACTED] to prevent him from retrieving his weapon.

On May 9, 2018, and November 12, 2019, **Officer [REDACTED] Star # [REDACTED]** provided statements to COPA in which he reiterated essentially the same account of the incident as he did in his previous statement to IPRA. PO [REDACTED] added that the officers ran the license plate of the van and found the plate to be associated with a van of a different color. PO [REDACTED] never lost sight of [REDACTED] from the time [REDACTED] fled approximately one hundred and fifty feet from the van to the mouth of the alley. When PO [REDACTED] fired two shots at [REDACTED] he was directly to the right of the passenger seat, facing the alley, with the passenger door open. PO [REDACTED] related that the door of the squad car is not bullet proof and would not have protected him from gunshots by [REDACTED] Officer [REDACTED] fired in the opening between the passenger side door and the car. When asked if PO [REDACTED] planted the gun on [REDACTED] PO [REDACTED] stated, "never at any time."⁴²

On July 18, 2018, **Sgt. [REDACTED] Star # [REDACTED]**⁴³ reported to COPA for an in-person statement. Sgt. [REDACTED] was one of the Evidence Technicians (ET) dispatched to collect evidence on June 16, 2013, at the [REDACTED] crime scene. Sgt. [REDACTED] did not recall what time he arrived at the crime scene but recalled he was not a first-responder to the scene. By the time he arrived, the scene was already taped off and most of the evidence was already discovered. Sgt. [REDACTED] did not know who found the magazine in the grass.

On July 18, 2018, **Sergeant [REDACTED] Star # [REDACTED]**⁴⁴ reported to COPA for an in-person statement. Sgt. [REDACTED] related he was assigned as an ET on June 16, 2013 and assigned to the [REDACTED] crime scene. Sgt. [REDACTED] did not recall exact specifics of his involvement in this incident but would typically meet with the assigned detective when he arrived on-scene as an ET. In this case, Detective [REDACTED] was the assigned detective and directed ETs as to what needed to be photographed and processed. Sgt. [REDACTED] did not know who found the magazine in the grass at the crime scene. The standard protocol for finding a magazine is no one would touch the magazine until the ETs arrive and photograph it. Sgt. [REDACTED] related that the ETs do not note who found the evidence, but rather who collected it, which begins the chain of custody. It is then transported by the ETs.

⁴¹ Att. 99, 116, 121.

⁴² Att. 43. Audio at 32:28.

⁴³ Att. 104, 123. Sgt. [REDACTED] was assigned as an Evidence Technician at the time of this incident and was later promoted to a Sergeant.

⁴⁴ Att. 106, 118. Sgt. [REDACTED] was assigned as an Evidence Technician at the time of this incident and was later promoted to a Sergeant.

On August 3, 2018, Sergeant ██████████ Star # ██████████⁴⁵ reported to COPA for an in-person statement. Sgt. ██████████ related he recalls the ██████████ crime scene, but his memory is “very vague.”⁴⁶ Sgt. ██████████ recalls a squad car parked at the mouth of the alley when he arrived on scene and a “bunch”⁴⁷ of officers. Sgt. ██████████ recalled recovering firearm evidence and the body in front of the squad car. Sgt. ██████████ remembers hearing there was a van ██████████ fled from and the magazine was in the grass or sidewalk on the path ██████████ fled, but Sgt. ██████████ does not remember who found the magazine. As he reviewed his detective’s supplemental report, Sgt. ██████████ related ETs ██████████ and ██████████ were on-scene and collected the evidence.

b. Digital Evidence

Office of Emergency Management and Communications (OEMC) captured the police radio traffic of this incident. The OEMC Transmissions⁴⁸ captured PO ██████████ announcing, “He’s got a gun; he’s got a gun.”⁴⁹ The next transmission is PO ██████████ announcing, “shots fired by police, don’t touch it.”⁵⁰

Crime scene photographs⁵¹ show the crime scene, including the pistol, the magazine, and ██████████ body position, as well as clothing color and position. ██████████ is lying face-down with his pants sagging below his waist and his underwear showing. His shirt appears blueish-gray and his pants are white. ██████████ is handcuffed behind his back. There is blood in his center upper back below his neck.

