

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	November 22, 2018
Time of Incident:	2:20 am
Location of Incident:	[REDACTED]
Date of COPA Notification:	November 22, 2018
Time of COPA Notification:	2:53 am

On November 22, 2018, Traffic Specialist [REDACTED] who was off-duty at the time, arrived home in his Jeep Latitude after going to the movies with his brother, [REDACTED] and friend, [REDACTED]. Once they arrived back to his residence, [REDACTED] and Mr. [REDACTED] entered their own vehicles and left the area. According to Traffic Specialist [REDACTED] he parked his vehicle in the spot that was previously occupied by Mr. [REDACTED], which was located on the west side of the street, facing northbound. While still seated in his car, attempting to fix the display on the dashboard, two black males, now known to be [REDACTED] and [REDACTED] approached his vehicle. Mr. [REDACTED] and Mr. [REDACTED] knocked on the driver’s side window, Mr. [REDACTED] displayed a firearm, and they demanded for his belongings.

Traffic Specialist [REDACTED] gave Mr. [REDACTED] his wallet and cellular phone. While seated in the vehicle, Mr. [REDACTED] reached into the car and patted Traffic Specialist [REDACTED] down and felt a second wallet in the cargo pocket of his pants. Traffic Specialist [REDACTED] gave Mr. [REDACTED] his second wallet while Mr. [REDACTED] continued to point the firearm at Traffic Specialist [REDACTED]. While going through the wallet, Mr. [REDACTED] and Mr. [REDACTED] observed the officer’s CPD credentials and badge. Traffic Specialist [REDACTED] grabbed for his firearm, located on his hip. At this point, Mr. [REDACTED] told him words to the effect of, “Don’t even think about it.” Traffic Specialist [REDACTED] drew his weapon as he exited his vehicle and fired, striking Mr. [REDACTED] multiple times. Mr. [REDACTED] fled the area but later returned looking for Mr. [REDACTED] and was apprehended at [REDACTED].

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] star # [REDACTED] employee ID# [REDACTED], Date of Appointment: [REDACTED], 2012, Traffic Specialist, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1986, Male, Hispanic
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¹ [REDACTED] is a sworn officer for the Chicago Police Department, who works as a Traffic Specialist for the Major Accident Investigations Unit.

² Due to Traffic Specialist [REDACTED] badge being stolen during this incident, he was temporarily given a new badge with the number [REDACTED]. Traffic Specialist [REDACTED] has reverted to using [REDACTED] and the temporary number has been reassigned to another officer.

Involved Individual #1: [REDACTED] DOB: [REDACTED] 2002, Male, Black

III. ALLEGATIONS

Any discharge of an officer's firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. Over the course of this full and comprehensive investigation, COPA did not uncover evidence that would require the proffer of allegations of excessive force.

IV. APPLICABLE RULES AND LAWS

General Orders

1. General Order 03-02: Use of Force (Effective October 16, 2017-February 29, 2020)

Federal Laws

1. The Fourth Amendment to the United States Constitution

State Laws

1. 720 ILCS 5/7-5 (1986): Justifiable Use of Force, Exoneration

V. INVESTIGATION³

a. Interviews⁴

In a statement to COPA on December 5, 2018, Traffic Specialist [REDACTED] # [REDACTED], explained that he started work on November 21, 2018 at 2:00 p.m. and left at approximately 10:15 p.m.⁵ He then picked up his brother, [REDACTED] and his best friend, [REDACTED] from his residence, and they went to watch a movie that started at 11:15 p.m. After the movie, they drove back to his house. When they arrived at his residence there was no parking on his street. Traffic Specialist [REDACTED] waited for Mr. [REDACTED] to move his own car so Traffic Specialist [REDACTED] could take Mr. [REDACTED]'s parking spot on the west side of the street, facing northbound.⁶

Mr. [REDACTED] and [REDACTED] had both left the location and Traffic Specialist [REDACTED] was seated in his vehicle trying to fix the screen display when two black males, now known to be [REDACTED] and [REDACTED] approached his vehicle on the driver's side and knocked on the window. Traffic Specialist [REDACTED] looked to his left and saw Mr. [REDACTED] who was wearing dark clothing, a ski mask, and gloves, standing at his window and pointing a dark colored semi-automatic firearm

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 Multiple attempts were made to interview Mr. [REDACTED] through his parents. As of the date of this report, Mr. [REDACTED] mother has not reached out to COPA (See attachments 80-83).

