

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 6, 2014 ²
Time of Incident:	9:12 pm
Location of Incident:	████████████████████
Date of IPRA Notification:	July 6, 2014
Time of IPRA Notification:	11:09 pm

On July 6, 2014, Officers ██████ and ██████ both of whom were probationary officers at the time, were on routine patrol in a marked squad car in the vicinity of ██████, when they observed a black Honda Accord (“the Honda”) with its headlights off, driven by a person now known to be ██████. Officer ██████ flashed the squad car’s headlights to alert ██████ that his headlights were off. Officer ██████ searched the license plate via LEADS and learned the vehicle was reported stolen. Officer ██████ made a U-turn and followed ██████ to the vicinity of ██████. According to the officers, when they arrived at that location ██████ was out of the Honda and the engine was still running. The officers exited their vehicle and Officer ██████ approached ██████ who ran to and entered the Honda and locked the doors. According to ██████ he was already seated in the vehicle when the officers approached him.

Officer ██████ gave ██████ verbal direction to lower the window, but ██████ did not comply. Officer ██████ and Officer ██████ observed ██████ reach under his seat. At this time, Officer ██████ punched and broke the driver’s window, reached into the vehicle, and grabbed ██████ shirt. ██████ put the car in reverse and drove toward Officer ██████ who was behind the Honda. Officer ██████ attempted to get out of the Honda’s path. Officer ██████ fired his weapon at the Honda. ██████ continued driving in reverse and made a U-turn toward Officer ██████ new position. Officer ██████ drew her weapon and fired at the Honda several times. ██████ drove to the alley behind ██████ where he abandoned the Honda. ██████ was able to flee the scene without being arrested. On April 28, 2016, Chicago Police Department (CPD) detectives arrested ██████ for the July 6, 2014 incident.

II. INVOLVED PARTIES

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

² At the time of this incident, IPRA did not conduct full investigations into notifications of shots fired where no one was struck. This case was reviewed and administratively closed on July 31, 2014. The involved individual later sent a letter to COPA in December 2017, which caused COPA to reopen this investigation.

Involved Officer #1:	██████████ Star# ██████, Employee ID# ██████, Date of Appointment: ██████, 2013, Police Officer, Unit of Assignment: ██████ DOB: ██████, 1986, Male, Black
Involved Officer #2:	██████████ Star# ██████ Employee ID# ██████, Date of Appointment: ██████, 2013, Police Officer, Unit of Assignment: ██████ DOB: ██████, 1986, Female, Hispanic
Involved Individual #1:	██████████ DOB: ██████, 1990, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer ██████	1. Fired his weapon at a vehicle driven by ██████ without justification.	Not Sustained
Officer ██████	1. Fired her weapon at a vehicle driven by ██████ without justification.	Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules
<ol style="list-style-type: none"> 1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral. 2. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
General Orders
1. General Order G03-02-03: Deadly Force (effective October 1, 2002 – February 10, 2015)
State Laws
1. 720 ILCS 5/7-5: Peace Officer’s Use of Force in Making Arrest

V. INVESTIGATION⁵

a. Interviews

³ Officer ██████ was a probationary police officer assigned to Unit ██████ at the time of this incident.
⁴ Officer ██████ was a probationary police officer assigned to Unit ██████ at the time of this incident.
⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

COPA interviewed [REDACTED] on February 27, 2018. [REDACTED] stated that on July 06, 2014, he was in the vicinity of [REDACTED] to pick up his cousin, [REDACTED]. [REDACTED] indicated that he was alone in the car and was preparing to exit the Honda when an officer (now known to be Officer [REDACTED]) approached his car on foot (a black Honda Accord) and ordered him to exit. [REDACTED] did not immediately identify Officer [REDACTED] as a police officer and initially thought he was being robbed. The officers' vehicle was parked in the middle of the street next to [REDACTED] car on the driver's side. Officer [REDACTED] partner (Officer [REDACTED]) was near the officers' vehicle at that point. [REDACTED] put his hands in the air and started to reach to open the door. At this time, Officer [REDACTED] struck the driver's window with his hand and gun, breaking the glass. [REDACTED] took his foot off the brake. The car was in reverse and started to idle backwards. Officers [REDACTED] and [REDACTED] fired at the Honda multiple times.⁸ [REDACTED] stopped the Honda, and the officers stopped shooting.