c. Physical Evidence

COPA requested Illinois State Police Forensic Sciences to compare DNA on recovered swabs, from the handgrip, trigger, and slide⁵² of the recovered Ruger P95 9MM⁵³ to ██████████ ██████████ blood card.⁵⁴ The results found a DNA mixture from at least three people which is not suitable for comparison.⁵⁵

The CPD Forensic Services Division⁵⁶ Records (Crime Scene Processing Report, Video of the Scene and Evidence Technician Photographic Records) were obtained and incorporated into this investigation. Photographs taken on 16 June 2013, by Officers ██████████ # ██████████ and ██████████ # ██████████ depict photographs of the scene and photographs of the involved officers and their

⁴⁵ Att. 108, 127. Sgt. ██████████ was assigned as a Detective at the time of this incident and was later promoted to a Sergeant.

⁴⁶ Att. 108 audio at 3:27.

⁴⁷ Defined as “More than just a few.” Att. 108, approximately 3:32-3:46.

⁴⁸ Att. 52.

⁴⁹ Att. 52, at 0:08.

⁵⁰ Att. 52, at 0:28.

⁵¹ Att. 31.

⁵² Att. 12. CPD Inventory # ██████████

⁵³ Att. 12. CPD Inventory # ██████████

⁵⁴ Att. 12. CPD Inventory # ██████████

⁵⁵ Att. 91.

⁵⁶ Att. 10-12, 31, 36-41.

respective weapons and ammunition. There are multiple photographs of Mr. [REDACTED] who is depicted lying on his stomach and handcuffed behind his back. What appears to be a gunshot wound is visible on his upper back, between his shoulders. There is a significant amount of blood in the area of the injury. Mr. [REDACTED] is also depicted lying on his back. Blood is visible on the right side of his face and on his t-shirt and chest. There is also a large injury, which appears to be a graze wound, on his right hand. There are several photographs of a black gun located several feet away from his body, near the wall of the alley. A black Ruger semi-automatic pistol, a magazine, and two fired cartridge cases were found at the scene and inventoried. PO [REDACTED] Smith and Wesson semi-automatic pistol was also recovered and inventoried with 14 live cartridges.⁵⁷

Illinois State Police Forensic Science Laboratory Reports⁵⁸ documented under Laboratory Case # [REDACTED] document that a Ruger, model P95 Luger semiautomatic pistol (Serial # [REDACTED] was found to be in firing condition. The weapon was compared to the IBIS database, but no identification was made. This weapon, the magazine and the eight (8) live cartridges did not reveal latent impressions suitable for comparison. A Smith & Wesson, model 5943, 9mm Luger semiautomatic pistol (Serial # [REDACTED] was also found to be in firing condition.

The Report of Postmortem Examination⁵⁹ completed by Dr. [REDACTED] on 16 June 2013 at 0900 hours, documents Mr. [REDACTED] sustained two gunshot wounds; a distant range graze wound on his right hand and a distant range gunshot wound on his mid-superior back. Mr. [REDACTED] also presented with several abrasions to his extremities and scars from possible prior gunshot wounds and abdominal surgery. Mr. [REDACTED] toxicology report was negative. The cause of death was determined to be multiple gunshot wounds and the manner of death was classified as a homicide.

d. Documentary Evidence

The **IPRA Scene Response Report**⁶⁰ described the post-incident scene. [REDACTED] body was still on the scene, lying face-down in the north-south alley between Springfield Avenue and Harding Avenue, several feet north of 18th Street. [REDACTED] was handcuffed behind his back. His right hand appeared to be injured and bleeding and apparent blood was on his shirt corresponding to an apparent hole in the shirt in approximately the center of his back between his shoulder blades.

A black semi-automatic pistol was lying on the alley pavement near a wall of a building at 3908-10 W. 18th Street. The gun's barrel pointed approximately north. There was no magazine in the pistol, which was several feet east of [REDACTED] Two fired casings were in the front yard of 3908-10 W. 18th Street, near the same alley. An apparent pistol magazine was located on the parkway near 1648 and 1652 S. Springfield Avenue, near where [REDACTED] exited the van.

