

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 13, 2020
Time of Incident:	10:00 p.m.
Location of Incident:	5200 S. Monitor Avenue, Chicago, IL
Date of COPA Notification:	October 13, 2020
Time of COPA Notification:	11:00 p.m.

██████████ and his girlfriend, ██████████ had ended a date night and ██████████ was dropping off ██████████ near her residence.¹ ██████████ rolled through a stop sign and parked his grey Nissan Sentra at the end of ██████████ block, on the south side of 52nd Street, east of Monitor Avenue, and slightly west of the garage at 5201 S. Monitor Avenue. They sat in the car for a few minutes, and ██████████ had the passenger door partially open.² Off-duty Officer Joseph Cabrera, who resides at 5201 S. Monitor Avenue, pulled up in his black Jeep Cherokee behind ██████████. Officer Cabrera approached the passenger side of ██████████ vehicle and asked if they were okay and/or needed an ambulance. While Officer Cabrera said he believed that ██████████ may have been throwing up due to having the front passenger door open, ██████████ and ██████████ both said they were fine. Officer Cabrera returned to his vehicle where he remained for several minutes, so ██████████ and ██████████ drove around the block.

██████████ returned to the same intersection and parked his vehicle again on the south side of 52nd Street, now to the west of Monitor Avenue. Shortly thereafter, Officer Cabrera returned to the intersection, and once again parked his vehicle behind them. He exited and approached ██████████ driver’s side window. Officer Cabrera yelled at them, told them to leave, and pointed at ██████████. ██████████ exited his vehicle while ██████████ remained in the car. Officer Cabrera placed his hands on ██████████ by pushing him and then grabbing ██████████ by the neck. ██████████ responded by punching Officer Cabrera on the head. Officer Cabrera retrieved his firearm from his front pants area, pointed in the direction of ██████████ fired one (1) time, and missed. ██████████ and ██████████ ran away southbound, on Monitor Avenue, towards ██████████ residence. Officer Cabrera called 911 and reported that he was attacked, knocked down to the ground and fired his weapon. OEMC dispatch announced a call of officer in need of assistance over the radio.

Upon hearing police units at the intersection of 52nd Street and Monitor Avenue, ██████████ quickly returned to the scene of incident. As he approached the officers, Officer Bradley Grosskopf instructed ██████████ to put his hands up and slow down. ██████████ continued to tell the officers what took place, including being shot at, while moving his hands. Officer Grosskopf, with assistance

¹ ██████████ resides with her family at 5244 S. Monitor Avenue, but they chose to drop her off down the block.

² During this time, ██████████ called her sister, Amanda ██████████ to unlock the front door to her residence. Refer to Att. 96, p.10-11 for a summary of Amanda ██████████ statement to detectives. COPA did not interview Amanda because she was not a witness to the incident.

from Officer Nicholas Piraino, handcuffed ██████ and explained it was for officer safety. ██████ questioned this detention. Officers then put ██████ in the rear of a police vehicle. At this time, he described the incident to Officer Christian Nunez. ██████ remained in the police car for approximately 40 minutes before he was driven to District 002 lockup, placed under arrest, and interviewed by detectives. He was subsequently released without charges.

Meanwhile, Officer Englert was speaking with Officer Cabrera, who stated that he shot ██████ because he “attacked” him, however, Officer Cabrera failed to explain his own actions. Officer Cabrera was taken by ambulance to MacNeal Hospital because he had anxiety.

II. INVOLVED PARTIES

Involved Officer #1:	Joseph CABRERA, ³ Star #12575, Employee ID #111601, DOA: October 31, 2012, Officer, Unit: 001, Male, Hispanic
Involved Officer #2:	Bradley GROSSKOPF, ⁴ Star #18363, Employee ID #125970, DOA: June 17, 2019, Officer, Unit: 008, Male, White
Involved Officer #3:	Fernando GOMEZ, Star #4653, Employee ID #95074, DOA: January 26, 2004, Officer, Unit: 008, Male, Hispanic
Involved Officer #4:	Nicholas PIRAINO, ⁵ Star #6110, Employee ID #124294, DOA: September 27, 2018, Officer, Unit: 008, Male, White
Involved Individual #1:	█████ ██████ DOB: March 4, 1998, Male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Joseph Cabrera, #12575	It is alleged that on or about October 13, 2020, at approximately 9:59 p.m., at or near 5200 - 5201 S. Monitor Avenue, Officer Joseph Cabrera #12575;	

³ On January 6, 2021, Officer Joseph Cabrera was arrested and charged under RD #JD399283 with Attempted Murder and several other charges, (see Att. 78 and Att. 126). Officer Cabrera resigned from the Department effective May 7, 2021 (see Att. 124).

⁴ Officer Bradley Grosskopf resigned from the Department effective August 5, 2021 (see Att. 128).

⁵ Officer Nicholas Piraino resigned from the Department effective April 9, 2022 (see Att. 136).

<p>1. used deadly force by discharging his firearm in the direction of [REDACTED] [REDACTED] without justification,</p>	<p>SUSTAINED</p>
<p>2. unnecessarily displayed his firearm in violation of Rule 38,</p>	<p>SUSTAINED</p>
<p>3. was intoxicated in violation of Rule 15,</p>	<p>SUSTAINED</p>
<p>4. operated his motor vehicle while intoxicated,</p>	<p>SUSTAINED</p>
<p>5. engaged in an unjustified physical and/or verbal altercation with [REDACTED] [REDACTED]</p>	<p>SUSTAINED</p>
<p>6. engaged in an unjustified verbal altercation with [REDACTED] [REDACTED]</p>	<p>SUSTAINED</p>
<p>7. carried or possessed a firearm while he consumed alcoholic beverages and/or under the influence of alcoholic beverages, in violation of U04-02, and,</p>	<p>SUSTAINED</p>
<p>8. made a false, misleading, incomplete, and/or inaccurate account of his physical interaction with [REDACTED] [REDACTED] causing the arrest of [REDACTED] [REDACTED]</p>	<p>SUSTAINED</p>
<p>9. failed to cooperate with COPA, in that you refused to answer questions regarding Log #2020-4697, in violation of G01-01-02.II.A.2;</p>	<p>EXONERATED</p>
<p>10. failed to follow Bureau of Internal Affairs Lt. Jonathan Reckhard's direct order to cooperate with COPA's investigation of Log #2020-4697, in that you failed to answer questions with COPA after being ordered to do so, in violation of Rule 6.</p>	<p>EXONERATED</p>

<p>Officer Bradley Grosskopf #18363</p>	<p>It is alleged that on or about October 13, 2020, at approximately 10:00 p.m., at or near 5200 S. Monitor Avenue, you;</p> <ol style="list-style-type: none"> 1. handcuffed [REDACTED] [REDACTED] without justification, 2. arrested [REDACTED] [REDACTED] without justification; and, 3. prematurely deactivated your Body Worn Camera in violation of Special Order 03-14. 	<p>EXONERATED EXONERATED SUSTAINED</p>
<p>Officer Fernando Gomez #4653</p>	<p>It is alleged that on or about October 13, 2020 at approximately 10:00 p.m., at or near 5200 S. Monitor Avenue, Chicago, IL, you;</p> <ol style="list-style-type: none"> 1. arrested Mr. [REDACTED] [REDACTED] without justification; and, 2. prematurely deactivated your Body Worn Camera in violation of Special Order 03-14. 	<p>EXONERATED SUSTAINED</p>
<p>Officer Nicholas Piraino #6110</p>	<p>It is alleged that on or about October 13, 2020 at approximately 10:00 p.m., at or near 5200 S. Monitor Avenue, Chicago, IL, you;</p> <ol style="list-style-type: none"> 1. handcuffed Mr. [REDACTED] [REDACTED] without justification, 2. arrested Mr. [REDACTED] [REDACTED] without justification; and, 3. prematurely deactivated your Body Worn Camera in violation of Special Order 03-14. 	<p>EXONERATED EXONERATED SUSTAINED</p>

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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1 – Violation of any law or ordinance.
 2. Rule 2 – Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
 3. Rule 3 – Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
 4. Rule 6 – Disobedience or an order or directive, whether written or oral.
 5. Rule 8 – Disrespect or maltreatment or any person, while on or off duty.
 6. Rule 9 – Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
 7. Rule 10 – Inattentive to duty.
 8. Rule 14 – Making a false report, written or oral.
 9. Rule 15 – Intoxication on or off duty.
 10. Rule 38 – Unlawful or unnecessary use or display of a weapon.
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General Orders

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

1. S03-14 – Body Worn Cameras – effective April 30, 2018 to present.

V. INVESTIGATION⁶

a. Interviews⁷

During his **Electronic Recorded Interview (ERI)** with the Department on October 14, 2020, ██████████ was seated on a bench and was not in handcuffs. CPD Detectives informed ██████████ of his *Miranda* rights, and ██████████ agreed to speak to them. ██████████ stated in essence that on this day he was on a date with his girlfriend, ██████████. At approximately 9:20 p.m. he drove her home on S. Monitor Avenue but did not drop her off in front of her residence as her family does not like him. ██████████ was driving eastbound on 52nd Street, and as he rolled⁹ through the stop sign on Monitor Avenue, he observed a male exit a building that was north on Monitor Avenue,¹⁰ get into a Jeep, and drive away. ██████████ pulled over on the south side of 52nd Street (just east of Monitor Avenue and parallel to Officer Cabrera's residence at 5201 S. Monitor Avenue) to drop off ██████████. ██████████ called her sister (now known to be Amanda ██████████) to unlock the door to her home. After approximately 3 to 4 minutes, an unknown vehicle drove up "aggressively"¹¹ behind them. A male (now known to be Officer Cabrera) exited that vehicle and approached the passenger side of ██████████ vehicle. Officer Cabrera appeared cordial, and ██████████ opened the passenger door. Officer Cabrera asked if they were okay and if they needed an ambulance. ██████████ and ██████████ were confused but responded they were fine. Officer Cabrera returned to his vehicle and remained there for approximately 7 to 8 minutes, when ██████████ and ██████████ drove away because they felt uncomfortable.

██████████ drove around the block and parked on the south side of 52nd street near the southwest corner. They did not see Officer Cabrera at that time. After approximately 2 minutes, a vehicle pulled up "more aggressively"¹² right behind ██████████ and flashed its lights. Officer Cabrera exited his vehicle, approached ██████████ driver's side, and attempted to instigate an argument regarding why they were in the area by saying, "What the fuck are you guys doing?"¹³ Officer Cabrera tapped on his driver's side window, so ██████████ slightly opened his door and asked if something was wrong. At this point Officer Cabrera told them to "get the fuck out of [there]."¹⁴ Officer Cabrera proceeded to point his finger at ██████████ and question him as to why they were there. ██████████ exited his vehicle "aggressively"¹⁵ and told Officer Cabrera to stop pointing his finger at him. Officer Cabrera grabbed ██████████ by his neck. ██████████ then punched Officer Cabrera on the top of his head. Officer Cabrera "stagger[ed] away a bit,"¹⁶ then pulled out his firearm and fired. ██████████ did not know in which direction Officer Cabrera fired. ██████████ believed he was shot and began to run to 5244 S. Monitor Avenue. After ██████████ checked himself and realized he

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

⁷ COPA conducted some officer interviews via telephone, in accordance with Covid-19 mitigation efforts.

⁸ Att. 56

⁹ At approximately 7 minutes, ██████████ also states that he sped through the stop sign.

¹⁰ Officer Cabrera resides at 5201 S. Monitor Avenue which is on the southeast side of the street.

¹¹ Att. 56, 7:05.

¹² Att. 56, 8:14.

¹³ Att. 56, 8:32.

¹⁴ Att. 56, 13:25.

¹⁵ Att. 56, 13:38

¹⁶ Att. 56, 9:55.

was not shot, he yelled out for [REDACTED] who came running towards him. They both went to the rear of her parents' home, entered through the side door, and told her family what happened. [REDACTED] told her family he was fired upon.

[REDACTED] left [REDACTED] home and saw police lights, so he went over to explain his side of the story. He ran in that direction with his hands up, calling for the officers' attention. At this point an officer put him in handcuffs and put him in the police car. He believed it was because they may have been nervous about how [REDACTED] was acting.

In an **Electronic Recorded Interview (ERI)** with the Department on October 14, 2020, [REDACTED] [REDACTED] stated in essence that on the date of incident, she went on a date with [REDACTED] and at approximately 9:40 p.m. he was bringing her home. He was dropping her off at the end of her block. [REDACTED] pulled over his vehicle on the south side of 52nd Street, east of Monitor Avenue, where they continued to engage in conversation. [REDACTED] called her sister (now known to be Amanda [REDACTED]) to leave their house door unlocked. As [REDACTED] was waiting for her sister to answer her phone call, a man (now known to be Officer Cabrera) pulled up in a vehicle behind them and walked up to her passenger side door. [REDACTED] explained that the passenger side door of [REDACTED] vehicle was already open as his car windows did not work and it was getting warm inside of the vehicle. Officer Cabrera asked them if they were okay and if she was sick or needed an ambulance. [REDACTED] and [REDACTED] told him they were fine and felt the situation to be strange. Officer Cabrera returned to his vehicle and sat there for approximately 2 to 3 minutes. [REDACTED] and [REDACTED] felt strange and drove away.