[REDACTED] remained where he was for a moment and looked up but could not see the officers, though he saw their vehicle on the scene. [REDACTED] then put the car in drive and fled the area. [REDACTED] drove the Honda several blocks west from [REDACTED] and then abandoned the Honda in an alley of an unknown location. [REDACTED] then went home. He told his family about what happened but never reported the incident to anyone else. [REDACTED] alleged he had a graze wound to his right leg and left finger, but he never sought medical treatment. [REDACTED] said the Honda he drove belonged to a friend, but he did not have the friend's name or information, and he has not spoken to the friend since the incident.

[REDACTED] was arrested in relation to this incident in April 2016. During an interview at Area Central, he initially denied being involved in the incident. The detectives informed [REDACTED] that they found his cell phone and saw text messages from his then-wife, so he felt he could no longer deny his involvement. He later pled guilty during his court proceedings.

COPA interviewed Officer [REDACTED] [REDACTED] on March 30, 2018. Officer [REDACTED] reported that on July 6, 2014, she was on patrol in full uniform with Officer [REDACTED]. She and Officer [REDACTED] were assigned to a marked Crown Victoria, beat [REDACTED]. Officer [REDACTED] was the driver of the vehicle, and Officer [REDACTED] was the passenger. According to Officer [REDACTED] they were patrolling near [REDACTED] when they observed a black Honda Accord traveling eastbound on [REDACTED] [REDACTED] with the headlights off. Officer [REDACTED] and Officer [REDACTED] were traveling westbound on [REDACTED] [REDACTED] at that point. Officer [REDACTED] flashed his headlights to notify the Honda driver (now known to be [REDACTED]) to turn on his lights. Officer [REDACTED] ran the license plate of the black Honda. The license plate search indicated that the Honda was stolen. Officer [REDACTED] made a U-turn to follow the Honda. The officers briefly lost sight of the Honda but located it parked in front of a house on the east side of [REDACTED] [REDACTED]. Officer [REDACTED] activated the emergency lights and parked behind the Honda.¹¹

⁶ Att. 34

⁷ The [REDACTED] is a one-way street with traffic moving North and parking on the East and West sides of the street.

⁸ According to [REDACTED] it was at this point that he realized they were police officers.

⁹ Att. 41, 59

¹⁰ The address is [REDACTED]

¹¹ When asked, Officer [REDACTED] stated their vehicle was approximately 3-5 feet behind the Honda, but admitted she was unsure of this.

When the officers arrived on the scene, [REDACTED] was out the Honda, walking toward the west side of the street. The parked Honda was running. Officer [REDACTED] exited the officers' vehicle and approached [REDACTED] immediately re-entered the Honda and locked the doors. Officer [REDACTED] approached the driver's side door and ordered [REDACTED] to lower the window. Officer [REDACTED] exited the squad car during this time and positioned herself between the Honda and the squad car. As Officer [REDACTED] stood behind the Honda, she observed [REDACTED] move as if he was reaching under his seat and then into the center console. Officer [REDACTED] believed [REDACTED] was reaching for a weapon, but she never expressed her thoughts to Officer [REDACTED]

At this time, Officer [REDACTED] punched the driver's window with his fist, broke the window, and reached into the Honda. [REDACTED] shifted the Honda into reverse, and the vehicle began moving toward Officer [REDACTED] direction. Officer [REDACTED] then drew his weapon and fired it toward [REDACTED] Officer [REDACTED] was able to move out of the way of the Honda, so she was not struck. As [REDACTED] continued in reverse, he drove onto the sidewalk and struck the front bumper and passenger side door of the squad car. [REDACTED] made a U-turn while still in reverse and traveled back northbound on [REDACTED], again in Officer [REDACTED] direction. Because Officer [REDACTED] had moved from her original position when [REDACTED] started to reverse, she felt she was trapped between moving closer to her squad car, which she thought would put her in danger of being pinned between the cars, or closer to the middle of the street, where she thought she would be even more at risk of being struck by the Honda. Officer [REDACTED] drew her weapon and fired several times towards the Honda.