⁵ Attachments 30, 64.

⁶ COPA did not interview [REDACTED] or [REDACTED] as they were not present when either the robbery or the shooting occurred.

at him. Mr. [REDACTED] then opened the door and asked Traffic Specialist [REDACTED] for his wallet. Traffic Specialist [REDACTED] was seated in his vehicle, facing forward with his head down and his hands raised in the air. Traffic Specialist [REDACTED] told Mr. [REDACTED] and Mr. [REDACTED] words to the effect of, “Don’t shoot me. Whatever you guys want, I’ll give it to you.”⁷ Traffic Specialist [REDACTED] then went into his left pocket to retrieve his wallet and gave it to Mr. [REDACTED]. Because Traffic Specialist [REDACTED] had been searching how to fix his display, he still had his phone on his lap. Mr. [REDACTED] told Traffic Specialist [REDACTED] to turn off the Bluetooth on his phone. Traffic Specialist [REDACTED] informed Mr. [REDACTED] that it was an old iPhone and he would just give him the phone.

After giving Mr. [REDACTED] the phone, Mr. [REDACTED] who was wearing a red coat, reached across Traffic Specialist [REDACTED] lap and patted him down. Mr. [REDACTED] felt a second wallet in Traffic Specialist [REDACTED] right pocket and demanded it. Traffic Specialist [REDACTED] gave them the second wallet as well. Still looking down, from the corner of his eye, Traffic Specialist [REDACTED] saw Mr. [REDACTED] and Mr. [REDACTED] looking through his wallets and saw that they had discovered his police star and police identification. Mr. [REDACTED] then told Traffic Specialist [REDACTED] not to reach for anything. At this point, Traffic Specialist [REDACTED] slowly put his hands down, rolled out of the car while drawing his weapon, and fired in rapid succession until Mr. [REDACTED] fell to the ground and dropped the firearm. After discharging his firearm, Traffic Specialist [REDACTED] checked on Mr. [REDACTED] condition by asking him questions to see if he was conscious. Traffic Specialist [REDACTED] did not realize it at the time, but later learned that he discharged his firearm three times. Traffic Specialist [REDACTED] explained that he discharged his firearm after he gave Mr. [REDACTED] and Mr. [REDACTED] his property and offered them ample opportunities to leave. Traffic Specialist [REDACTED] stated that he was not certain where Mr. [REDACTED] was when he discharged his firearm but recalled seeing him on east side of street running southbound.

Once Traffic Specialist [REDACTED] believed the scene to be safe, he yelled for someone to call for an ambulance. Traffic Specialist [REDACTED] explained that he yelled that he was a Chicago police officer and asked for someone call 911, in hopes that one of his neighbors would hear him. Shortly thereafter, one of his neighbors came out and informed him that they called 911.

b. Digital Evidence

Office of Emergency Management and Communications records document that several residents living in the area called 911 to report that they heard gunshots and/or heard Traffic Specialist [REDACTED] yelling for help.⁸ In addition, the police radio transmissions document units dispatched to the address of occurrence.⁹

Evidence Technician (ET) photographs depict the scene, evidence recovered, Mr. [REDACTED] body, Mr. [REDACTED] and Traffic Specialist [REDACTED].¹⁰

⁷ Attachment 64, page 20, lines 1-3.

⁸ Attachments 40-59.

⁹ Attachments 60-63.

¹⁰ Attachment 33.

Body Worn Camera (BWC) footage from responding officers did not capture the officer-involved shooting, but it did show response by on-duty CPD members.¹¹ Upon the arrival of a supervisor, Traffic Specialist [REDACTED] provides him an account consistent with what he provided to COPA. In addition, the BWCs capture police contact with Mr. [REDACTED] Mr. [REDACTED] who was wearing a red coat and grey pants, is shown standing on the west side of the block of occurrence. Officers approached Mr. [REDACTED] and asked him if he resides in the area. Mr. [REDACTED] informed the officers that he was in the area with his friend, [REDACTED]. Traffic Specialist [REDACTED] later positively identified Mr. [REDACTED] as the offender who patted him down and fled with his property. Mr. [REDACTED] was subsequently taken into custody.