They returned and [REDACTED] pulled over his vehicle on the south side of 52nd Street, west of the stop sign on Monitor Avenue. At that time, they did not see Officer Cabrera. They had planned to continue talking and then [REDACTED] was going to go home. A few minutes later, Officer Cabrera arrived in his Jeep. He exited his car while yelling and approached the driver's side of [REDACTED] vehicle. Officer Cabrera yelled at them to "leave"¹⁸ and "take [their] problems somewhere else."¹⁹ [REDACTED] responded that they were not arguing, and she lived on that block. Officer Cabrera continued to yell at them. Officer Cabrera "got into [REDACTED] face" by yelling at him through the window.²⁰ [REDACTED] opened his door and Officer Cabrera approached him and told him to get in his car and leave. [REDACTED] remained seated in the car. [REDACTED] told Officer Cabrera to back away. Officer Cabrera grabbed [REDACTED] by his chest area.²¹ [REDACTED] attempted to push him away. [REDACTED] told Officer Cabrera to stop. [REDACTED] and Officer Cabrera grabbed at each other. Officer Cabrera reached into his pants pocket, pulled out a gun and fired it towards the direction of the ground. [REDACTED] believed he was trying to shoot [REDACTED] in the leg. Officer Cabrera missed and said "Fuck."²² [REDACTED] ran towards [REDACTED] house and screamed her name. [REDACTED] was afraid to exit [REDACTED] vehicle. She told Officer Cabrera in essence not to do anything as she has a son. [REDACTED] was afraid that Officer Cabrera was going to shoot her. She then observed Officer Cabrera with his knee on the ground. [REDACTED] grabbed [REDACTED] car keys and ran towards him. They hid

¹⁷ Att. 57

¹⁸ Att. 57, 10:16.

¹⁹ Att. 57, 10:21.

²⁰ Att. 57, 10:35.

²¹ When describing where [REDACTED] was grabbed by his chest, [REDACTED] gestured and grabbed her shirt neckline area. See Att. 57, 11:20.

²² Att. 57, 13:13.

in a dark area near the front of a house because they were afraid Officer Cabrera was going to chase them. [REDACTED] and [REDACTED] discussed calling the police but proceeded to enter her family's house through the rear.

From the front door of the residence, [REDACTED] observed that there were police in the area. He left the house to speak with the police. Shortly thereafter, [REDACTED] followed him. She observed [REDACTED] handcuffed and explained to the officers what had taken place and that [REDACTED] did nothing wrong. Police asked her to come to the station, so she went and spoke with detectives.

In **telephone statements to COPA, Officer Joseph Cabrera** on December 8, 2020, and during a second statement on December 22, 2020,²³ asserted his Fifth Amendment right against self-incrimination and refused to answer questions regarding this incident.

In a **telephone statement to COPA** on December 22, 2020, witness Officer **Christopher Jania #17519**²⁴ stated that on the date and approximate time of incident, he was off duty and in his 2nd floor bedroom with his wife at his home at 5159 S. Monitor Avenue. He heard a gunshot, looked out of his south bedroom window, facing 52nd Street, and observed headlights coming from the west. He got dressed, grabbed his firearm,²⁵ told his wife to call 911, and proceeded to exit the front door of his residence. It was approximately one minute from the time he heard the gunshot to the time he exited his residence. Upon exiting his front door, he observed two parked vehicles on 52nd Street facing east. The cars were across the street and on the west side of Monitor. He glanced around the block and observed someone moving further south down the 5200 block of Monitor Avenue. He proceeded to cross the street [towards the parked vehicles] and saw his neighbor Officer Cabrera²⁶ standing near his open driver's side door of his black Jeep. He could hear Officer Cabrera speaking to OEMC through the vehicle's speaker system. Officer Jania said his name and Officer Cabrera confirmed it was him. Officer Cabrera then stated, "This guy just attacked me,"²⁷ and told Officer Jania that he fired his gun.²⁸ Officer Cabrera also said the guy who he shot at was in the car that was parked in front of his. Officer Jania proceeded to look inside of a small, gray vehicle and did not see anyone inside. He told Officer Cabrera to relax. He described Officer Cabrera as agitated and nervous. He did not appear to be intoxicated and Officer Jania did not smell alcohol on him.

Within seconds, several responding officers arrived on scene and Officer Jania identified himself.²⁹ At no time did Officer Jania witness the incident. Officer Cabrera did not describe to Officer Jania how he was attacked. Officer Jania shared footage from his Ring video camera on his garage that faces south onto 52nd Street and across the street towards Officer Cabrera's

²³ Atts. 53, 54, 55, 81 and 82.

²⁴ Atts. 72, 83.

²⁵ Officer Jania described his firearm as a Sig Sauer P239 9mm. Officer Jania explained that he grabbed his firearm as he believed there to be someone shooting outside due to hearing a gunshot.

²⁶ Officer Jania explained that he has known Officer Cabrera as a neighbor for approximately the last five to six years. They maintain a cordial relationship as they are both police officers and greet each other in passing.

²⁷ Att. 83, p. 12, line 6, and p. 14, line 16.

²⁸ Att. 83, p. 12, lines 7-9, p. 14, lines 15-17.

²⁹ Officer Jania stated that other off-duty members that live in the area arrived on scene, including off-duty Sergeant Frank Ramaglia and off-duty Officer Ted Flotus.

driveway. He described that there was video footage of Officer Cabrera approaching the passenger side of the involved car and asking a few questions.

In a statement to COPA on April 7, 2021, witness **Officer Justin Englert #4969**³⁰ stated that on the date and time of incident, he was on-duty with his partner, Officer Sergio Martinez. They were conducting surveillance on a house for a search warrant when a dispatch call was announced of shots fired around 52nd Street and Monitor Avenue³¹ followed by a call of office in need of assistance with shots fired. They proceeded to the scene and arrived at the northwest corner of the intersection. As he approached, Officer Englert observed two males with their hands up in the middle of 52nd Street. One of the males (now known to be Officer Jania) announced he was the police. Officer Englert observed a black firearm on Officer Cabrera's hip. Officer Englert focused on Officer Cabrera due to the firearm. He asked him if he was an officer and believed that Officer Cabrera said yes. He did not see a badge, nor did he know Officer Cabrera. Officer Englert proceeded to remove Officer Cabrera's firearm from his right-side waistband area. He cleared the firearm and held it in his hand until additional units responded. Officer Englert called an ambulance for Officer Cabrera as he appeared to be "going through shock."³² Officer Cabrera told Officer Englert that he was attacked, and that he fired a round at his attacker.³³ Officer Cabrera also relayed that prior to the attack, the involved civilians pulled up by his house, were throwing up and he asked if they were okay.³⁴ Officer Englert did not ask Officer Cabrera any questions as this was a police-involved shooting that he was not responsible for investigating. Officer Cabrera remained seated on the parkway curb and was rambling, but Officer Englert could not make out what he was saying. Subsequently, an ambulance arrived.

Officer Englert observed an unknown individual that was handcuffed and placed in the rear of a police car at the end of the block. As Officer Cabrera entered the ambulance, an unknown, 8th district male Sergeant arrived on scene. The Sergeant gave him permission to turn off his BWC. Officer Englert handed Officer Cabrera's firearm, magazine, and the round from the chamber to the Sergeant and explained how he got it. Officer Englert and his partner then left the scene and resumed their duty. Officer Englert further explained that he believed the civilian (now known to be ██████████) was detained because when ██████████ was with the other officers, Officer Cabrera named him as the offender by possibly pointing at ██████████ and saying that ██████████ attacked him.³⁵

In a statement to COPA on March 16, 2021, accused **Officer Nicholas Piraino #6110**³⁶ stated that on the date of incident, he was on-duty with his partner, Officer Christian Nunez. They received a ShotSpotter alert of one round fired in the area of 5200 S. Monitor Avenue. While enroute, there was a radio call of a 10-1 with an off-duty member at that same location. Upon their arrival, Officer Piraino observed ██████████ yelling and approaching the street towards other officers, including Officer Gomez and Officer Grosskopf. Officer Piraino exited his vehicle and walked

³⁰ Atts. 117, 118.

³¹ Officer Englert mentioned at different times throughout his statement that this was the 8th district and he was not familiar with either the area or other Department members in that district.

³² Att. 118, p. 17, line 1.

³³ Att. 118, p. 16, lines 2-3.

³⁴ Att. 118, p. 30 lines 17-20.

³⁵ Att. 118, p. 27, 28.

³⁶ Atts. 98, 100.

towards ██████ He described ██████ as “frantic” and “agitated”³⁷ while moving his arms and hands up and in front of his face like that of a fighting stance.³⁸ At this time, Officer Piraino knew that a shot was fired but did not know who fired a weapon or who had a gun. The officers were attempting to control the scene and gather information. Officer Piraino got closer to ██████ and heard him yelling “He shot at me.”³⁹ Officer Piraino was focused on officer safety, public safety and ensuring the gun involved was located and the involved parties were detained. Officer Piraino explained that other officers were issuing verbal commands at ██████ for him to calm down, but his emotions were elevated, and his arms were raised. As other officers (including Officer Grosskopf) attempted to grab ██████ he appeared to tense up. Officer Piraino assisted the other officers by grabbing ██████ arms and handcuffing him. Officer Piraino did not know if ██████ was going to fight or if he was the one who fired a weapon. ██████ questioned why he was handcuffed, and Officer Piraino did not recall responding. He escorted ██████ to a police vehicle⁴⁰ so that he would calm down, to move him away from the street and to pat him down closer to the police vehicle.⁴¹ When ██████ was handcuffed, his arms were controlled.

Officer Piraino heard an individual yelling from behind him and ██████ announced that was his girlfriend (now known to be ██████ ██████). Officer Piraino left ██████ outside police vehicles with other officers and went to speak to ██████ as he did not want her approaching the scene. He described her as frantic. She repeated that they were shot at while pointing further west [on 52nd Street] towards the person who shot at them (now known to be Officer Cabrera). At this time, there was still no supervisor on scene that he observed. Officer Piraino was focused on ██████ and had no knowledge of what was taking place with ██████ including when he was placed in the police vehicle. Shortly thereafter, other officers began to question ██████ and Officer Piraino walked away to look around the scene. He observed Sergeant Hickey, Sergeant Ciraulo and possibly other supervisors. Officer Piraino did not know Officer Cabrera and did not speak to him while on scene. However, at about this time he knew that an altercation had occurred between Officer Cabrera and ██████ and it was Officer Cabrera who had fired a gun. Officer Piraino was instructed to follow the ambulance that had arrived for Officer Cabrera to MacNeal Hospital and that Officer Nunez was going to ride in the ambulance. Officer Piraino was unaware of any injuries to either involved person. Upon arrival at the hospital, Officers Piraino and Nunez escorted Officer Cabrera to a private room. He appeared stressed. At no time did they discuss the incident. Officer Piraino did not observe any indication that Officer Cabrera was intoxicated and the closest he may have been to him was approximately six feet. After several hours, other officers arrived at the hospital and Officer Piraino and his partner were relieved of their duty.

Officer Piraino stated that he did not deactivate his BWC prematurely as he deactivated it when the scene was secure. This was his understanding of when it could be deactivated. The scene was secure when involved parties were detained, supervisors were on scene and the event had ended with no further police action to take. He was unsure whether driving behind an ambulance would be considered a police action as he was not with a member of the public. Officer Piraino compared it to sitting around at the police station which would not be video recorded. Officer

³⁷ Att. 100, p.16, line 24.

³⁸ Att. 100, p. 20, lines 2-5.

³⁹ Att. 100, p. 20, line 18.

⁴⁰ The police vehicle was that of Beat 812, Officer Grosskopf and Officer Gomez.

⁴¹ Att. 100, p. 27, lines 16-21; p. 28, lines 2-15.

Piraino believed that it was announced over the radio to deactivate BWCs, but he did not recall at what point.