Officer [REDACTED] fired her weapon at the vehicle because she believed [REDACTED] was attempting to strike her with the vehicle, and she was unable to move out the path of the vehicle. Officer [REDACTED] noted that [REDACTED] could have changed direction and driven away from the officers rather than continue to reverse, which made her think that he was trying to hit them. The Honda then stopped briefly, at which time Officer [REDACTED] stopped firing her weapon. [REDACTED] put the Honda in drive and fled southbound on [REDACTED] and then westbound on [REDACTED]. Officer [REDACTED] or Officer [REDACTED] called shots fired over the radio. A short time later, several officers and supervisors arrived on the scene.

Officer [REDACTED] and Officer [REDACTED] did not attempt to pursue [REDACTED] but Officer [REDACTED] gave the direction of flight over the radio. The assist units located an abandoned black Honda Accord, which was believed to be the vehicle driven by [REDACTED] The officers were unable to locate [REDACTED] On an unknown date in 2016, a detective from Area Central contacted Officer [REDACTED] and asked her to view a photo array in an attempt to identify [REDACTED] Officer [REDACTED] was unable to make a positive identification.

COPA interviewed Officer [REDACTED] [REDACTED] on March 30, 2018. Officer [REDACTED] reported that on July 6, 2014, he was in full uniform and partnered with Officer [REDACTED] According to Officer [REDACTED] they were on routine patrol driving westbound on [REDACTED], near [REDACTED], when he observed a black Honda Accord driving eastbound with the headlights off. Officer [REDACTED] flashed his own headlights at the Honda to inform the individual (now known to be [REDACTED] to turn on his headlights. [REDACTED] ignored the signal and

¹² Att. 45, 60

continued driving, turning on [REDACTED]. Officer [REDACTED] searched the Honda's license plate, via LEADS, and determined the vehicle was reported stolen. Officer [REDACTED] immediately made a U-turn on [REDACTED] and drove eastbound. Officer [REDACTED] briefly lost sight of the Honda, but located it parked in front of [REDACTED].

Officer [REDACTED] pulled up behind the Honda and activated the emergency lights. As Officer [REDACTED] pulled behind the Honda, he observed [REDACTED] out of the vehicle and walking toward the other side of the street. Officer [REDACTED] exited the vehicle and said words to the effect of "hey stop, police."¹³ [REDACTED] ignored Officer [REDACTED] re-entered the Honda, and locked the door. According to Officer [REDACTED] he observed [REDACTED] reach toward the passenger floorboard of the vehicle as if he was reaching for a weapon. Officer [REDACTED] immediately punched the window with his bare fist. The window broke, at which time Officer [REDACTED] reached into the vehicle and grabbed [REDACTED] shirt. [REDACTED] shifted the Honda in reverse and began driving southbound on [REDACTED]. Because Officer [REDACTED] was still partially inside the Honda, his body was pulled by the vehicle, and the driver's side mirror struck him on the left side of the body. Officer [REDACTED] released [REDACTED] shirt and observed the vehicle to continue to move in reverse toward Officer [REDACTED] who was between the Honda and the squad car. Officer [REDACTED] drew his weapon and fired five times at the driver in the Honda.

As the Honda continued in reverse, it struck the front bumper and passenger-side door of the squad car. The Honda hopped the curb, continued southbound, made a U-turn on [REDACTED] and then northbound toward Officer [REDACTED]. The Honda was later located less than a block away. [REDACTED] was not in the vehicle but the officers found his cell phone. However, no weapons were recovered from the vehicle. Officer [REDACTED] sustained injuries to his hand from punching the window but did not require any medical treatment.