Video from a camera at [REDACTED] captured Mr. [REDACTED] walk northbound, in and out of camera view then back southbound, in and out of camera view.¹² Officers were observed in camera view before and after Mr. [REDACTED] is observed. Once Mr. [REDACTED] is seen walking southbound, he is no longer observed.

c. Physical Evidence

The **Chicago Fire Department (CFD) Ambulance Report** documents that on November 22, 2018, paramedics arrived at the location of incident and found Mr. [REDACTED] lying on his back unresponsive with gunshot wounds noted to the left chest, left upper back, and left thigh.¹³ Mr. [REDACTED] was in cardiac arrest and warm to the touch. Advance life support care was given, with no change in condition. CPR was given during transport to Saint Francis Hospital.

Medical Records from **Presence Saint Francis Hospital** document that on November 22, 2018, a 16-year-old male patient, now known to be Mr. [REDACTED] was admitted into the emergency room with multiple gunshot wounds.¹⁴ It was noted that Mr. [REDACTED] was found on the ground by EMS, unresponsive and in cardiac arrest. Mr. [REDACTED] was rapidly placed in the ambulance, where paramedics attempted to revive him through CPR and medication. Upon arrival to the ER, Mr. [REDACTED] was in asystole and had no vital signs. Examination revealed gunshot wounds to the left anterior axillary line, the left side of the back in the thoracoabdominal region, and the left medial thigh. Two bullets were identified on the right lateral chest in the mid-axillary line within the subcutaneous tissues. CPR was continued and critical care was performed. Despite all efforts, no return of vital signs was achieved. Mr. [REDACTED] was pronounced deceased at 3:16 a.m. on November 22, 2018.

The **Report of Postmortem Examination** from the **Office of the Medical Examiner of Cook County** documents the postmortem examination of [REDACTED] on November 23, 2018 at 7:10 a.m., by Doctor [REDACTED]. The report documents multiple gunshot wounds. There is a gunshot wound of entrance on the left lateral chest and there is a gunshot wound of entrance on the left side of the back. Both gunshot wounds course towards the right side. The bullets, which

¹¹ Attachments 76, 77.

¹² Attachment 18. Mr. [REDACTED] is seen at timestamp 3:45:18 of video clip 0000-5959-recfile_-181122-030000-035959-00001100.mp4.

¹³ Attachment 70.

¹⁴ Attachment 72.

¹⁵ Attachment 37.

were visible and palpable on the right side of the back, terminate in close proximity to each other, making it impossible to determine which bullet entered the left lateral chest and which entered the left side of the back. A third gunshot entrance wound was noted on the left upper inner thigh. The wound course through the pelvis is upward and the bullet lodged in the psoas muscle.¹⁶ The cause of death is listed as multiple gunshot wounds. The manner of death is listed as homicide.

The **Crime Scene Processing Reports** document that Evidence Technicians (ETs) and Forensic Investigators (FIs) 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, photographs of Mr. [REDACTED] and Mr. [REDACTED] as well as photographs of Traffic Specialist [REDACTED].¹⁷ Field measurements were taken of the evidence/scene,; fingerprints of Mr. [REDACTED] were taken at the hospital,; and ETs recovered and inventoried the evidence under RD # [REDACTED]. A drawing (plat) of the scene was also created.¹⁸

The evidence included, but is not limited to, Traffic Specialist [REDACTED] firearm, which is a Glock, Model 17, Gen 4, 9mm semi-automatic pistol; and Mr. [REDACTED] firearm,¹⁹ a Beretta, Model 8000, mini-cougar semi-automatic pistol. Three (3) fired 9 mm Luger +P cartridge casings were recovered from the parkway grass at [REDACTED].

The **Illinois State Police (ISP) Laboratory Reports** document the examination of fingerprints lifted from Traffic Specialist [REDACTED] vehicle and iPhone and firearms evidence recovered in this incident, to include the examination of Traffic Specialist [REDACTED] firearm and the firearm recovered near Mr. [REDACTED].²⁰ An analysis of the reports shows the following facts that are relevant to this investigation: Traffic Specialist [REDACTED] firearm was test-fired and determined to be operable. The three fired cartridge casings recovered from the scene were determined to have been fired from Traffic Specialist [REDACTED] firearm. The firearm possessed by Mr. [REDACTED] was also test-fired and determined to be operable. Fingerprint lifts were compared to Mr. [REDACTED] and Mr. [REDACTED]. The fingerprint lifts were either not suitable for comparison or no identification was made.²¹

d. Documentary Evidence

The **COPA Preliminary Report**,²² the **CPD Major Incident Notification (MIN) Report**,²³ **Original Case Incident Report**,²⁴ and Mr. [REDACTED] Arrest Report²⁵ contain information

¹⁶ This muscle extends from the lower spine, through the pelvis, to the femur.