Officer Piraino stated that at no time did he place ██████ under arrest. When he handcuffed him, ██████ was detained and not under arrest. He did not know if ██████ was placed under arrest prior to being transported to the police station but did explain that he still could have been detained.⁴² Officer Piraino had no knowledge of ██████ being arrested on this date, and subsequently released without being charged, until a month or two after the incident. Officer Piraino had no knowledge of why he was named as an assisting arresting officer on ██████ arrest report other than assuming because he assisted in handcuffing ██████

In a statement to COPA on April 7, 2021, witness **Officer Christian Nunez #5847**⁴³ stated in essence the same information as Officer Nicholas Piraino. Specifically, he stated that upon arrival to the scene, he had observed Officer Bradley Grosskopf and Officer Fernando Gomez speaking to ██████ appeared to be animated, as he was moving around his hands and arms. ██████ was also emotional, in distress and loud, however Officer Nunez could not make out what he was saying. Officer Nunez knew ██████ from high school and knew him to be from this neighborhood. However, they were not friends. Officer Nunez observed an additional police unit with a different individual (now known to be Officer Cabrera). Officer Piraino assisted Officers Grosskopf and Gomez in detaining ██████ by handcuffing him “because of how animated he was being”⁴⁴ and for officer safety. The officers explained in essence to ██████ that he was not under arrest and only detained as they were still gathering information. ██████ questioned his detention. Officer Gomez and Officer Nunez walked away further west on 52nd Street towards a white male witness, whom they learned to be an off-duty officer, who lived in the area and said he heard one shot. Officer Nunez observed other unknown responding officers with the involved off-duty officer (now known to be Officer Cabrera). They handed Officer Cabrera’s Police ID to Officer Nunez. As Officer Nunez and Officer Gomez were within a few feet of Officer Cabrera, Officer Gomez asked him if he shot, and Officer Cabrera said he did. Officer Nunez did not speak to Officer Cabrera and described his demeanor as possibly upset while repeating that he fired his weapon. There was no indication to Officer Nunez that Officer Cabrera was under the influence. Officer Nunez and Officer Gomez walked away.

Officer Nunez walked towards ██████ who was seated in the rear of a police vehicle while handcuffed. Officer Nunez stated that ██████ was placed in the vehicle since there were more civilians arriving to the scene, including ██████ girlfriend (now known to be ██████ and her parents. He decided that it was best to keep them separated. Officer Nunez described ██████ as distressed. Officer Nunez explained to ██████ that he was not under arrest. Officer Nunez spoke to ██████ to learn what had taken place. ██████ told Officer Nunez that he was parked around 52nd Street and Monitor Avenue with his girlfriend. Officer Cabrera approached them and asked if they needed anything, and they replied they did not. ██████ drove away and returned to the area to park again. ██████ told Officer Nunez that Officer Cabrera may have followed him

⁴² Officer Piraino explained that the difference between detainment and arrest is that when detaining someone it is for reasonable suspicion that they were involved in a criminal act. When arresting someone you now have probable cause [that they committed a criminal act]. Att. 100, p. 71.

⁴³ Atts. 119, 120.

⁴⁴ Att. 120, p. 19, lines 8-9.

because he approached his car a second time and told them to “get out of here.”⁴⁵ Officer Cabrera began to choke [REDACTED] punched Officer Cabrera and Officer Cabrera fired one round at him.

Subsequently, Officer Nunez and Officer Gomez checked [REDACTED] for injuries and found none. Officer Nunez continued to explain to [REDACTED] that he was detained, and not under arrest, until they figured out what had happened. Officer Nunez spoke to [REDACTED] who told him that [REDACTED] was dropping her off when Officer Cabrera approached them and asked if they needed anything. They responded they did not, drove around the block and returned to park. Officer Cabrera returned, approached their vehicle, and [REDACTED] and Officer Cabrera got into a physical altercation outside of the car. During the altercation, Officer Cabrera fired a round at [REDACTED] and [REDACTED] ran to her house. Shortly thereafter, additional units arrived on scene and Officer Nunez deactivated his BWC as the scene was then secure.

Officer Nunez was ordered to ride in the ambulance with Officer Cabrera to MacNeal Hospital. During the hospital transport, Officer Nunez did not speak to Officer Cabrera about the incident. While at the hospital, Officers Nunez and Piraino stood guard while Officer Cabrera was in a room. At no time did they discuss the incident. Officer Nunez learned on the day of his COPA statement that he was listed as an assisting arresting officer on [REDACTED] arrest report. He stated that it is common for an assisting unit to be listed as an assisting arresting officer, without their knowledge, when they respond to help other officers.

In a statement to COPA on February 11, 2021, accused **Officer Bradley Grosskopf**⁴⁶ stated that on the date of incident, he was on-duty with his partner, Officer Fernando Gomez. They received a dispatch call of a ShotSpotter alert in the area, that evolved into a 10-1, meaning emergency and officer needs assistance. He did not recall receiving any other information from dispatch while enroute. They arrived and stopped their vehicle on the north side of 52nd Street, near Monitor Avenue. There was an additional unknown unit on scene further west on 52nd Street. As Officer Grosskopf exited his vehicle, he observed a male (now known to be [REDACTED]) running at him while yelling with his hands up in the air in a flailing motion. Officer Grosskopf issued several verbal commands for [REDACTED] to stop. [REDACTED] stopped when he was approximately two arm lengths away from the officer. He kept his hands up and Officer Grosskopf instructed him to control his breathing. He recalled [REDACTED] saying that he had been shot at. [REDACTED] pointed to the location where the shooting took place. As Officer Grosskopf knew that an off-duty officer (now known to be Officer Cabrera) was involved, he believed it was the off-duty who fired the round. Officers Piraino and Nunez arrived and began to assist. Officer Grosskopf stated that Officer Piraino began handcuffing [REDACTED] by grabbing his right arm, and Officer Grosskopf assisted by grabbing [REDACTED] left arm. If Officer Piraino had not initiated the [REDACTED] handcuffing, Officer Grosskopf would have still handcuffed [REDACTED] due to how he ran at him, his demeanor of being “frantic, agitated”⁴⁷ and for safety concerns as at this point they still did not know what had taken place. He did not recall if [REDACTED] was handcuffed before or after he told them he was shot at.

⁴⁵ Att. 120, p. 29, lines 18-19.

⁴⁶ Atts. 89, 90, 91.

⁴⁷ Att. 91, p. 20, line 7.

█████ questioned the officers about why they put him in handcuffs. Officer Grosskopf explained to him that he was not under arrest, they were attempting to gather information and he was just detained. Subsequently, they placed █████ inside their police car for safety reasons and to better control the scene.⁴⁸ █████ remained detained, and not under arrest, while in his police car. Officer Grosskopf explained the difference between being detained and under arrest is that when detained, there is a preliminary investigation to determine what occurred. When someone is under arrest there will be charges of a crime [against them]. In addition, someone can be detained for up to 48 hours.⁴⁹

Officer Grosskopf observed a female (now known to be █████ on scene speaking to other officers and essentially stating the same information as █████ She said that there was a verbal altercation that led to a physical altercation and the “off-duty is knocked back and fire[d] a round.”⁵⁰ When questioned about Officer Cabrera being knocked back and firing a round, Officer Grosskopf further stated that he learned “something physical happens where there’s some separation, from what I remember, and then a round is fired.”⁵¹ Officer Grosskopf later explained that he recalled directly speaking with █████ in the presence of other officers, but it was not recorded on his BWC.⁵² █████ explained to Officer Grosskopf that during the physical altercation between █████ and Officer Cabrera, █████ “pushes off-duty Cabrera and then the shot is fired by Officer Cabrera.”⁵³ He recalled █████ using the word “push.”⁵⁴ He added, ‘...the essence is that there was a push involved and distance was created due to the push.’⁵⁵ Officer Grosskopf was questioned again about using the term of “knock back”⁵⁶ earlier in this statement and he replied, “That may have been sloppy terminology on my part.”⁵⁷

Officer Grosskopf explained he was a probationary officer when this incident occurred, and this was the first time he responded to a police shooting. He did what he knew to do, which was securing the scene and ensuring the involved party was not injured. At some point, he was handed Officer Cabrera’s Police identification (ID). At no time did he speak to Officer Cabrera and did not recall seeing him. He approached the ambulance that Officer Cabrera was in to hand his ID back to a different officer. Officer Grosskopf recalled seeing Sergeant Gorman and Sergeant Ciraulo on scene. He believed it was Sergeant Ciraulo who ordered him and his partner to bring █████ to Area 1 [police station],⁵⁸ to speak with detectives. Sergeant Ciraulo also assigned them as the paper car, which meant they were to handle any reports and conduct a “preliminary investigation.”⁵⁹ Officer Grosskopf added that he observed a shell casing near the involved cars located on 52nd Street.⁶⁰ █████ remained handcuffed while in the police vehicle because he was under detention. █████ remained in the vehicle for about 15 to 30 minutes before they

⁴⁸ According to Officer Grosskopf, an unknown officer said to bring █████ to the police car.

⁴⁹ Att. 91, p. 32, lines 7-18.

⁵⁰ Att. 91, p. 28, lines 17-18.

⁵¹ Att. 91, p. 28, lines 23-24; p. 29, line 1.

⁵² Att. 91, p. 48, lines 18-24; p. 49, 10-13.

⁵³ Att. 91, p. 50, lines 11-13.

⁵⁴ Att. 91, p. 50, lines 14-15.

⁵⁵ Att. 91, p. 51, lines 4-5.

⁵⁶ Att. 91, p. 28, line 18.

⁵⁷ Att. 91, p. 51, lines 2-3.

⁵⁸ 5101 S. Wentworth Avenue.

⁵⁹ Att. 91, p. 34, line 17.

⁶⁰ Att. 91, p. 74, lines 22-24 and p. 75. Lines 1-9.

transported him to the station. ██████ remained handcuffed inside of the vehicle for safety reasons because they were still uncertain about the situation.

When questioned about his preliminary investigation on scene, Officer Grosskopf stated that aside from speaking to ██████ his preliminary investigation consisted of him knowing that ██████ and Officer Cabrera were involved parties and that a shot was fired. He did not have an opportunity to speak to Officer Cabrera on scene as he was already in an ambulance. He stated that on scene supervisors oversaw the on scene investigation. Specifically, Sergeant Ciraulo gave Officer Grosskopf instructions.

Once they arrived at Area 1, the officers turned over ██████ to unknown detectives who took him to a separate room. Officer Grosskopf believed ██████ was still detained at this point. Officer Grosskopf and his partner sat down at a computer and Officer Gomez began to generate the case report. An unknown detective approached them and instructed them to do an arrest report on ██████ for a charge of a simple battery. The detective informed Officer Grosskopf and his partner that at some point during the altercation they learned that ██████ committed a battery against Officer Cabrera who also signed or was going to sign a complaint. In addition, ██████ informed the officers that ██████ pushed Officer Cabrera. Subsequently, approximately six to seven hours after they had arrived at the area, Officer Grosskopf was told that ██████ would be released without charging and he or his partner updated the arrest report. They then took ██████ home.

Officer Grosskopf stated that he was still new with using his BWC. He stated that it was his understanding that he could deactivate his BWC when no longer engaged in a law enforcement activity or when ordered by a supervisor. He considered the transport of ██████ to the area to be a law enforcement activity and admitted that he unintentionally deactivated his BWC prematurely.

In a telephone statement to COPA on January 26, 2021, accused **Officer Fernando Gomez #4653**⁶¹ stated in essence the same information as Officer Grosskopf regarding what led them to the location of incident, as well as the transport and arrival of ██████ to Area 1. As they arrived at the scene, Officer Grosskopf informed him that there was an individual (now known to be ██████) running towards their police vehicle. The officers exited their vehicle. ██████ continued to run towards them. Officer Grosskopf commanded ██████ to stop, put his hands up and to breathe. Officer Gomez recalled ██████ stating that he had been shot or someone shot at him.⁶² He described ██████ as “agitated”⁶³ while yelling and screaming. Officer Piraino and Officer Nunez arrived on scene. Officer Piraino handcuffed ██████. He was handcuffed for safety reasons and to secure the crime scene as they were unsure what had taken place. Officer Gomez then walked further west on 52nd Street. He was approached by Officer Sergio Martinez who told him that an off-duty officer (now known to be Officer Cabrera) had been involved in an altercation and ██████ had battered Officer Cabrera. As a result of the battery, Officer Cabrera fired one round.⁶⁴ Officer Gomez saw Officer Cabrera on scene. As they were approximately five to six feet away from each other, he asked if he was okay. He further asked Officer Cabrera if he fired his

⁶¹ Atts. 85, 86

⁶² Att. 86, p. 17, lines 8-10.

⁶³ Att. 86, p. 17, lines 3-5.

⁶⁴ Att. 86, p. 20, 21.

weapon and he responded that he did. Officer Gomez told him he needed to prepare a Tactical Response Report (TRR) and then he walked away. He described Officer Cabrera as “quiet.”⁶⁵ There was no indication that he was under the influence. Officer Gomez described him as alert and coherent.⁶⁶ They had no further verbal exchange.