⁵⁷ The capacity of PO [REDACTED] weapon was not recorded on the Crime Scene Processing Report or Inventory Report and he was not asked about it in his interviews.

⁵⁸ Att. 62-65.

⁵⁹ Att. 61.

⁶⁰ Att. 32.

The vehicle of Officers [REDACTED] and [REDACTED] a [REDACTED] SUV, was parked on the south side of 18th Street, facing north at the entrance of the continuation of the north-south alley between Springfield Avenue and Harding Avenue.

A **diagram⁶¹ of the scene** was drawn to show where the pistol was recovered as well as where the magazine was found.

The **Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Firearms Trace Report⁶²** revealed that the weapon was originally purchased by [REDACTED] Wood of Yazoo City, Mississippi from Delta Auto Parts, Inc, in the same city on October 21, 2011. No additional information was provided regarding any subsequent sale or transfer (if any) of the firearm.

e. Additional Evidence

COPA searched [REDACTED] **Facebook⁶³** account to explore any connection between the Ruger P95 9MM and [REDACTED] COPA was unable to find a Facebook page for [REDACTED] nor did COPA discover a connection to the handgun through [REDACTED] immediate family.

COPA conducted two **canvasses⁶⁴** (November 7, 2017, and January 8, 2018) of the area surrounding the shooting, during which investigators attempted to contact potential witnesses at 3908 West 18th Street and 1659 S. Harding Avenue. No contact was made and no further witnesses were found. COPA noted the existence of a surveillance camera at 1659 S. Harding Avenue but was unable to determine if the camera was operational or if a recording from the camera exists from the night of the incident.

VI. ANALYSIS

a. Legal Standard

1. Use of Deadly Force

The applicable Chicago Police Department directive is General Order 03-02-03, II,⁶⁵ which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. To prevent death or great bodily harm to the sworn member or to another person, or;

⁶¹ Att. 22.

⁶² Att. 112, pg. 127.

⁶³ Att. 86.

⁶⁴ Att. 75, 79. IPRA also conducted a canvass on June 16, 2013, which did not identify any additional witnesses. Att. 23.

⁶⁵ This report references the version of General Order 03-02-03 in effect on August 24, 2014.

2. To prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a) has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b) is attempting to escape by use of a deadly weapon or;
 - c) otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

... a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to affect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

720 ILCS 5/7-5 (1986).

Finally, determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989). See *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) "whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation "must embody allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham*, 490 U.S. at 396-97. Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)).

2. Standard of Proof

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.

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

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

b. Factual Determinations

1. ██████████ Possessed a Ruger P95 9MM During the Incident

Officers ██████ and ██████ both repeatedly stated that they observed ██████ with a black handgun in his rear waistband after he fled from the van. A Ruger P95 9MM was recovered near ██████ after the shooting incident.⁶⁶ Furthermore, a Ruger magazine containing eight 9MM live cartridges was recovered on ██████ flight path near 1648 and 1652 S. Springfield Avenue after the shooting incident. Officers ██████ and ██████ denied planting the firearm.

In contrast, the civilian witnesses interviewed by COPA asserted that they did not observe ██████ with a firearm in the van before or in the alley after the shooting the incident and stated that ██████ did not tell them he possessed a firearm on the date incident.

The physical and documentary evidence could not connect or disconnect the Ruger P95 9MM to ██████. The Illinois State Police could not locate the firearm in the Integrated Ballistics Identification System (IBIS) database⁶⁷ and could not locate any latent impressions

⁶⁶ The firearm was located on the alley pavement near a wall of a building at 3908-10 W. 18th Street.

⁶⁷ IBIS is a database that tracks firearms used in crimes.

suitable for comparison on the Ruger P95 9MM, the Ruger magazine, or the eight live cartridges recovered from the magazine.⁶⁸ Finally, the trace report shows the firearm was purchased by [REDACTED] and shows no readily apparent connection to [REDACTED] or to Officers [REDACTED] and [REDACTED].

However, circumstantial evidence demonstrates [REDACTED] possessed the Ruger P95 9MM during the incident.