¹⁷ Attachment 67.

¹⁸ Attachment 68.

¹⁹ It is to be noted that [REDACTED], [REDACTED] mother's ([REDACTED]) boyfriend, reported the firearm missing from his apartment on November 21, 2018, at approximately 10:05 p.m. Ms. [REDACTED] informed police that Mr. [REDACTED] was on Intensive Probation Supervision. This occurrence was registered under RD # [REDACTED]. (Attachment 5). Mr. [REDACTED] was also reported missing under RD # [REDACTED].

²⁰ Attachments 36, 71.

²¹ Fingerprint lifts from Traffic Specialist [REDACTED] vehicle were identified as belonging to Mr. [REDACTED].

²² Attachment 4.

²³ Attachment 38.

²⁴ Attachments 5, 6, 19.

²⁵ Attachment 10. Mr. [REDACTED] was charged with Armed Robbery and two counts of Theft. COPA was unable to obtain transcripts or other court records because of the Juvenile Court Act. According to a news report on March 6, 2019, Mr. [REDACTED] was found guilty of Armed Robbery.

identified and obtained in the preliminary stages of the investigation. The reports contain information consistent with information gathered throughout the investigation.

The **Tactical Response Report** completed by Traffic Specialist ██████ documents that during an ambush, he was confronted by an armed subject, Mr. ██████²⁶ Mr. ██████ was armed with a semi-automatic weapon and was an imminent threat of battery with a weapon while committing an armed robbery. In response, Traffic Specialist ██████ discharged his own weapon three times.

The **Detective Supplementary Reports** include documentation of prior vehicular hijackings, a theft of property, and details consistent with that of information gathered by COPA personnel during the course of this investigation.²⁷

A **canvass** of the area surrounding the incident did not yield any eyewitnesses to the armed robbery or the officer-involved shooting.²⁸ Multiple witnesses reported hearing Traffic Specialist ██████ yelling for someone to call 911.

VI. LEGAL STANDARD

a. Use of Deadly Force²⁹

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.³⁰ Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; and (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.³¹

Department policy dictates that “[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.”³² Thus, a Department member may use deadly force in only two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested

²⁶ Attachment 8.

²⁷ Attachments 20, 21, 24, 73. The reports indicate that Mr. ██████ and/or Mr. ██████ were involved in an armed robbery in Chicago at 9:23 pm on November 21, 2018, and a vehicular hijacking in ██████ at 12:49 am on November 22, 2018. Proceeds from a vehicular hijacking in September 2018 were also found on Mr. ██████ after this incident.

²⁸ Attachment 25.

²⁹ Use of Deadly Force standards are governed by federal and state law, as well as Chicago Police Department Directives. The relevant Directive is General Order G03-02(III)(C), which was updated February 29, 2020. This Summary Report references the previous version in place at the time of the shooting.

³⁰ General Order G03-02(III)(B)(1).

³¹ *Id.*; *Graham v. Connor*, 490 U.S. 386, 396 (1989).

³² General Order G03-02(III)(C)(3).

poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.³³ “A threat is imminent when it is objectively reasonable to believe that:

- a. the subject’s actions are likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm.”³⁴

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. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”³⁵

b. Standard of Proof

The applicable standard of proof is a preponderance of the evidence. A preponderance of the evidence can be described as evidence that makes it more likely than not that the alleged misconduct took place. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the involved officer’s conduct complied with Department policy, even if by a narrow margin, then the standard of proof has been met

VII. ANALYSIS

As an initial matter, it is important to note that COPA finds the statement of Traffic Specialist █████ credible by a preponderance of the evidence. First, the physical evidence gathered in this investigation corroborates his account.³⁶ Second, Traffic Specialist █████ statements to COPA have not been refuted by any other witnesses or evidence.³⁷ Additionally, █████ was found guilty after a trial of having committed Armed Robbery to Traffic Specialist █████ Therefore, even after applying the burden of proof of beyond a reasonable doubt, the judge made findings of fact and law that █████ committed this offense, just as was reported by Traffic Specialist █████ In short, there is no evidence to contradict Traffic Specialist █████ and key pieces of it overwhelmingly corroborate his account.