Officer Gomez returned to his police car and ██████ was in the back seat. He checked ██████ for injury, and he did not have any. According to Officer Gomez, ██████ was detained inside of their police vehicle because at that time ██████ was identified as an offender by Officer Cabrera. They also detained ██████ because Officer Cabrera said he attacked him, and because the officers were still investigating the shooting. While in the police vehicle, ██████ told Officers Gomez and Grosskopf that it was Officer Cabrera who became aggressive with him. ██████ punched Officer Cabrera and Officer Cabrera then fired at ██████⁶⁷

After some time, ██████ appeared to calm down. Officer Gomez stated that ██████ was upset that he had been placed in handcuffs and detained in the rear of the police car. However, the officers explained to him it was for safety reasons, to gather information and to secure the scene.⁶⁸ Officer Gomez recalled seeing supervisors on scene but only specifically recalled Sergeant Ciraulo. When asked who oversaw the scene and the preliminary investigation, he explained that it would have been the highest-ranking supervisor. Subsequently, Sergeant Ciraulo instructed Officer Gomez to transport ██████ to Area 1 and assigned them as the paper car. As the paper car, Officer Gomez understood that he was the “primary investigator”⁶⁹ but because of being tasked to transport ██████ to the area, he was unable to interview any other parties involved. Officer Gomez did not relay to Sergeant Ciraulo the information he learned from ██████ and it was unknown if any other officers relayed information to him. At this time, ██████ was detained pending further investigation but was not under arrest. According to Officer Gomez, a person can be detained for up to 48 hours. ██████ was not free to go due to the allegation of the battery from Officer Cabrera. Upon arrival to Area 1, ██████ was turned over to unknown detectives. Officer Gomez completed a case report and was later instructed by an unknown detective to fill out an arrest report as ██████ was being arrested for battery. Officer Gomez later learned that ██████ was released without charging but he did not know the reason why.

Regarding his body worn camera, Officer Gomez stated that he deactivated his BWC when the scene was secure. It was his understanding that he could deactivate his BWC when the scene was secure, police action was completed, or per instruction of a supervisor. Officer Gomez admitted that while ██████ was in the rear of his vehicle, and as the transport officer, his police action was not completed. As the transporting officer his BWC should have been activated and he likely just forgot to reactivate it.⁷⁰

⁶⁵ Att. 86, p. 23, line 8.

⁶⁶ Att. 86, p. 25 line 13.

⁶⁷ Att. 86, p. 29, lines 6-11.

⁶⁸ Att. 86, p. 31.

⁶⁹ Att. 86, p. 42, line 5.

⁷⁰ Att. 86, p. 52.

b. Digital Evidence

Evidence Technician (ET) Photographs⁷¹ depict the scene and the recovered evidence from various angles.

COPA obtained and reviewed **Body Worn Camera (BWC)**⁷² and **In Car Camera (ICC)**⁷³ footage from responding officers, of all which were post-incident and did not capture the shooting incident. However, specific video footage captures the aftermath of events related to the interaction between responding officers and [REDACTED] and/or Officer Cabrera.

Officer Englert's BWC⁷⁴ video depicts his arrival to the incident location. When he arrives no other on-duty officers appear to be on scene.⁷⁵ Officer Cabrera is observed standing along the driver's side of his black Jeep with his arms raised saying he is an officer. A second male (now known to be Officer Jania), also has his arms raised and announces himself as an off-duty officer. Officer Jania points towards Officer Cabrera and states that his neighbor shot, he heard the round, and came outside. Officer Englert approaches Officer Cabrera whose firearm can be seen on his right side, on the inside of his waistband area. Officer Englert tells Officer Cabrera he doesn't know him and proceeds to take his firearm. Officer Cabrera states, "Nobody shot at me, he started attacking me, I fired a round at him."⁷⁶ He then tells another officer, "It happened while he was attacking me" and says "Yeah, him" while pointing down the street towards [REDACTED]. The second officer then walks towards [REDACTED].⁷⁷

Officer Cabrera describes himself as upset. Officer Englert requests a supervisor and an ambulance. The video depicts Officer Englert clearing the recovered firearm and removing the magazine. A male Hispanic (now known to be off-duty Sergeant Frank Ramaglia #1775) approaches Officer Cabrera and asks if he is okay. Officer Cabrera sits along the curb of the parkway [on the south side of 52nd Street]. Officer Cabrera states:

They puked in front of my garage, on the other side of the fucking stop sign. She opened the door. They blow through the fucking stop sign, and then they stop in front of my garage, I confronted them about it, I asked her if they needed help, if they needed an ambulance. Something seemed wrong that they blow a stop sign, she opens the door like she's going to puke or something was going on. You know, I just don't, I don't fucking know.

⁷¹ Att. 93

⁷² Atts. 58-66, 97, 104, 105

⁷³ Att. 103

⁷⁴ Att. 59

⁷⁵ See Att. 59, at 22:01:01.

⁷⁶ Att. 59, at 22:01:47. In the background [REDACTED] can be heard yelling "why are you putting me in handcuffs," "he shot at me."

⁷⁷ Att. 59, at 22:01:53.

Officer Englert announces he is still recording. Ambulance 12 arrives on scene.⁷⁸ A male supervisor in a white shirt (now known to be Sergeant Hickey) gives permission to Officer Englert to deactivate his BWC.⁷⁹

Officer Grosskopf's BWC⁸⁰ depicts his arrival to the location of incident. He exits his vehicle at 22:01:20 and one other police vehicle is already on scene. [REDACTED] is observed quickly coming towards the officer with his hands up. Officer Grosskopf repeatedly orders [REDACTED] to "Stay right there" and "Stop"⁸¹ as he approaches. [REDACTED] continues to come towards Officer Grosskopf while speaking. [REDACTED] finally stops and says, "Ok, I'm scared. He shot at me."⁸² Officer Grosskopf tells him to keep his hands up and asks if he has anything on him and [REDACTED] replies that he does not. He lifts the hem of his shirt to show the officers he has nothing in his waistband.

At 22:01:42, Officers Gomez, Piraino, and Nunez approach [REDACTED] Officer Gomez advises him to relax. [REDACTED] continues to move his hands while he repeatedly tells the officers he was shot at. Officer Gomez grabs [REDACTED] right wrist as Officer Piraino and Officer Nunez approach. Officer Grosskopf grabs [REDACTED] left wrist as Officer Piraino grabs his right wrist and Officer Piraino places [REDACTED] in handcuffs. [REDACTED] questions "Why are you putting me in handcuffs? He shot at me."⁸³ Officer Grosskopf begins to speak to [REDACTED] who is now breathing heavily, and explains they need to figure out the situation and that [REDACTED] ran up on him. Officer Grosskopf tells [REDACTED] he understands that he is scared. [REDACTED] states "I don't know why he pulled a gun on me."⁸⁴ At 22:02:30, Officer Grosskopf and other officers escort [REDACTED] towards police car #7041 and conduct a pat down search. Officer Grosskopf explains to [REDACTED] he is just being held until they know what took place. They ask [REDACTED] what happened, and he explains, that they were stopped, and a guy came up, but provides no detail of the incident.⁸⁵ An officer tells him that he's just being held until they figure out what's going on.

At 22:03:12, an unknown male Hispanic officer arrives on scene and instructs Officer Grosskopf to place [REDACTED] inside of the police car. [REDACTED] repeatedly questions why he is being placed in the police car when he was the one that was shot at. The unknown Hispanic officer is heard telling [REDACTED] that they were figuring things out. [REDACTED] is then seated in the rear of the car with the door closed. Officer Nunez begins to speak to [REDACTED] from inside of the police car. [REDACTED] is heard speaking, but it is inaudible until he states, "He grabbed my neck, and that's when I punched him. And he pulled out a fucking gun on me and shot [at] me."⁸⁶ Officer Gomez and Officer Nunez check him for injuries but find none. [REDACTED] remains seated in the police car. Officer Gomez explains that he is not under arrest. Officer Grosskopf walks further west on 52nd Street. A male white (now known to be Officer Jania) points out a shell casing on the street.

⁷⁸ Att. 59, at 22:06:13.

⁷⁹ Att. 59, at 22:07:20

⁸⁰ Att. 63

⁸¹ Att. 63, at 22:01:22.

⁸² Att. 63, at 22:01:26.

⁸³ Att. 63, at 22:01:46

⁸⁴ Att. 63, at 22:02:05.

⁸⁵ At this point, [REDACTED] sees [REDACTED] approach the scene and informs officers that she's his girlfriend, however, no officers are seen on Officer Grosskopf's video going to speak with her.

⁸⁶ Att. 63, at 22:04:27

Ambulance 12 is on scene. Officer Grosskopf walks near the ambulance. The video depicts two white males in white shirts (now known to be Sergeant Hickey and an unknown supervisor) with two other male officers. When asked about an offender, Officer Grosskopf tells them that they have a civilian in his car who states that Officer Cabrera shot at him. An unknown Hispanic male officer states that Officer Cabrera alleges that he was attacked. Officer Grosskopf gives Officer Cabrera's police ID to an officer near the ambulance. As Officer Grosskopf walks back to his police car, he announces the event number and deactivates his camera.

Officer Gomez's BWC⁸⁷ depicts his arrival to the incident location.⁸⁸ [REDACTED] is observed outside [on 52nd Street, west of Monitor Avenue] near the [south side] curb with his hands up. Officer Grosskopf is depicted standing in front of [REDACTED] while speaking to him. Officer Gomez approaches [REDACTED] who appears excited as he speaks. Officer Gomez grabs [REDACTED] right hand as he moves around excitedly. Other officers (now known to be Officers Piraino and Grosskopf) grab [REDACTED] arms, handcuff him, and tell him to calm down.

After [REDACTED] is handcuffed, Officer Martinez, who previously was seen on Officer Englert's camera speaking with Officer Cabrera, comes over and says to Officer Gomez that "this guy over here [signaling to Officer Cabrera] said that this guy [REDACTED] attacked him. While he's attacking him I guess he..."⁸⁹

Officer Jania identifies himself to Officer Gomez, states he lives on the corner, heard a shot, came outside, and saw Officer Cabrera. Officer Gomez approaches Officer Cabrera as he leans against his car and hands his ID to another officer. Officer Gomez asks Officer Cabrera if he discharged his weapon to which he responds that he did. Officer Gomez walks back to his police car where [REDACTED] is seated in the back seat and can be heard discussing the incident.⁹⁰ [REDACTED] can be heard describing how Officer Cabrera followed them, pulled up behind them, and approached their vehicle. [REDACTED] then says, "He started putting his finger in my face, and he grabbed my neck, and that's when I punched him, and then he pulled out a fucking gun on me and shot me."⁹¹ Upon hearing that [REDACTED] was shot at, Officer Gomez checked [REDACTED] for any injuries. After checking [REDACTED] for injuries, Officer Gomez puts [REDACTED] back into the vehicle but then tells [REDACTED] he is not under arrest right now they're just trying to figure out what's going on. Shortly thereafter, an ambulance arrives on scene. At 22:09:19, Officer Gomez deactivates his camera. No instruction to do so can be heard.

Officer Piraino's BWC⁹² depicts his arrival to the location of incident, at 22:01:35. [REDACTED] is observed speaking to Officer Grosskopf [on the south side of 52nd Street, west of Monitor Avenue] with hands up. [REDACTED] is heard saying "He shot at me..."⁹³ Officer Piraino goes

⁸⁷ Att. 64

⁸⁸ He is partnered with Officer Grosskopf and arrives at the same time.

⁸⁹ Att. 64, 22:01:58. While the second part of the statement is mostly unintelligible, Officer Martinez seems to say something about discharging a firearm.

⁹⁰ Att. 64, at 22:04:02- Officer Nunez' camera captured the entire conversation with [REDACTED] Officer Gomez arrived about 15 seconds after it had begun, all he seems to have missed was [REDACTED] explaining that he had pulled over to drop [REDACTED] off.

⁹¹ -Att. 64, 22:04:25.