Officer [REDACTED] said that, two years later, he was told by a Detective [REDACTED] that they located [REDACTED] and he needed to view a photo array. Officer [REDACTED] positively identified [REDACTED] in a photo array.

b. Digital Evidence¹⁴

The **Evidence Technician Photographs¹⁵** depict photographs of the scene, which includes the black Honda Accord. The photographs show the Honda has multiple bullet holes to the hood, front windshield, and front driver side fender. The Honda also had damage to the front driver's side bumper and front and rear passenger doors. The photographs depict a black cell phone on the front driver's side of the Honda and cigarette butts in the ashtray.¹⁶ There is also damage to the front passenger side bumper of the squad car. Photographs of Officer [REDACTED] depict blood on his right hand.

c. Physical Evidence

¹³ Att. 60, page 15, line 2

¹⁴ The retention period for any in-car camera recordings that may be related to this case expired between the time of the incident and when [REDACTED] contacted COPA to file a complaint.

¹⁵ Att. 33

¹⁶ These items were later used by CPD to identify [REDACTED] as the person involved in this incident.

The **Crime Scene Processing Reports** document that Evidence Technicians (“ETs”) were assigned to process the scene of this incident, which consisted of taking digital photographs and video of the scene, taking photographs of the evidence that was identified and collected, and photographs of Officer [REDACTED]. The ETs recovered and inventoried the evidence under RD # [REDACTED].

The evidence included but is not limited to Officer [REDACTED] and Officer [REDACTED] firearms, which are both Glock 17, Gen 4, 9mm semi-automatic pistols. Officer [REDACTED] weapon had thirteen live rounds in it (twelve in the magazine and one in the chamber) and Officer [REDACTED] weapon had eleven live rounds in it (ten in the magazine and one in the chamber).¹⁷

A total of nine¹⁸ fired 9mm Luger +P cartridge casings (Crime Scene Markers (“CSM”) [REDACTED] and CSM [REDACTED]) and two fired bullets (CSM [REDACTED] and CSM [REDACTED]) near the squad car at [REDACTED] were recovered from the street. Four additional bullets or bullet fragments (including CSM [REDACTED] and [REDACTED]) were recovered from the Honda when it was processed at the pound. Numerous fingerprint lifts and DNA swabs were taken from the Honda at that time. Cigarette butts and various other items were also recovered from the Honda.

The **Illinois State Police (“ISP”) Laboratory Reports** document the examination of fingerprints lifted from the Honda; DNA swabs collected from items recovered from the Honda; and firearms evidence, which includes the officers’ weapons, the expended cartridge cases, and the fired bullets and bullet fragments. A report dated September 17, 2016 reveals that the DNA swabs from the cigarette butts were matched to [REDACTED].¹⁹

Both officers’ weapons were test-fired and determined to be operable. Seven cartridge cases were determined to have been fired by Officer [REDACTED] weapon and two (including CSM [REDACTED]) by Officer [REDACTED] gun.²¹ The two recovered fired bullets and four bullet fragments were not compared to either of the officers’ weapons to see who fired them.

d. Documentary Evidence²²

The **Arrest Report**²³ of [REDACTED] indicates, on April 28, 2016, at 6:12 pm, Detectives [REDACTED] Star# [REDACTED] and [REDACTED], Star# [REDACTED] arrested him for Aggravated Battery/Peace Officer,

¹⁷ The officers were not asked the capacity of their weapons during their interviews. A standard Glock 17 magazine has a capacity of 17 rounds, which makes the weapon capable of holding a total of 18 rounds. Both officers reported having a live round in the chamber of their weapons; however, it is not clear if they also had a full magazine.

¹⁸ COPA notes that three additional cartridge cases appear to be missing.

¹⁹ The report notes that a standard sample from [REDACTED] was needed to confirm this match.

²⁰ CSM [REDACTED] were inventoried together and were not differentiated in the ISP analysis, so it is not clear which of those was fired by Officer [REDACTED].

