

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	September 14, 2012
Time of Incident:	9:32 pm
Location of Incident:	██████████ ██████████
Date of IPRA Notification:	September 14, 2012
Time of IPRA Notification:	10:40 pm

On September 14, 2012, at 9:32 pm, Officer Chris Skarupinski and Officer Joseph Byrne, who were assigned to Beat 563B, responded to a man with a gun call at ██████████ ██████████. Upon arrival, they observed a large crowd, of approximately 100 people, gathered on the street for a memorial service. An unknown woman approached the officers and identified three black men who had guns. The three men took off running southbound through backyards. Officer Skarupinski pursued the men on foot, while Officer Byrne pursued in a squad car, by going southbound on Princeton Ave. towards 110th Place.

Officer Skarupinski chased the three men through the alley and into the backyard of 242 W. 110th Place where the three men attempted to climb a fence. As Officer Skarupinski was within three-to-five feet of ██████████ he turned and pointed a firearm at Officer Skarupinski. Officer Skarupinski fired one shot in the direction of ██████████ was not struck by the bullet and threw a chrome revolver over a fence into the yard of ██████████ ██████████, where it was recovered by officers shortly thereafter. Officer Skarupinski placed ██████████ into custody. ██████████ denied that he had a weapon but later pleaded guilty to possessing the firearm.

While Officer Skarupinski was engaged in the foot chase with ██████████ Officer Byrne drove southbound before turning east onto 110th Place. He saw two of the men, ██████████ ██████████ and ██████████ emerge onto 110th Place and start to run west. They were cut off by another officer's vehicle on the north side of the street. ██████████ turned and ran in a southeast direction and Officer Byrne began to pursue. As ██████████ ran, he turned slightly towards his left and pointed a firearm with his right hand towards the direction of Officer Byrne. Officer Byrne discharged his firearm at ██████████ striking him several times, mainly to his left side. ██████████ fell onto the south sidewalk near the area of ██████████ ██████████. He succumbed to his gunshot wounds on scene.² Officer Byrne recovered a gun near ██████████³

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

² ██████████ sustained gunshot wounds to his left arm (exited through the back), left chest (lodged), upper back area (lodged), and left side of his head (lodged).

³ A large crowd approached Officer Byrne, after the shooting. For safety reasons, Officer Byrne recovered the firearm next to ██████████ and secured it in the trunk of a squad car.

II. INVOLVED PARTIES

Involved Officer #1:	Chris Skarupinski, Star #8254, Employee ID# [REDACTED] Date of Appointment: October 29, 2007, Police Officer, Assigned Unit 277, DOB [REDACTED] 1984, Male, White
Involved Officer #2:	Joseph Byrne, Star #5304, Employee ID# [REDACTED] Date of Appointment: August 27, 2007, Police Officer, Assigned Unit 005, DOB [REDACTED] 1982, Male, White
Subject #1:	[REDACTED], DOB [REDACTED] 1990, Male, Black
Subject #2:	[REDACTED] DOB [REDACTED] 1989, Male, Black

III. ALLEGATIONS

Discharge of an officer’s firearm results in a mandatory notification to IPRA. This investigation was initiated pursuant to such notification. During this full and comprehensive investigation. COPA did not uncover evidence that would require the proffer of allegations of excessive force, relative to the officer-involved shooting

Allegations of excessive force that were said to have occurred in the aftermath of the shooting were made to IPRA but not pursued by the agency at the time. During COPA’s investigation of the case, a thorough examination of the nature of those allegations and our ability to investigate them was conducted. Due to a paucity of evidence, statutory limitations on excessive force claims over five years old, and the identity of the accused officers being unknown, COPA declined to further investigate these claims. The facts surrounding these allegations are more fully discussed below.

IV. APPLICABLE RULES AND LAWS

General Orders

1. G03-02-03: Deadly Force (Effective Oct. 1, 2002).
2. G03-02: Use of Force (Effective Oct. 1, 2002).

State Laws

1. 720 ILCS 5/7-5 (1986)

⁴ [REDACTED] sustained multiple gunshot wounds and was pronounced dead on scene.