Consequently, the evidence available to COPA demonstrates that Traffic Specialist █████ reasonably believed that deadly force was necessary to prevent Mr. █████ from causing death or

³³ *Id.*

³⁴ General Order G03-02(III)(C)(2).

³⁵ General Order G03-02(II)(2)(D).

³⁶ As explained above, Mr. █████ gun was recovered on scene, and his mother’s boyfriend had reported the gun missing the night prior.

³⁷ COPA’s repeated attempts to interview Mr. █████ were unsuccessful, Mr. █████ is deceased, and no other witnesses were located.

great bodily harm, and his decision to discharge his firearm at Mr. ██████ was objectively reasonable under the totality of the circumstances.

1. Traffic Specialist ██████ Reasonably Believed that Mr. ██████ Posed an Imminent Threat of Death or Great Bodily Harm

A police officer may use deadly force when the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others.³⁸ However, mere possession of a firearm does not, in and of itself, justify a reasonable belief deadly force is necessary to prevent death or great bodily harm. Rather, it is one of several factors to be considered.³⁹

Traffic Specialist ██████ was seated in his vehicle when Mr. ██████ wearing dark clothing, gloves, and a ski mask, pointed a firearm at him, opened the door, and took his wallet and cellular phone. Additionally, Mr. ██████ was accompanied by Mr. ██████ who patted down Traffic Specialist ██████ and uncovered a second wallet with his police identification. Traffic Specialist ██████ was confronted with a situation where 1) Mr. ██████ was pointing a gun at him; 2) he was outnumbered two-to-one; and 3) it had been discovered that he is a police officer. Under these circumstances, COPA finds that Traffic Specialist ██████ had sufficient reason to believe Mr. ██████ posed a threat of serious physical harm.

2. Traffic Specialist ██████ Reasonably Believed Deadly Force was Necessary to Protect Against an Imminent Threat to His Life

COPA finds that an officer with similar training and experience as Traffic Specialist ██████ would reasonably believe that Mr. ██████ posed an imminent threat of death or great bodily harm, and that deadly force was reasonably necessary to eliminate the threat under the totality of the circumstances. As mentioned above, Traffic Specialist ██████ was outnumbered, and had been robbed at gunpoint.⁴⁰ Additionally, given the opportunity to leave after he took Traffic Specialist ██████ belongings and learned he was a police officer, Mr. ██████ chose to stay near the car with his gun still displayed.

Traffic Specialist ██████ use of force must be evaluated based on the information available to him when he discharged his firearm, not with the benefit of hindsight.⁴¹ The evidence indicates that Mr. ██████ had threatened Traffic Specialist ██████ with a gun. The evidence further indicates that Traffic Specialist ██████ did not fire until he provided ample time for Mr. ██████ to leave. Additionally, he fired only three shots, and did not continue shooting after Mr. ██████ collapsed to the ground. Mr. ██████ actions constituted an imminent threat of force, and Traffic Specialist ██████ use of deadly force in response was objectively reasonable.

³⁸ *Anderson v. Russell*, 247 F.3d 125, 129 (4th Cir. 2001)

³⁹ *Wienmann v. McClone*, 787 F.3d 444, 448 (7th Cir. 2015)

⁴⁰ ██████ and ██████ committed Armed Robbery, which a Class X felony, the most serious classification of felony in the State of Illinois

⁴¹ *Graham v. Connor*, *Supra* at 386, 397.

Based on the totality of the circumstances, Traffic Specialist [REDACTED] reasonably believed that Mr. [REDACTED] posed an imminent threat of death or great bodily harm, and deadly force was reasonably necessary to eliminate the threat. Traffic Specialist [REDACTED] use of deadly force was within Department policy, as well as state and federal law.

VIII. CONCLUSION

Based on the analysis set forth above, COPA finds that Traffic Specialist [REDACTED] use of deadly force was objectively reasonable and **Within Department Policy**.

Approved:

[REDACTED]

4/29/30

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

[REDACTED]

4/29/30

Sydney Roberts
Chief Administrator

Date

Appendix A

Assigned Investigative Staff

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