²¹ Officer [REDACTED] reported firing five times but only two recovered cartridge cases were attributed to his weapon. COPA believes that the other three cases were not found on the scene, due to unknown reasons.

²² [REDACTED] civil suit, [REDACTED], was dismissed without prejudice on October 10, 2017. As of the date of this report, it has not been refiled. On January 19, 2018, [REDACTED] pled guilty to Aggravated Battery of a Police Officer and Aggravated Assault with a Motor Vehicle to a Police Officer. (See Att. 62).

²³ Att. 13

Possession of a Stolen Vehicle, and Aggravated Assault to an Officer with a Vehicle. The narrative of the report indicates Officer [REDACTED] identified [REDACTED] as the driver of a stolen vehicle. The report contained a similar account of the incident as Officers [REDACTED] and [REDACTED] provided in their statements to COPA.

The **Detective Supplementary Report** ([REDACTED])²⁴ indicates that the detectives interviewed Officers [REDACTED] and [REDACTED] on July 06, 2014. Officers [REDACTED] and [REDACTED] related essentially the same information as in the arrest report and COPA statements.

A **Tactical Response Report**²⁵ authored by Officer [REDACTED] indicates on July 06, 2014, at 9:12 pm, under good artificial lighting and clear weather conditions, an unknown person (now known to be [REDACTED]) did not follow verbal direction, stiffened, pulled away, and fled. [REDACTED] used a vehicle to present an imminent threat of battery and to use force likely to cause death or great bodily harm. Officer [REDACTED] responded with member presence, verbal commands, and a firearm. Her partner, Officer [REDACTED] fired first. Officer [REDACTED] fired a semi-automatic pistol seven times, without using her sights or reloading. She fired her initial shot when she was within five feet of [REDACTED]. Officer [REDACTED] fired from a standing position, while she used movement as her protective cover.

A **Tactical Response Report**²⁶ authored by Officer [REDACTED] indicates on July 06, 2014, at 9:12 pm, under good artificial lighting and clear weather conditions, an unknown person (now known to be [REDACTED]) did not follow verbal direction, stiffened, pulled away, and fled. [REDACTED] used a vehicle to present an imminent threat of battery and to use force likely to cause death or great bodily harm. Officer [REDACTED] responded with member presence, verbal commands, and a firearm. Officer [REDACTED] broke [REDACTED] window when [REDACTED] reached under the seat, which caused Officer [REDACTED] to believe [REDACTED] was accessing a weapon. Officer [REDACTED] fired first; he used his sights and fired five times. Officer [REDACTED] fired his initial shot when he was within five feet of [REDACTED]. Officer [REDACTED] fired from a standing position, while he used movement as his protective cover.

The **OEMC Event Queries and Radio Transmissions**²⁷ indicate, on July 6, 2014, an unknown male called 911 and reported his car, a black Honda Accord with the license plate [REDACTED] was stolen. Someone stole the car from his parking lot.

On July 6, 2014 Beat [REDACTED]²⁹ reported over the radio shots fired by the police. The event query indicates Beat # [REDACTED] ran the plate of a Honda and attempted to curb the vehicle. Beat # [REDACTED] located the Honda abandoned in the alley between [REDACTED]. The officers conducted a canvass in the area and learned residents observed a tall, skinny, black male wearing a baseball cap and carrying a backpack running away from the Honda. An ambulance was called for Officer [REDACTED] who cut his hand during the incident.

²⁴ Att. 17

²⁵ Att. 06

²⁶ Att. 08

²⁷ Atts. 29, 46, and 47

²⁸ The license plate number matches the vehicle driven by [REDACTED]

²⁹ Beat # [REDACTED] was assigned to Officers [REDACTED] and [REDACTED]

VI. ANALYSIS

a. Legal Standard

1. Use of Deadly Force

The applicable Chicago Police Department General Order is General Order 03-02-03, II,³⁰ which states:

A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

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

Additionally, General Order G03-02-03 Deadly Force, Section II, (B) limits Department members' authority to fire at or into a moving vehicle to prevent death or great bodily harm to the sworn member or another person, and instructs members to move out of the vehicle's path when the vehicle is the only force used against them.