V. INVESTIGATION⁵

a. Civilian Interviews

In a statement to IPRA, on September 15, 2012, Witness, ██████████ stated that on the date of incident, he had been drinking at a memorial taking place near 110th Street and Princeton Avenue. There were approximately 100 people in attendance. During the memorial, a fight broke out on 110th Street, between Wentworth and Princeton, and shots were fired.⁷ Everyone, including ██████████ ran toward 110th Place. It was dark as ██████████ ran, from an alley, into a backyard, with “no fences in the back.”⁸ At this time, one of the officers, now known as Officer Skarupinski, had his weapon drawn and told ██████████ words to the effect of “freeze, police,”⁹ and “get the F on the ground.”¹⁰ ██████████ stopped and the officer took him into custody. When asked about the appearance of the arresting officer, ██████████ initially stated “...I don’t know I was drunk. I was drinking.”¹¹ ██████████ then described the officer as a tall, slim white male with dark hair, wearing plain-clothes and a vest. He was in handcuffs on the ground when he heard additional shots fired.¹² He did not recall the number of gunshots, and explained that he had been drinking.¹³ He heard a female screaming when he heard the gunshots, so he wanted to check on his girlfriend.¹⁴ The arresting officer¹⁵ brought ██████████ to the front [of the residence] on 110th place and laid him on the ground.¹⁶ Additional unknown officers arrived on scene. This officer repeatedly told “...people, this the shooter, this the shooter,”¹⁷ referring to ██████████ later stated that the arresting officer had brought him to the front and handed him off to an unknown, dark haired, short white female officer.¹⁸

While in front, on 110th Place, ██████████ requested that officers¹⁹ check on his girlfriend. At this time a few unknown uniformed officers repeatedly told him to “shut up”²⁰ and while ██████████ was on the ground hit him by punching and kicking him.²¹ ██████████ alleged he received numerous injuries from the police, which included a cut above his right eyebrow, a cut on his nostril, a swollen right elbow, swollen and cut wrists and a shoe print on his stomach from being

⁵ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁶ Att. 19, 81. ██████████ described himself as wearing a grey and white shirt, blue jeans, and grey and white shoes.

⁷ It was not further described as to who was firing shots.

⁸ Att. 81, p. 23, line 15, 17.

⁹ Att. 81, p. 7, line 24.

¹⁰ Att. 81, p. 23, line 23-24.

¹¹ Att. 81, p. 11, line 22-23.

¹² According to department reports, ██████████ was detained in the area of 242 W. 110th Place.

¹³ Throughout the course of the statement ██████████ states he was drunk, and later states he was not drunk.

¹⁴ ██████████ stated that his girlfriend, Shakela Williams, who is also the mother of his child, was at the party with him.

¹⁵ It is unclear as to who escorted ██████████ to the front of the house. On page 9, lines 3-6, he refers to more than one officer in that he states “...they picked me up, they brought me around...they laid me back on the ground and just get to beating me up.”

¹⁶ Att. 81, p. 13, line 15-20.

¹⁷ Att. 81 p. 24, line 10.

¹⁸ According to the statement of Officer Skarupinski to IPRA, he stated that he handed off ██████████ to a female officer. Refer to Att. 83.

¹⁹ ██████████ did not specify who he made such request to.

²⁰ Att. 81, p. 4, line 11; p. 9, line 7; p. 16, line 22; and p. 16, line 22.

²¹ Att. 81, p. 16 and 17.

kicked.²² He stated he was not involved in the fight that broke out on 110th Street prior to the incident. He could not remember what the officers looked like and he did not know if Officer Skarupinski was one of the officers who struck him.²³ He described that although he had “about two [alcohol] shots,”²⁴ he did not consider himself intoxicated and could remember everything. [REDACTED] while handcuffed, saw his childhood friend, [REDACTED] lying dead on the ground on 110th Place.