⁹² Att. 60

⁹³ Att. 60, 22:01:39

directly from his vehicle to [REDACTED] and he gets to [REDACTED] at the same time as Officers Gomez and Nunez. Immediately upon reaching [REDACTED] Officer Piraino places [REDACTED] in handcuffs. [REDACTED] asks why he is handcuffed when he was shot at. Officer Piraino assists in escorting [REDACTED] to the police car, pats him down and as [REDACTED] begins to discuss the incident, his girlfriend ([REDACTED]) approaches the scene. Officer Piraino leaves [REDACTED] with Officer Grosskopf and proceeds to talk to [REDACTED]

At 20:03:19, he begins talking to [REDACTED] who is crying. She says she is scared because “He shot at him for no reason.”⁹⁴ She then describes how the man sped behind them and came to ask if they were fine when nothing was wrong. Officer Piraino asks if the man “Ran up and shot at you for no reason,”⁹⁵ and she explains how he got in her boyfriend’s face, and “He didn’t have to shoot at him.”⁹⁶ She said they didn’t know Officer Cabrera. She further explains how they drove around the block, and Officer Piraino asks who she is talking about. She points in the direction of Officer Cabrera and states, “That guy right there, that pulled out the gun.”⁹⁷ She clarifies that [REDACTED] told Officer Cabrera to back off and he responded to stay in the car. After that, [REDACTED] said Officer Cabrera started pushing [REDACTED] then pulled the gun out. She further states that Officer Cabrera never identified himself as an officer. [REDACTED] also said that during the physical altercation, Officer Cabrera pushed [REDACTED] to sit back in the car and then pulled out a gun and shot at him. [REDACTED] mother and an unknown male join [REDACTED] on scene. [REDACTED] tells them that he didn’t do anything, the officers say they are trying to figure out what is going on, then walk away. Officer Piraino deactivates his camera as he walks away from [REDACTED]

Officer Nunez’ BWC⁹⁸ depicts him arriving at the same time as Officer Piraino and reaching [REDACTED] while [REDACTED] is being handcuffed. After [REDACTED] is placed in handcuffs, Officer Nunez proceeds further west on 52nd Street towards other police units. He speaks to a white male off-duty officer (now known to be Officer Jania) who explains that he resides at the corner house; he heard a shot fired, and then came outside and observed his neighbor, Officer Cabrera. Officer Nunez and Officer Gomez approach Officer Cabrera, who was standing near his black Jeep with a Hispanic male officer (possibly Officer Sergio Martinez). Officer Gomez asks Officer Cabrera if he fired his weapon, and he confirms that he did. Officer Nunez walks back towards [REDACTED] and arrives as he is being put into the squad car.

At 22:03:53 hours, while inside of a police car, [REDACTED] tells Officer Nunez what took place. [REDACTED] explains how he and [REDACTED] were parked and Officer Cabrera came up all aggressive and asked if they were ok, so they drove around the block. He then says that:

[Officer Cabrera] comes in back of us again. He’s like, “I don’t know what kind of bullshit you guys are pulling but you guys need to get the fuck out of here.” And I’m like “sir, we’re not arguing, nothing’s going on, what is your problem?” And he started getting aggressive with me. And he started putting his finger in my face

⁹⁴ Att. 60, 22:03:20

⁹⁵ Att. 60, 22:03:50

⁹⁶ Att. 60, 22:04:50

⁹⁷ Att. 60, 22:06:08

⁹⁸ Att. 61

and grabbed my neck. And that's when I punched him. And then he pulled out a fucking gun on me, and shot me.⁹⁹

██████ tells Officer Nunez he was not hit, but officers still take him out of the car, check for wounds, and then put him back in the squad car. Officer Nunez repeatedly tells ██████ that he is not under arrest, and they are trying to figure out the situation. ██████ states out loud "He's drunk, I know he is."¹⁰⁰ Officer Nunez instructs ██████ to stay calm. Officer Nunez then asks for clarification that Officer Cabrera approached ██████. He says that he did, and that's when he started pointing his finger at ██████ then Officer Cabrera grabbed his neck, so ██████ punched him. At this point Officer Cabrera shot at him.¹⁰¹ Officer Nunez tells ██████ "The reason why you're in cuffs is 'cause we don't know."¹⁰² ██████ says that he understands.¹⁰³

Officer Nunez proceeds to speak to ██████ and her family and tells them that ██████ is not under arrest.¹⁰⁴ Officer Nunez arrives as ██████ says Cabrera shot at ██████. ██████ then says she has no clue what Officer Cabrera's problem was. She reiterates that Officer Cabrera had approached them out of nowhere even though nothing was wrong, and that he followed them around the block. He then came out of nowhere fast, came up to their car yelling at them to go away. Then Officer Cabrera pushed ██████ into the car, they grabbed each other, and Officer Cabrera shot at him. Officer Nunez leaves ██████ and explains the situation to an unidentified female officer. At 22:14:00, PO Nunez checks on ██████ and then deactivates his camera.

An **ICC video clip**¹⁰⁵ from Beat 812 (Officer Grosskopf and Officer Gomez) depicts their arrival to the incident location. The video clip is consistent with Officer Grosskopf's BWC.

Multiple **Third-Party video surveillance clips**¹⁰⁶ from several Ring Doorbell cameras and/or exterior residential surveillance cameras, were obtained, including a video depicting the events leading up to the firearm discharge incident, and events after the incident. None of the video footage depicts the physical altercation between ██████ and Officer Cabrera nor the shot fired incident.

Ring Doorbell video from 5159 S. Monitor Avenue,¹⁰⁷ is approximately 30 seconds and depicts the first interaction between Officer Cabrera, ██████ and ██████. The video camera is facing southeast onto 52nd Street. There is a view of a garage door and driveway at 5201 S. Monitor (now known to be Officer Cabrera's house). A small sedan is observed parked/stopped on the south side of 52nd Street (now known to be east of Monitor Avenue), near the mouth of a driveway (not in front of the driveway), with its headlights on. At approximately 9 seconds, headlights are observed behind the sedan with a loud revving sound of an engine. At approximately 16 seconds, there appears to be a sound of a door closing. A male voice (now known to be Officer

⁹⁹ Att. 61, 22:04:10

¹⁰⁰ Att. 61, 22:05:58

¹⁰¹ Officer Nunez realized at this point that he recognized ██████ from them going to the same high school.

¹⁰² Att. 61, 22:07:54

¹⁰³ Att. 61, 22:07:58

¹⁰⁴ He reached ██████ at 22:08:26. At this point Officer Piraino walked away.

¹⁰⁵ Att. 103

¹⁰⁶ Atts. 106 - 115

¹⁰⁷ Att. 111

Cabrera) is heard saying “is everything okay? You guys alright?”¹⁰⁸ Officer Cabrera is observed approaching the passenger side of the sedan and saying “I was just wondering why you (inaudible) the stop sign stopping here like this (inaudible)... go home you know, (inaudible) okay, I was wondering (inaudible). Alright good. I just (inaudible).”¹⁰⁹ The video then ends.

Ring Doorbell video from 5212 S. Monitor Avenue,¹¹⁰ provides 14 seconds of footage after the firearm discharge incident. The video is in black and white and faces onto Monitor Avenue in an eastbound direction. At approximately 1 second, an unknown individual is observed running past this house. At approximately 6 seconds, there appears to be a truck driving east on 52nd Street, then it turns south and pulls over to the right at the corner. A male and female voice can be heard yelling. The video ends.

Office of Emergency Management Communication (OEMC) 911 calls,¹¹¹ CPD and CFD Radio transmissions¹¹² and Event Queries,¹¹³ document information related to the incident, including the post-incident response. The following includes, but it is not limited to, the most relevant material. The event queries detail the same information provided in the 911 and/or CPD radio calls.

At 9:58:45 p.m., Officer Cabrera calls 911¹¹⁴ and reports that he needs the police at 52nd and Monitor Avenue. He states that he is an off-duty police officer and that he was just attacked and discharged a round. He states that he was knocked to the ground and discharged a round. He reports that the male subject was still on scene in his car but does not think he was hit. He reports again that “He knocked me to the ground, he was attacking me, I fired a round.”¹¹⁵ He adds that the male was seated in his car. He reports that he was outside of his vehicle with his Bluetooth on so that he could speak on [his car] speakerphone. Officer Cabrera is heard yelling out loud “He fucking attacked, and I, I spent a round.”¹¹⁶ Officer Cabrera says that he does not need an ambulance but is unsure about the other person. He says the person got back in his car and is sitting there.

Officer Cabrera describes he is in plainclothes and describes his clothing and that of his neighbor who is on scene and is an off-duty officer.

Sirens are heard in the background and Officer Cabrera tells the dispatcher that police are on scene. An unknown male voice (now known to be Officer Englert) is heard speaking to Officer Cabrera.¹¹⁷ Officer Cabrera repeats what he told the dispatcher. The call ends.

¹⁰⁸ Att. 111 at 18 seconds.

¹⁰⁹ Att. 111 at 20 seconds.

¹¹⁰ Att. 113

¹¹¹ Atts. 15-23.

¹¹² Atts. 24-29.

¹¹³ Atts. 9-13.

¹¹⁴ Att. 15

¹¹⁵ Att. 15, at 1:01.

¹¹⁶ Att. 15, at 1:39. It is unclear from the audio, but this likely is Officer Cabrera talking to Officer Jania.

¹¹⁷ Refer to Officer Englert’s BWC for audio that also depicts this 911 call.

At approximately 9:59 p.m., a female (now known to be the wife of off-duty Officer Jania) at 5159 S. Monitor Avenue calls 911¹¹⁸ and reports that she and her husband heard a gunshot and someone outside yelling that they needed an ambulance. The yelling was coming from the area of 5200 S. Monitor Avenue. She reports that there were two cars in the middle of the street and her husband was going outside to see what was happening. At approximately 10:00 p.m. a female at 5205 S. Mayfield, calls the police¹¹⁹ and reports that an unknown woman just knocked on her window and told her that she just saw someone get shot on the next block over. The female 911 caller told the women to wait by her house because she has no cell phone. The female 911 caller spoke to the woman through her window to ask who it was but did not see the woman. The female 911 caller said she didn't know if this was for real. Dispatch said they would send police.

CPD Transmission Zone 6, beginning at 10:25:24 hours¹²⁰, recorded radio transmissions related to the incident. It begins with a ShotSpotter radio alert by Unit 802S announcing a round [shot] in the street at 5200 S. Monitor Avenue.¹²¹ At 10:40:13, 861D and another unit respond that they are enroute. At 10:40:37, the dispatcher states "he said he doesn't think he hit the offender..."¹²² at 10:41:14, the dispatcher says that she sees 7632D there.¹²³ and asks for Beat 7632D to announce if they are with the off-duty member. At 10:41:36, Beat 812 responds they are on scene¹²⁴ and additional units announce their arrival. At 10:42:19, Beat 814 requests a slowdown.¹²⁵ At approximately 17 minutes and 30 seconds into the audio, dispatch announces that there was a [911] call from 5205 Mayfield reporting a female knocking on the side door and saying someone was shot on the next block. After a few minutes, Beat 7632D requests EMS. At 19 minutes and 33 seconds, Beat 861D announces that no one was shot on Mayfield but a female complainant did say that she saw someone get shot, but there is no one there who was shot right now. Beat 861B announces that no one is shot. At 30 minutes and 50 seconds into the audio, Beat 850 announces that all parties involved and the scene were secure and BWCs could be turned off.

The Event Query¹²⁶ for Event 2028713754 shows additional information provided by dispatch. The report begins at 10:59:30 to 10:59:47 stating: "Offender attacked [off duty]. Offender still on scene. Shot fired. Doesn't think he hit him."¹²⁷ It then described the officer's plain clothes. Then at 10:01:011, the report indicated that "offender possibly has a gun."¹²⁸

A **ShotSpotter Technology report with audio clips**¹²⁹ documents the date, time, longitude, and latitude of a single gunshot incident heard. Report #212952 for the area of 5200 S.

¹¹⁸ Att. 20

¹¹⁹ Att. 23

¹²⁰ The timestamp on the Zone 6 recording does not match with timestamps on BWC or the event query.

¹²¹ Att. 24, at 13:33.

¹²² Att. 24, at 15:13.

¹²³ Att. 24, at 15:50

¹²⁴ 16:12

¹²⁵ Att. 24, at 16:55. Officer Nunez made this call at 10:02:11 on his BWC.

¹²⁶ Event Queries consolidate information that is stated over zone radios along with messages typed by OEMC personnel that appear in officers' PDT computers. The timestamp on the Event Query is approximately the same as the timestamps on officers' Body Worn Cameras. *See, e.g.*, Officer Nunez BWC, Att. 61, has him calling a slow down at the same time the slowdown is noted on the event query.

¹²⁷ Att. 9.

¹²⁸ Att. 9

¹²⁹ Atts. 67 – 71.

Monitor Avenue documents that on the date of incident, at 9:57:58 p.m., the sound of one (1) gunshot was captured.

c. Physical Evidence

The **Crime Scene Processing Reports (CSPR)**,¹³⁰ **Evidence Plat**¹³¹ and **Inventory Sheets**¹³² document evidence located, marked, photographed, collected and/or inventoried in connection with the incident. There was a total of one (1) fired cartridge casing recovered on the ground, on 52nd Street, west of Monitor Avenue on the street near the south curb/parkway. The fired cartridge was between [REDACTED] parked vehicle, a gray Nissan Sentra, bearing License Plate (LP) #AS44702 and Officer Cabrera's parked Jeep Grand Cherokee that was behind [REDACTED] bearing LP #BY59339. One firearm, a Glock 17 Gen, 9mm semi-automatic pistol #TXX707, belonging to Officer Cabrera, was recovered with a magazine and one loose live cartridge that was suspected to be from the chamber. The cartridge was marked 9mm+P Win 19, Sergeant Hickey had Officer Cabrera's firearm in his possession and turned it over to evidence technicians during the collection and processing of the weapon at Area 1. The magazine was cleared with 16 live rounds, all marked 9mm+P Win 19.