First, the OEMC transmissions captured PO [REDACTED] announcing, “He’s got a gun; he’s got a gun” and approximately fifteen seconds later announcing, “shots fired by police, don’t touch it.”⁶⁹ The fact that Officer [REDACTED] contemporaneously announced observing a firearm over the radio and then immediately said “don’t touch it” after announcing shots fired over the radio supports that Officer [REDACTED] observed [REDACTED] with a firearm during the incident.

Second, civilian witness [REDACTED] while not expressly stating [REDACTED] has possessed a firearm in the past, he acknowledged its possibility. Specifically, when asked if he knew [REDACTED] to ever have a gun, Mr. [REDACTED] stated “I mean, all us do.”⁷⁰ Mr. [REDACTED] statement demonstrates that [REDACTED] had likely possessed a firearm in the past and/or had access to firearms.

Third, it is improbable that Officers [REDACTED] and [REDACTED] could have planted the Ruger P95 9MM and the Ruger magazine, in two separate locations, several minutes after the shooting incident without detection. All of the civilian witnesses interviewed by COPA assert that they did not observe any firearm near [REDACTED] after the shooting the incident.⁷¹ Mr. [REDACTED] stated he did not arrive to the scene of the shooting incident until approximately three minutes after hearing shots fired. All of the civilian witnesses stated they left the scene because other CPD units arrived and secured the scene. Therefore, Officers [REDACTED] and/or [REDACTED] or any other person, would have had to have planted the Ruger P95 9MM in the alley with multiple uninvolved police witnesses in the area and, either before or after planting the firearm, separately planted the Ruger magazine near 1648 and 1652 S. Springfield Avenue without detection. While not impossible, the improbability of a firearm and magazine being planted under these circumstances circumstantially supports that [REDACTED] possessed the Ruger P95 9MM on the date of the incident.

2. There is Insufficient Evidence to Demonstrate that [REDACTED] Turned and Looked Towards Officers [REDACTED] and [REDACTED] Squad

⁶⁸ COPA notes that it is common for no suitable latent fingerprints to be found on firearms, magazines, or cartridges.

⁶⁹ Att. 52.

⁷⁰ Att. 85, at 9:23. However, Mr. [REDACTED] asserted that [REDACTED] would have admitted he possessed a firearm on the date of the incident, if he possessed a firearm.

⁷¹ There is no evidence to corroborate the civilian witnesses’ assertions that no firearm was present after the shooting incident and circumstantial evidence contradicts this material part of their statements. Therefore, COPA does not find the civilian witnesses’ statements sufficiently credible to rely on in the absence of independent, corroborating evidence. It is possible that the civilian witnesses did not observe the firearm because the firearm was several feet from [REDACTED].

Car While His Right Hand Was on the Firearm While Standing Up in the Alley

Officers [REDACTED] and [REDACTED] both stated they were on patrol and heard an unidentified subject yell “lock it up” in the direction of a silver or tan minivan. The minivan then sped off westbound on 16th Street, and the officers followed. The officers ran the license plate of the minivan and found the plates to be registered to a vehicle of a different color. The minivan then turned southbound onto Springfield Avenue. The officers observed at least five occupants in the minivan. The minivan then weaved several times between the curb and the street. The officers then saw the back door open and [REDACTED] fled from the minivan. Both Officer [REDACTED] and [REDACTED] stated they observed [REDACTED] with a black gun in his rear waistband after he jumped out of the vehicle. The officers described [REDACTED] exiting the van about two houses north of 18th Street. The officers stated they never lost sight of [REDACTED] as he ran and that [REDACTED] fled approximately two houses, or 150 feet, and then tripped and fell, in the mouth of the alley. Both officers asserted that they provided verbal commands to [REDACTED] but he did not comply. Both Officers [REDACTED] and [REDACTED] reported that, while [REDACTED] was getting to his feet, he turned toward the police vehicle with his right hand on the gun tucked in his rear waistband.⁷²