Finally, General Order 03-02-03, Section IV, titled "Affirmation of Protection of Life Policy" states that "[s]worn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive."

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;

³⁰ This report references the version of General Order 03-02-03 Section II in effect on the date of the incident. The Department subsequently amended its use of force directives.

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. Analysis of the Allegations

Section II (B) of General Order 03-02-03 permits members to fire at or into a moving vehicle to prevent death or great bodily harm to them or another person. However, the same section instructs officers to move out of the vehicle's path when the vehicle is the only force used against them.

Here, it is undisputed that the Honda was the only force used or threatened to be used prior to Officers [REDACTED] and [REDACTED] discharging their firearms. Neither officer asserted that [REDACTED] used a firearm or any other weapon at any point during the incident. Therefore, the requirement that Officer [REDACTED] move out of the vehicle's path is applicable to this incident.

COPA finds that there is insufficient evidence to prove or disprove that Officer [REDACTED] could have moved out of the vehicle's path prior to either officer discharging their firearms. To determine whether Officer [REDACTED] could have gotten out of the way of the Honda as it reversed in the direction she was standing, COPA would, at a minimum, need to be able to determine: (1) the approximate speed of the Honda during the two points it reversed in her general direction; (2) the approximate locations of Officer [REDACTED] throughout the incident; (3) the Honda's approximate location in relation to Officer [REDACTED] at the time each shot was fired; and (4) the officer's vehicle's approximate location in relation to the Honda and the officers throughout the incident.

There are several discrepancies regarding these facts between the accounts from the involved officers and [REDACTED] who gave a statement to COPA after he pled guilty to the charges against him stemming from this incident. First, Officers [REDACTED] and [REDACTED] stated that Officer [REDACTED] stopped the squad car behind the Honda when the officers arrived on [REDACTED]. In contrast, [REDACTED] described the officers' vehicle as being in the middle of the street next to the Honda at

that point.³¹ Second, the officers described ██████ as purposely reversing, while ██████ said he merely removed his foot from the brake while the vehicle was in gear. Without knowing whether ██████ had his foot on the gas, it is impossible to tell how fast the car was moving. Third, both officers asserted that ██████ reversed the Honda in Officer ██████ direction while Officer ██████ was between the Honda and the officers’ squad car, but neither of them provided any specificity to explain more precisely where Officer ██████ was located. ██████ did not mention where Officer ██████ was at that point.

While Officer ██████ and ██████ accounts of the incident may be enough to justify their actions, there is no independent evidence to materially corroborate these accounts of the incident and ██████ statement contradicts their accounts enough to make it impossible to understand what truly happened.³² IPRA/COPA did not locate any audio or video evidence of the shooting incident and did not find any independent witnesses to the shooting the incident.

For these reasons, there is insufficient evidence to determine by a preponderance of the evidence that Officers ██████ and ██████ violated Department policy by discharging their firearms at the Honda during the incident, or to determine by clear and convincing evidence that that Officers ██████ and ██████ complied with the Department policy. Therefore, Allegation #1 against both officers is **Not Sustained**.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer ██████	1. Fired his weapon at a vehicle driven by Mr. ██████ without justification.	Not Sustained
Officer ██████	1. Fired her weapon at a vehicle driven by Mr. ██████ without justification.	Not Sustained

³¹ COPA notes that Officer ██████ stated he was not directly behind the Honda but offset to the west, which would put him closer to the driver’s side. It is likely that both descriptions were accurate from the point of view of the person providing it.

³² As explained above, a preponderance of the evidence is necessary to prove allegations of misconduct against Department members, but clear and convincing evidence—a higher standard of proof than preponderance of the evidence—is required to exonerate allegations of misconduct against Department members.

Approved:



Date: 4/29/20

Andrea Kersten
Deputy Chief Administrator – Chief Investigator



Date: 4/29/20

Sydney Roberts
Chief Administrator

Appendix A

Assigned Investigative Staff

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