The **Illinois State Police (ISP)**¹³³ laboratory report titled "Firearms/Toolmarks" documents the examination of Officer Cabrera's Glock 17 Gen 4, 9 mm Luger semiautomatic pistol (Serial #TXX707). The weapon was test fired and operable. ISP testing determined that the recovered fired cartridge casing was fired from Officer Cabrera's inventoried firearm.

The **Chicago Fire Department (CFD) ambulance report** for Officer Cabrera¹³⁴ documents that Ambulance 12 and Engine 32 were dispatched to the area of 5159 S. Monitor Avenue. The incident type was documented as a gunshot victim. Upon arrival, Engine 32 learned there was no gunshot victim and was released by Ambulance 12. CFD Ambulance 12 attended to Officer Cabrera. He was observed sitting on a curb while visibly shaken. Officer Cabrera reported that he witnessed an upsetting event and was unable to calm himself. His main complaint was feeling upset, and his symptoms were anxiety. He was transported to MacNeal Hospital.

Medical Records¹³⁵ for Officer Cabrera from **MacNeal Hospital** document that he arrived at the hospital, via CFD ambulance on October 13, 2020. He was feeling anxious and had a pain in his chest after a stressful situation. He reported to hospital staff that "he was about to leave his house to go to the store for hot dog buns, when [a] drunk driver was driving reckless past his home."¹³⁶ The drunk driver stopped his car, exited, and physically attacked Officer Cabrera, who then fell to the ground and landed on his hands. The driver also struck Officer Cabrera in the head. Officer Cabrera then shot at the driver. It is documented that Officer Cabrera admitted to drinking "ETOH"¹³⁷ [alcohol] while he was cooking. His vitals were normal. He appeared anxious. A chest

¹³⁰ Att. 50

¹³¹ Att. 92

¹³² Att. 51

¹³³ Att. 127

¹³⁴ Att. 46

¹³⁵ Att. 47

¹³⁶ Att. 47, p. 5.

¹³⁷ Att. 47, p. 5. ETOH is a medical abbreviation short for ethyl alcohol or ethanol.

x-ray documented results of early signs of pneumonia to his left lobe. He was issued a CT scan with negative results of bleeding.

d. Documentary Evidence

The **Tactical Response Report (TRR)**¹³⁸ completed by Officer Cabrera documents that on the date, time and location of incident, he was off-duty, alone and the incident occurred outdoors. ██████ did not follow verbal direction and physically attacked without a weapon by using hands/arms/elbow strike to push/shove/pull. ██████ committed a battery against Officer Cabrera. Officer Cabrera responded to defend himself and overcome resistance or aggression. He mitigated his response by using member's presence, verbal direction/control techniques, movement to avoid attack and tactical positioning. Officer Cabrera blocked physical attack and fired his weapon at ██████ once. It was unknown if Officer Cabrera struck ██████

Original Case Incident Reports,¹³⁹ **Detective Supplementary Reports**¹⁴⁰ and **General Progress Reports**¹⁴¹ in summary document the date, time, location of incident, all involved parties, responding units, evidence recovered, canvass information, medical response and/or investigative steps. The reports document the interview summary taken of ██████ and ██████ via ERIs, as well as oral interviews with witness Officer Jania, Officer Grosskopf and Officer Gomez, which are consistent with what was reported to COPA. An interview was documented for Officer Cabrera. In addition, detectives spoke to Amanda ██████ Martha Guerra, off-duty Sergeant Frank Ramaglia, off-duty Detective Theodore Floodas #20231 and resident Carlos Centeno who did not witness the incident but were aware of information related to the event.

In summary, on October 13, 2020, at approximately 11:45pm, Detective Tedeschi interviewed Officer Cabrera at MacNeal Hospital as he was being treated for chest pains and shortness of breath. Officer Cabrera related to the Detective¹⁴² that he had exited his residence and observed a small gray vehicle driving east on 52nd Street. The vehicle ran a stop sign at the intersection with Monitor Avenue and parked adjacent to Officer Cabrera's residence, on 52nd Street, facing east. He observed ██████ open the passenger door but remain seated. Officer Cabrera approached the vehicle to check on her as he thought she may have been vomiting or in need of an ambulance, but she denied his offer. Officer Cabrera questioned ██████ as to why they were there, but ██████ did not answer. Officer Cabrera told them to leave the area and they drove away. Officer Cabrera drove around to ensure they weren't going to harm his residence. He had knowledge of gang members congregating near his residence. Upon returning to the same intersection, he observed the same gray vehicle. He pulled up directly behind them and noticed the front passenger door open again. Officer Cabrera questioned ██████ about what he was doing and why he was there. ██████ began to argue with him. ██████ attempted to exit the front driver's door and pushed Officer Cabrera in his upper chest. Officer Cabrera pushed him back so he wouldn't exit the vehicle, and they continued to push each other. Officer Cabrera was struck on his head. ██████ exited the front driver's door and fully assaulted Officer Cabrera, who had his

¹³⁸ Att. 45

¹³⁹ Atts. 3, 6

¹⁴⁰ Atts. 4, 5 and 94-96.

¹⁴¹ Atts. 122, 123

¹⁴² Att. 96.

Glock 17 firearm in a holster at the front area of his pants. ██████ struck him again on his head. Officer Cabrera feared that he would lose his weapon as ██████ was striking him. He grabbed his weapon from the front pants holster and fired one shot at ██████ in attempts to not lose control of his weapon.¹⁴³ ██████ reentered his Nissan and Officer Cabrera went to his Jeep to take cover by his open driver's side door. Officer Cabrera called the police and reported he was off-duty and fired his gun. Officer Cabrera did not identify himself as an officer to ██████ or ██████ as he feared for his family's safety at his residence if he had.

It is documented that Amanda ██████ (█████ ██████ sister) reported to detectives that on the night of incident she had received two phone calls from ██████. The first one was at approximately 9:53 p.m. when ██████ asked her to leave the front door of their house, at 5244 S. Monitor Avenue, unlocked. Amanda fell back asleep. She received a second call from ██████ at approximately 10:15 p.m.¹⁴⁴ and heard a male voice in the background telling them to have a nice day. ██████ asked Amanda to stay on the phone as this unknown male was acting weird. Amanda did not unlock the door to their home.

█████ mother, Martha Guerra, told detectives that ██████ and ██████ did not enter her home, at 5244 S. Monitor Avenue, after the incident, which is contrary to their testimony that they ran into ██████ home and told her family. When the police arrived to 52nd Street and Monitor Avenue, ██████ returned to the scene. After police had arrived, Guerra observed her neighbor Carlos Centeno, at 5250 S. Monitor, speaking to an unknown woman walking a large dog. This woman indicated that she was a witness to the incident. Detectives interviewed Centeno, who said he had a conversation with this unknown woman who relayed to him that she was close to the incident when it took place. This woman is suspected of being a possible witness to the altercation between Officer Cabrera and ██████¹⁴⁵

Off-duty Sergeant Frank Ramaglia was at home, 5151 S. Monitor Avenue, when he heard a single gunshot from his open northwest bedroom window. He heard inaudible yelling and then observed two individuals running southbound on the west side of Monitor Avenue. While on scene, Sergeant Ramaglia asked Officer Cabrera if he was okay and told him to stay seated and wait for EMS. Off-duty Detective Theodore Floodas was at home, at 5212 S. Monitor Avenue, when he heard loud voices at approximately 10:00 p.m. He checked his Ring Doorbell video camera and observed footage of a subject running past his front lawn while carrying an object. After further review of the video, detectives determined the person running past was likely ██████

Reports under RD #JD398659 are related to the battery and document Officer Cabrera as the victim and ██████ as the suspect and/or offender who was subsequently released without charging. Reports documented under related RD #JD399283 are related to the Law Enforcement, non-fatal firearm discharge.

¹⁴³ Att. 96, p. 10.

¹⁴⁴ CPD Det. Szwedo noted in his report that this second call was after the 911 call made by Officer Cabrera. (Att. 96, p. 11)

¹⁴⁵ This unknown witness was not identified by the department. Neither the department nor COPA interviewed this witness.

The **Arrest report** for █████ █████ documents that on October 13, 2020, he was arrested for striking Officer Cabrera in the upper body and to his head. █████ was charged with battery against Officer Cabrera. The arresting officers were documented as Officer Gomez, Officer Grosskopf; the assisting arresting officers were documented as Officer Nunez and Officer Piraino; and the Detective was documented as Frank Szwedo. The report further documents that █████ was released without charges on October 14, 2020.

The **Arrest report** for **Officer Joseph Cabrera**¹⁴⁷ documents that he was arrested on January 6, 2021, and charged with Aggravated Discharge of a Firearm, Occupied Vehicle and Disorderly Conduct, and False Report of Offense. It is further documented that Officer Cabrera was off duty, engaged in a verbal and physical altercation, and fired a single round at the unarmed individual. Officer Cabrera called 911 and made a false statement that he was knocked to the ground.

A **Bureau of Internal Affairs (BIA) Synoptic Report**¹⁴⁸ for Officer Cabrera documents that on October 13, 2020, at approximately 11:10 p.m., BIA was notified of the firearms discharge incident involving Officer Cabrera. BIA Sergeant Larry Thomas arrived at MacNeal Hospital and presented Officer Cabrera with paperwork. At 01:49 a.m. on October 14, they began the 20-minute observation period. The breathalyzer was administered at 02:11 a.m. and returned with a Blood Alcohol Concentration (Br.A.C.) reading of .104.

e. Additional Evidence

A **Personnel Action Request (PAR) form**¹⁴⁹ documents that Officer Cabrera submitted his resignation from the Department on May 6, 2021, and it was approved and effective May 8, 2021. Additional **Personnel Action Request (PAR) forms**¹⁵⁰ documents that Officer Grosskopf resigned effective August 5, 2021 and Officer Nicholas Piraino resigned effective April 9, 2022.

Cook County court records¹⁵¹ relative to case 21CR0200401 document that the Cook County State's Attorney's office is prosecuting Officer Cabrera for various felony offenses related to this incident, including Attempted Murder, Aggravated Discharge of a Firearm, False Report of Offense and Obstructing Justice.

Federal court records¹⁵² show that █████ █████ filed a civil lawsuit related to this incident.

¹⁴⁶ Att. 7

¹⁴⁷ Att. 78

¹⁴⁸ Att. 8

¹⁴⁹ Att. 124

¹⁵⁰ Atts. 128, 136

¹⁵¹ Att. 126

¹⁵² Atts. 77, 88

VI. LEGAL STANDARD

a. Standard of Review

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** is evidence indicating that it is **more likely than not** that a proposition is proved.¹⁵³ If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense.¹⁵⁴ 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."¹⁵⁵

b. Use of Force

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable, necessary, and proportional in light of the totality of the circumstances faced by the officer.¹⁵⁶ 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; (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; and (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.¹⁵⁷

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

¹⁵³ 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)

¹⁵⁴ See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016).

¹⁵⁵ *Id.* at ¶ 28.

¹⁵⁶ General Order G03-02(III)(B)(1)(effective Feb. 28, 2020 to April 14, 2021).

¹⁵⁷ *Id.* and *Graham v Connor*, 490 U.S. 386, 396 (1989).

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.”¹⁵⁸

c. Use of Deadly Force

The Department’s “highest priority is the sanctity of human life.”¹⁵⁹ 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.”¹⁶⁰ 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 poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.¹⁶¹ “A threat is imminent when it is objectively reasonable to believe that:

- a. the subject’s actions are immediately 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.”¹⁶²

Additionally, for any firearm-discharge incident, the discharging member must immediately notify OEMC of the firearm discharge and provide all relevant information and request additional resources.¹⁶³

c. De-escalation.

The Department’s rules and regulations provide: “[w]hile the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances involved.”¹⁶⁴

Toward that end, Department members are required to use de-escalation techniques to reduce or prevent the need for use of force. The principles of de-escalation, or force mitigation, include:¹⁶⁵

¹⁵⁸ G03-02(II)(D).

¹⁵⁹ G03-02 (II)(A).

¹⁶⁰ G03-02(III)(C)(3).

¹⁶¹ G03-02(III)(C)(3).

¹⁶² G03-02 (III)(C)(2).

¹⁶³ G03-06(V)(A). Additionally, G03-02-03 (IV)(A) instructs officers to comply with the immediate notification requirements of G03-06.