There is no independent evidence to corroborate Officer [REDACTED] and [REDACTED] assertion that [REDACTED] turned and looked towards the police vehicle with his right arm on the gun. COPA did not locate any independent witnesses to the shooting incident itself or discover any video or audio evidence of the shooting incident. While Dr. [REDACTED] reported the distant-range gunshot wound to the right mid-back which had a trajectory of traveling upward, forward, and leftward was consistent with the officers’ description of [REDACTED] position when he was shot, which was that [REDACTED] was hunched over bent at the waist and had come to his feet or was attempting to come to his feet with the shooting officer standing behind [REDACTED]. Dr. [REDACTED] statement and the postmortem report does not prove or disprove that [REDACTED] turned to look towards the police vehicle while his right hand was on the firearm.⁷³

As explained below, this factual determination—whether [REDACTED] turned and looked toward the police vehicle with his right hand on the firearm—is material to determining whether PO [REDACTED] decision to discharge his firearm was objectively reasonable and in compliance with Department policy. There is insufficient evidence to demonstrate that [REDACTED] turned and looked toward the police vehicle with his right hand on the firearm while standing up in the alley.

⁷² There are some inconsistencies in the officers’ statements regarding [REDACTED] exact position at the moment PO [REDACTED] discharged his firearm, specifically whether [REDACTED] left hand was still on the ground and exactly how far off the ground [REDACTED] was. These inconsistencies impact the weight COPA gives to the portions of Officers [REDACTED] and [REDACTED] statements that are not supported by independent, corroborating evidence. Nonetheless, COPA did not discover any evidence demonstrating that Officers [REDACTED] and [REDACTED] made any intentionally false statements.

⁷³ The postmortem report and photographs demonstrate that [REDACTED] also had a graze wound on his right hand and gunshot wound in the middle or upper back part of his back.

c. Legal Conclusions

The relevant inquiry to determining whether PO [REDACTED] complied with Department policy is whether an officer with similar training and experience as PO [REDACTED] would have reasonably believed Mr. [REDACTED] posed an immediate threat of death or serious bodily harm and the use of deadly force was necessary to prevent death or great bodily harm to themselves or others.⁷⁴ Officers do not necessarily have to wait for an individual to point a firearm in the direction of another person (or reasonably appear to be pointing a firearm in the direction of another person) prior to discharging their firearm.⁷⁵ See, e.g., *Thompson v. Hubbard*, 257 F.3d 896, 899 (8th Cir. 2001). Officer [REDACTED] stated that when [REDACTED] turned and looked towards the officers' police vehicle and put his right hand on the firearm, he believed [REDACTED] was going to pull the firearm and discharge it at his partner and himself. Under the totality of the circumstances present in this case, a reasonable officer would have believed [REDACTED] posed an immediate threat of death or serious bodily harm and that the use of deadly force was necessary to prevent death or serious injury to themselves or others.⁷⁶ However, as explained above, there is insufficient evidence to establish that the events occurred in the manner described by PO [REDACTED]. Therefore, COPA concludes the allegation that that PO [REDACTED] discharged his firearm at [REDACTED] in violation of General Order 03-02-03 is **Not Sustained**.

VII. CONCLUSION

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

Officer	Allegation	Finding
PO [REDACTED]	1. It is alleged that on or about June 16, 2013, at approximately 2:33 am, in the vicinity of 1658 S. Springfield, in Chicago, Illinois, PO [REDACTED] discharged his firearm at [REDACTED] in violation of General Order 03-02-03.	Not Sustained

⁷⁴ The Department policy in effect on the date of the incident also permitted the use of deadly force to prevent an arrest from being defeated by resistance or escape in circumstances that are clearly not applicable to this case.

⁷⁵ All of the civilian witnesses indicated that [REDACTED] knew that Officers [REDACTED] and [REDACTED] were police officers.

⁷⁶ This report analyzes the Department use of force policy in effect on the date of the incident. The Department subsequently modified its use of force policy. This report does not address whether PO [REDACTED] use of force complied with the Department's current policy.

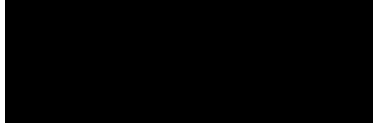
Approved:



December 27, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date



December 27, 2019

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

Squad#:

Investigator:

Supervising Investigator:

Deputy Chief Administrator:

Andrea Kersten