¹⁶⁴ Rules and Regulations of the Chicago Police Department, Art. I.B.7.

¹⁶⁵ G03-02-01 (III).

- 1) Continual Communication¹⁶⁶ - to minimize or avoid confrontations, members are to attempt to use verbal control techniques prior to, during, and after the use of force. They are to attempt to establish and maintain verbal communication in all police-public encounters such as exercising persuasion, advice, and instruction prior to the use of force. When safe and feasible, members are to provide a warning prior to the use of force.
- 2) Tactical Positioning¹⁶⁷-When safe and reasonable to do so, members are to make advantageous use of positioning, distance, and cover by isolating and containing a subject, creating distance between the member and a potential threat, or utilizing barriers or cover. Members will continuously evaluate the members positioning, subject's actions, and available force options.
- 3) Time as a Tactic¹⁶⁸- When safe and reasonable, members are to slow down the pace of the incident to permit the de-escalation of the subject's emotions and allow the subject an opportunity to comply with the verbal direction given. Using time as a tactic will also allow for the arrival of other officers as well as allow the individual the opportunity to voluntarily comply with lawful verbal direction before force is used.

d. False Statements

Chicago Police Department Rules and Regulations, Rule 14 prohibits officers from "making a false report, written or oral." Pursuant to the Bill of Rights within the officers' Collective Bargaining Agreement, officers may not be charged with a Rule 14 violation unless "(1) the officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation."¹⁶⁹

A "material fact" is a fact that is "crucial . . . to the determination of an issue at hand."¹⁷⁰ A false statement is made "willfully" if it is done "voluntarily and intentionally."¹⁷¹

Moreover, Rules 2 and 3, in combination, serve the principal that sworn officers are held to standard of truthfulness:

Department Rule 2 and 3 require that Chicago police officer provide a complete and accurate accounting of what they observe while on duty. Officers may not offer misleading statements which emphasize certain facts to the exclusion of others. And they are not permitted to pick and choose facts in order to support a pre-

¹⁶⁶ G03-02-01 (III)(A).

¹⁶⁷ G03-02-01 (III)(B).

¹⁶⁸ G03-02-01 (III)(C).

¹⁶⁹ Agreement Between Fraternal Order of Police Chicago Lodge No. 7 and the City of Chicago, July 1, 2012-June 30, 2017, at p. 5.

¹⁷⁰ Black's Law Dictionary.

¹⁷¹ *Chicago's Pizza, Inc. v. Chicago's Pizza Franchise Ltd. USA*, 384 Ill. App. 3d 849, 868 (1st Dist. 2008)(citing Black's Law Dictionary).

determined conclusion. Instead, officers must provide a complete accounting without embellishment, exaggeration, or spin.¹⁷²

e. Body Worn Cameras

To increase transparency and improve the quality and reliability of investigations, CPD policy mandates all law-enforcement-related encounters to be electronically recorded on the officers' BWC.¹⁷³ The recording of law-enforcement-related encounters is mandatory.¹⁷⁴ Law-enforcement-related encounters include, but are not limited to, calls for service, statements made by individuals in the course of an investigation, and high-risk situations.¹⁷⁵ Officers must activate their BWCs at the beginning of an incident and record the entire incident.¹⁷⁶ If there are circumstances preventing the activation of the BWC at the beginning of an incident, the officer "will activate the BWC as soon as practical."¹⁷⁷

f. Investigatory Detentions and Handcuffing

The fourth amendment to the United States Constitution provides "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches [and] seizures. Reasonableness, under those provisions, requires that an arrest executed without a warrant is valid only if supported by probable cause.¹⁷⁸ However, a limited exception allows for officers to briefly detain an individual for temporary questioning if the officer reasonably believes that the person has committed, or is about to commit, a crime, and to "frisk" them, if the officer reasonably believes that the person detained is armed and dangerous.¹⁷⁹ Officers may only handcuff a subject during an investigatory stop, if they have a reasonable belief that the subject is armed.¹⁸⁰

VII. ANALYSIS

1. Credibility Assessment

COPA finds that the preponderance of the evidence supports that ██████ and ██████ were credible in their accounting of the incident. ██████ was consistent in his description of the attack in his statement to officers on scene (as captured on Officer Nunez' BWC) and later to detectives. ██████ too was consistent throughout her multiple statements. Their descriptions of the incident were largely consistent with one another. The only differences being that ██████ said that Officer Cabrera grabbed ██████ chest (but she indicated the grab was at the neckline) while ██████ said it was his neck, a discrepancy which can be explained by ██████

¹⁷² *In re Franko et. al.*, 16 PB 2909-2912, Findings and Decisions, July 18, 2019, at pp. 5-6.

¹⁷³ S03-14 II.A.

¹⁷⁴ S03-14 III.1.

¹⁷⁵ S03-14 III.2.

¹⁷⁶ S03-14 III.2.

¹⁷⁷ S03-14 III.2.

¹⁷⁸ *People v. Jackson*, 232 Ill. 2d 246, 274-75 (2009).

¹⁷⁹ *Terry v. Ohio*, 392 U.S. 1, 22 (1968).

¹⁸⁰ *People v. Johnson*, 408 Ill. App. 3d 107, 112-13 (2010).

perspective being blocked by ██████ body; and that ██████ did not state that ██████ punched Cabrera, she only said he was pushing him away.

Officer Cabrera, on the other hand, was not credible. As discussed more fully below, he provided self-serving accounts which minimized his conduct and exaggerated ██████ conduct and the threats he posed.

Therefore, COPA credits ██████ explanation of the incident that: (1) Officer Cabrera twice approached the car and told them to leave; (2) that the second time he was aggressive and put his finger in ██████ face; (3) that when ██████ tried to exit the car he pushed him back and grabbed him by the neck; (4) that ██████ threw a punch only in response to being grabbed by the neck causing him to stagger backwards; and (5) Officer Cabrera shot at ██████

1. Allegations Related to Officer Cabrera.

a. Officer Cabrera Used Deadly Force and Displayed His Firearm, Without Justification.

Officer Cabrera unreasonably used deadly force because ██████ did not pose any threat of death or great bodily harm and because Officer Cabrera initiated and escalated the encounter.

██████ did not pose an imminent threat. First, his actions were not likely to cause death or great bodily harm. He had thrown one punch in response to being choked by Officer Cabrera. He had, in no other way, exhibited any aggression, let alone aggression which could reasonably be interpreted as likely to cause death or great bodily harm.

Second, ██████ did not have the means or instruments to cause death or great bodily harm. He was not armed, and Officer Cabrera never said he suspected him to be. He instead told detectives that he feared ██████ would take his gun. However, ██████ made no moves of aggression beyond the punch, and certainly nothing which indicated he was attempting to disarm Officer Cabrera. To the contrary, it is unlikely that ██████ even knew that this plain-clothes man was armed in order for him to attempt to take a firearm. In any case, it is far too speculative, and would allow any officer who got in a slight altercation to escalate to deadly force, which is contrary to the clear words of the policy.

Third, ██████ did not have the opportunity or ability to cause death or great bodily harm. He was unarmed and trapped between his vehicle and Officer Cabrera. He was in no position to injure Officer Cabrera.

Not only did ██████ not pose an imminent threat, but Officer Cabrera failed to use required de-escalation techniques. Crucially, throughout the encounter he escalated the incident. Twice he approached the car, using a hostile tone. Moreover, he continued to escalate the encounter by putting his finger in ██████ face, then grabbing ██████ by the neck. Additionally, Officer Cabrera failed to use positioning to prevent the need for force. ██████ was positioned between himself and the car, and Officer Cabrera could have simply backed away from the encounter,

especially since [REDACTED] was not armed. However, instead of doing so, he fired his weapon at [REDACTED] on a baseless, self-stated belief that [REDACTED] would disarm him.

Therefore, COPA finds that no reasonable officer would objectively believe [REDACTED] posed an imminent threat of death or great bodily harm and because Officer Cabrera. Accordingly, Officer Cabrera's use of deadly force was not justified, and Allegation 1 is **Sustained** in violation of Department Rules 2, 3, 6, 8, and 9.

Furthermore, COPA finds it was unnecessary for Officer Cabrera to even display his firearm. [REDACTED] states that he threw one punch and did not indicate that he continued his aggression towards Officer Cabrera, but even if he had he was still unarmed, nor had Officer Cabrera announced his office. Thus, Officer Cabrera drawing a firearm escalated what would at most be a fist fight. Therefore, because Officer Cabrera's display of his firearm escalated the situation and was in response to no threat which would justify the use of a firearm, the display was unnecessary, in violation of Department Rule 38, 2, and 3 and Allegation 2 is **Sustained**.

b. Officer Cabrera was intoxicated in violation of Departmental Rules.

The synoptic report shows that the breathalyzer administered at 2:11 a.m., *over three hours after the shooting*, returned a reading of .104 BAC. This is above the legal limit in Illinois and occurred over three hours after the shooting incident. COPA finds this demonstrates by a preponderance of the evidence that Officer Cabrera was intoxicated at the time of the shooting.

Rule 15 prohibits officers from being intoxicated on or off duty. Accordingly, allegation 3 is **Sustained** in violation of Department rules 2, 3, 6, and 15.

Additionally, Officer Cabrera admitted that he operated his vehicle, to twice pull up behind [REDACTED] and [REDACTED] as well as to drive around the block to locate them, and therefore allegation 4 is **Sustained** in violation of Department Rules 1, 2, 3, 6, and 15.

Finally, U04-02 prohibits officers from carrying or possessing a firearm while intoxicated. Officer Cabrera violated this rule by carrying his firearm during the incident while he was intoxicated, and Allegation 7 is **Sustained** in violation of Department Rules 2, 3, and 6.

c. Officer Cabrera Instigated and Engaged in Unjustified Altercation.

COPA's investigation found, by a preponderance of the evidence, that Officer Cabrera engaged in an unjustified verbal and physical altercation with [REDACTED] and an unjustified verbal altercation with [REDACTED]. The first encounter of this incident, although it made [REDACTED] and [REDACTED] uncomfortable, cannot be characterized as an "altercation." Officer Cabrera said that he approached the vehicle to ask if [REDACTED] was sick, because they were parked with the door partially open. [REDACTED] confirmed the door was open, and both she and [REDACTED] corroborate that Officer Cabrera's words at this time were not hostile.

However, the second time that Officer Cabrera approached, after [REDACTED] moved the car, Officer Cabrera was hostile, and instigated an unjustified verbal altercation with the two. Both

describe that he approached aggressively and told them to leave, ██████ added that he asked them “what the fuck are you guys doing?” Officer Cabrera conceded that he questioned what they were doing there. From there, he escalated the altercation by putting his finger in ██████ face and aggressively telling them to leave. The unjustified altercation then turned physical, also through Officer Cabrera’s escalation: he shoved ██████ and grabbed him by the neck. Then when ██████ seemingly defended himself, Officer Cabrera unjustifiably shot at ██████. COPA finds a lack of any basis for Officer Cabrera to tell them to leave, and absolutely no basis to use force to get them to do so.

Therefore, COPA finds by a preponderance of the evidence that Allegations 5 and 6 are **Sustained** in violation of Department Rules 2, 3, 6, 8, and 9.

d. Officer Cabrera Willfully Made False and Misleading Statements About Material Facts.

i. Officer Cabrera Made False and Misleading Statements.

COPA finds that it was false when Officer Cabrera said that he had been knocked to the ground, and that it was materially misleading and incomplete when he said that ██████ “attacked” him.

First, his statement to 911 that he was knocked to the ground was false. Neither ██████ nor ██████ stated that Officer Cabrera had been knocked to the ground. ██████ said that he only staggered backwards, and ██████ described the incident as the two pushing one another, but not that Officer Cabrera was ever knocked to the ground. While Officer Cabrera informed 911 that he had been knocked over, he did not tell responding officers or detectives that he had been knocked to the ground, and COPA finds him to not be credible because his version of events is not supported by the evidence. Therefore, the preponderance of the evidence is that Officer Cabrera was not knocked to the ground, and it was false for him to tell 911 that he had.

Second, his statements that ██████ “attacked” him, were misleading and omitted key information about the incident. Department Rules 2 and 3 require officers to provide information that is complete and accurate. They also prevent officers from selectively choosing facts to highlight the positive and ignore the negative. Officer Cabrera’s statement that ██████ “attacked” him, provides only the “positive” information that could support his use of deadly force, but ignored negative aspects of the incident such that he initiated the incident, he yelled at them to leave with no basis, and that he grabbed ██████ throat prior to him throwing the punch. He also stated that ██████ pushed him when he tried to exit the car but omits that the reason ██████ pushed is because Officer Cabrera initiated pushing to keep ██████ in the vehicle. Because ██████ did throw the punch, COPA does not find that it was “false” to say that ██████ “attacked” him, likewise, it was not “false” to say that ██████ pushed him as he tried to exit the car, but these omissions had the effect of making his statements incomplete and inaccurate in violation of Department Rules 2, 3.

ii. He Made the False and Misleading Statements Knowingly.

Next, the preponderance of the evidence is that Officer Cabrera made the false and misleading statements knowingly. The statements were made immediately after the fact, so it is not likely that he misremembered the incident. Officer Cabrera had ample opportunity to provide a full and complete statement.

iii. The Statements were Material.

Lastly, the statements were material. The purpose of a 911 call is to inform OEMC of what happened in the incident, so that they can dispatch the appropriate response. In this case, by telling 911 that he had been knocked to the ground, OEMC dispatched responding units under the mistaken impression that it was a 10-1, officer in need of emergency assistance. As discussed more extensively below, this fueled the misconception of [REDACTED] the victim, being treated as an armed offender. His misleading statement to responding officers perpetuated this misconception. Had he provided a full and accurate account of the incident, [REDACTED] may have been spared from the indignity of spending 40 minutes locked in a police car and being taken to the police station to be interrogated.

The preponderance of the evidence is that Officer Cabrera willfully made false, misleading, and incomplete statements about a material fact. Therefore, Allegation 8 is **Sustained** in violation of Department Rules 2 ,3, 6, 10, and 14.

e. Officer Cabrera Failed to Cooperate with COPA's Investigation.

The ninth and tenth allegations against Officer Cabrera arise from his refusal to cooperate with COPA's investigation into this incident. During Officer Cabrera's COPA statements, he invoked his Fifth Amendment right to remain silent and refused to answer any questions regarding the incident. Officer Cabrera persisted in his refusal to answer questions even after Lt. Reckhard issued him a direct order to cooperate.

Department policy provides that members must answer questions relating to their official actions or obligations or face disciplinary action up to and including separation. However, pursuant to the arbitrator's decision in *City of Chicago Department of Police v. Fraternal Order of Police Chicago Lodge No. 7*,¹⁸¹ COPA believes seeking to impose discipline on Officer Cabrera based on his refusal to cooperate would be inappropriate under the circumstances.¹⁸² For that reason, Allegations 9 and 10 are **Exonerated**.

2. Allegations Related to Officers Grosskopf, Gomez, and Piraino.**a. It was not objectively unreasonable to handcuff [REDACTED]**

¹⁸¹ Gr. Nos. 129-20-025 and 129-20-020.

¹⁸² Officer Cabrera invoked his 5th amendment right against self-incrimination with respect to all allegations. Because Officer Cabrera has resigned, COPA expressly takes no position as to whether Officer Cabrera was due criminal rights with respect to all allegations or whether criminal charges were "probable" with respect to all allegations.

While COPA's investigation eventually revealed that ██████ was the victim of an attack that was instigated and escalated by Officer Cabrera, that finding stems largely from information not known by responding officers at the time they handcuffed and arrested ██████. COPA makes its findings based upon what officers knew at the time of their actions, not with the benefit of hindsight. The officers were responding based on information provided by Officer Cabrera and guided by his false and self-serving statements. Therefore, even though they were acting upon information that subsequently proved to be false, their actions must be evaluated based upon that information.

The officers each indicated that they were responding based upon a report from ShotSpotter of a shot fired that subsequently became a 10-1 (signifying that an officer is in need of assistance (and does not apply when a civilian is injured)). The information typed over their PDT stated that an off-duty officer had been attacked, there were shots fired, and the offender was still on scene. It did not specify that the off-duty officer had been the one who shot. Additionally, just prior to officers arriving, the remarks from OEMC added that the offender possibly had a gun.¹⁸³ Therefore, at the time the responding officers reached the scene, all information they had received pointed to a civilian as the assailant, and ██████ quickly presented himself to officers admitting he was involved. While ██████ also immediately stated he was the victim, it was reasonable for the officers not to accept such a statement at face value at that moment.¹⁸⁴

Additionally, while Officer Englert quickly learned that Officer Cabrera had fired his weapon, that information was not immediately conveyed to Officers Grosskopf, Gomez, Piraino, and Nunez, who were in the process of detaining ██████. To the contrary, Officer Martinez came over from speaking with Officer Cabrera, just seconds after ██████ had been handcuffed, and told Officer Gomez that ██████ had attacked Officer Cabrera. Officer Cabrera was then equivocal about who discharged a firearm. By the time Officer Gomez and Nunez received confirmation from Officer Jania that Officer Cabrera had shot, ██████ was already being placed in the back of the squad car.

In this case, their handcuffing was also reasonable. Even where officers have reasonable suspicion to detain someone, they may only handcuff them if it is objectively reasonable for them to believe the person is armed and dangerous at the time in order to justify such a restraint for reasons of safety.¹⁸⁵ In this case, based upon the incorrect information provided to them, the officers reasonably believed that ██████ was armed at the time they handcuffed him. As discussed above, the information they were provided was that there had been shots fired, an officer was attacked, and the "offender" was on scene and possibly had a gun. Even though ██████ was initially saying that Cabrera had shot at him, he was conceding that he had been involved with Cabrera. Based on the information the officers knew, this was in essence an admission that he was the "offender" who had attacked an off-duty officer and might be armed. Therefore, under these

¹⁸³ Officer Cabrera, while still on the phone during his call to 911, had yelled to someone, presumably Officer Jania, "he's holding a gun?" While nobody ever responded in the affirmative, it appears that OEMC out of caution gave this warning to responding officers despite being entirely baseless.

¹⁸⁴ Officer Piraino additionally stated that ██████ was in a "bladed" fighting stance, however, that is not supported by the video. While Officer Piraino's subjective reason for handcuffing ██████ is not supported by the video, the objective reasons discussed herein do support handcuffing.

¹⁸⁵ Johnson, 408 Ill. App. 3d at 112-13

circumstances, it was reasonable for the officers to believe that ██████ might be armed and dangerous and that handcuffing was necessary for safety.

Therefore, there is not a preponderance of the evidence that it was unreasonable to handcuff ██████ and COPA finds by clear and convincing evidence that Allegation 1 against Officers Grosskopf and Piraino are **Exonerated**.

b. It was not objectively unreasonable for the accused officers to arrest ██████

The decision to hold ██████ in the police vehicle while they investigated was also reasonable at the outset. In some circumstances, officers may continue to detain a subject without converting the encounter into a *de facto* arrest, so long as they have specific articulable facts giving rise to reasonable suspicion and the degree of intrusion in detaining the individual is reasonably related to the known facts.¹⁸⁶ As discussed above, at the time officers place ██████ in the vehicle, they were still under the belief that they were responding to shots fired and a 10-1 for an off-duty officer being attacked, and Officers Grosskopf and Piraino did not yet know that it was the off-duty officer who had shot.

Nevertheless, as time progressed, ██████ was held well beyond what was reasonable to secure the scene and determine that he was a victim. However, the accused officers only transported ██████ at the direction of a supervisor. They also continued to detain him on scene while waiting for instruction from supervisors. COPA acknowledges that individual officers are responsible for their own actions, however, in light of department policy which strictly assigns post-shooting investigative responsibility to supervisors and the Street Deputy, it is not unreasonable under these circumstances for the accused officers to await instruction. Accordingly, COPA finds there is clear and convincing evidence to exonerate the officers, and Allegation 2 against Officers Grosskopf and Piraino and allegation 1 against officer Gomez are **Exonerated**.

c. The Officers Improperly Deactivated their Cameras Prior to a Supervisor Stating that the Scene was Secure.

The video from the accused officers demonstrates that they deactivated their BWCs prior to being instructed to do so by a supervisor. Each officer stated that they deactivated their cameras because they believed the scene was secure. However, when dealing with an officer-involved shooting, policy dictates that officers may not deactivate their cameras until “the highest-ranking on-scene Bureau of Patrol supervisor has determined that the scene is secured.”¹⁸⁷ No supervisor announced that the scene was secure until after the three accused officers had deactivated on their own accord. Additionally, Officers Grosskopf and Gomez conceded that they should have re-activated their cameras when they transported ██████. Therefore, the preponderance of the evidence is that the accused officers deactivated their cameras prematurely, and Allegation 3

¹⁸⁶ *United States v. Tilmon*, 19 F.3d 1221, 1224 (7th Cir. 1994) (“The reasonableness of an investigatory stop may be determined by examining: (1) whether the police were aware of specific and articulable facts giving rise to reasonable suspicion; and (2) whether the degree of intrusion was reasonably related to the known facts. In other words, the issue is whether the police conduct--given their suspicions and the surrounding circumstances--was reasonable.”).

¹⁸⁷ S03-14 (III)(B)(1)(a)(4).

against Officer Piraino and Grosskopf and Allegation 2 against Officer Gomez are **Sustained** in violation of Department Rules 2, 3, 6, and 10.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Joseph Cabrera

i. Complimentary and Disciplinary History

COPA has reviewed and considered Officer Cabrera's complimentary and disciplinary history when recommending discipline. Officer Cabrera received 50 awards, including two Department Commendations and one Unit Meritorious Award. He has no sustained disciplinary history in the past five years.

ii. Recommended Penalty

COPA has found that Officer Cabrera committed a host of egregious misconduct, not least of which includes discharging his firearm at [REDACTED] [REDACTED] without justification and making false statements which lead to [REDACTED] arrest. These acts of misconduct violate both the law and Department policy. In addition, COPA found that Officer Cabrera unnecessarily displayed his firearm, was intoxicated in violation of Department rules, operated his motor vehicle while intoxicated, engaged in unjustified altercations with [REDACTED] [REDACTED] and [REDACTED] [REDACTED] and possessed a firearm while intoxicated. This raft of misconduct not only violates the law and Department policy, it also contrary to the City's interest in police officers conducting themselves in a lawful manner. Such egregious conduct erodes public trust and confidence in the Department.

COPA would have recommended the Department **Separate** Officer Cabrera from the Department, but he resigned on May 7, 2021. COPA therefore recommends that the Department issue a formal determination on COPA's findings and place this report in Officer Cabrera's personnel file for consideration in the event he applies for re-employment with the City.

b. Officer Bradley Grosskopf

i. Complimentary and Disciplinary History

COPA has reviewed and considered Officer Grosskopf's complimentary and disciplinary history when recommending discipline. Officer Grosskopf received three awards, including one 2019 Crime Reduction Award and two Honorable Mentions. He has no sustained disciplinary history in the past five years.

ii. Recommended Penalty

COPA has found that Officer Grosskopf prematurely deactivated his BWC, in violation of Special Order S03-14. This undermined the Department's and the City's interest in recording police operations to ensure violations are not hidden from scrutiny behind lapses of unrecorded time. However, Officer Grosskopf resigned from the Department on August 5, 2021. Accordingly, this log is place in **Close Hold** status with respect to Officer.

c. Officer Fernando Gomez**i. Complimentary and Disciplinary History**

COPA has reviewed and considered Officer Gomez's complimentary and disciplinary history when recommending discipline. Officer Gomez received 31 awards, including one Life Saving Award, two Complimentary Letters and eighteen Honorable Mentions. He has no sustained disciplinary history in the past five years.

ii. Recommended Penalty

COPA has found that Officer Gomez prematurely deactivated his BWC, in violation of Special Order S03-14. This undermined the Department's and the City's interest in recording police operations to ensure violations are not hidden from scrutiny behind lapses of unrecorded time. COPA recommends a **3-Day Suspension** for this violation.

d. Officer Nicholas Piraino**i. Complimentary and Disciplinary History**

COPA has reviewed Officer Piraino's complimentary and disciplinary history when recommending discipline. Officer Piraino received 11 awards, including the 2019 Crime Reduction Award and ten 10 Honorable Mentions. He has no sustained disciplinary history in the past five years.

ii. Recommended Penalty

COPA has found that Officer Piraino prematurely deactivated his BWC, in violation of Special Order S03-14. This undermined the Department's and the City's interest in recording police operations to ensure violations are not hidden from scrutiny behind lapses of unrecorded time. However, Officer Piraino resigned from the Department on April 9, 2022. Accordingly, this log is placed in **Close Hold** status with respect to Officer Piraino.

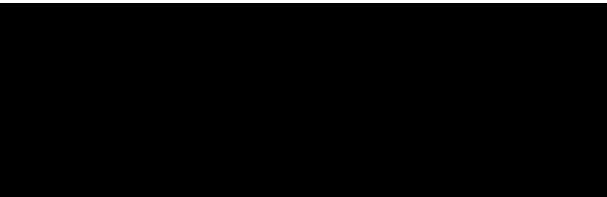
Approved:



7/3/2023

Matthew Haynam
Deputy Chief Administrator – Chief Investigator

Date



7/3/2023

Andrea Kersten
Chief Administrator

Date