While in custody at the police station, [REDACTED] learned an officer fired shots at him. He did not see the officer who shot at him. He also learned that he was alleged to have pointed a gun²⁵ at the shooting officer. [REDACTED] denied having a firearm but said that someone else²⁶ had a firearm. He said a gun was recovered approximately two houses down from where he was, but it was not close to him.²⁷ [REDACTED] claimed that he did not point a gun at the officer, because if he had pointed a gun, the officer would have killed him. He submitted to a Gun Shot Residue (GSR) test.²⁸ He did not witness the shooting of [REDACTED] did not know if [REDACTED] had a gun.²⁹

In a statement to COPA on October 18, 2019, Witness, [REDACTED] [REDACTED] stated that, on September 14, 2012, he had attended a memorial service on 110th Street, near Princeton Avenue, along with several other people. [REDACTED] returned to his residence, at [REDACTED] [REDACTED] at approximately 8:00 or 9:00 pm. [REDACTED] was sitting on his front porch,³¹ when he heard a commotion and looked up. [REDACTED] heard what sounded like someone running and a tire “blowout.”³² He observed the blown-out tire to be from a police vehicle that had jumped the curb, on 110th Place, near Princeton Avenue. He described that the blown-out tire sounded like a gunshot, but it was

²² Former IPRA Investigator Daniel Neubeck observed and described these injuries, during the interview. After the interview, an Evidence Technician photographed [REDACTED] (Att. 74, p. 9). [REDACTED] arrest report documents a scratch on his forehead (Att. 14, p. 4).

²³ IPRA did not make attempts to identify these unknown officers at the time of the incident and related reports do not otherwise identify the officers [REDACTED] alleged assaulted him. Based upon the following factors, as COPA brought this case to conclusion, COPA did not seek authorization from the CPD Superintendent to pursue the use of force allegations raised: (1) with the exception of the minor scratch to his forehead, photographs taken the next day do not support the injuries alleged nor were they reflected in relevant police records, (2) statements that he was engaged in the earlier fight which precipitated the Department’s response would have been against his interest, (3) [REDACTED] impaired state diminishes his memory and credibility and finally, (4) though not exclusive to the reasons noted above, the passage of time – slightly more than 8 years - makes it unlikely the identity of the accused officers could be ascertained. COPA takes allegations of this nature seriously, and had this incident occurred more recently, COPA would likely have body worn camera footage, or other independent evidence such as 3rd party or POD video to aid in the identification of involved officers and possibly corroborate the allegations.

²⁴ Att. 81, p. 19, line 21.

²⁵ This firearm was identified as a Ruger, stainless steel revolver, .38 special caliber.

²⁶ No further questions were asked by the interviewer.

²⁷ A firearm was recovered in the front yard of [REDACTED] [REDACTED], next door to [REDACTED] [REDACTED].

²⁸ The Illinois State Police (ISP) conducted microscopy trace testing of Gunshot Residue Collection Kits administered to [REDACTED]. The results showed a negative presence of primer gunshot residue particles. See Att. 97.

²⁹ According to GPR reports, Att. 70, p. 25, [REDACTED] told detectives that he had heard that [REDACTED] was armed with a gun.

³⁰ Att. 95, 101 [REDACTED] was interviewed at his residence at [REDACTED] [REDACTED].

³¹ Att. 70, p. 39, it is documented that during a canvass by CPD, [REDACTED] was looking out of his open front door. COPA questioned [REDACTED] about his statement to CPD about his location during the incident and [REDACTED] stated he was on his front porch.

³² Att. 101, p. 6, line 12.

not.³³ An officer³⁴ held a male by the name of ██████” now known to be ██████ in handcuffs. ██████ stated that he knew ██████ from the neighborhood and he no longer lives here.

█████ observed a second unmarked dark-colored police vehicle driving eastbound. There were no lights or sirens activated on this vehicle. The vehicle drove eastbound on 110th Place, stopped in front of ██████ residence and reversed, tires screeching. He observed ██████³⁵ now known to be ██████³⁶ who he knew to have lived on 110th Street, running southbound from the north side of the street, through a gangway, near the area of ██████. Simultaneously, an unknown officer, described as “another white guy in a tactical uniform” and wearing “...some type of glasses,”³⁸ “is coming through the gangway hollering ‘there he goes there’.”³⁹ ██████ was already across the street when the unknown officer was at the gangway. At this time, a white male officer, now known to be Officer Byrne, had exited the driver’s side of the dark-colored vehicle.

Officer Byrne, now standing on the north sidewalk of ██████, ██████,⁴⁰ raised his gun and began to fire, between four to six times, at ██████⁴¹ Officer Byrne shot ██████ in the back,⁴² as ██████ was running southbound. ██████ was no longer on the street, but crossing the south sidewalk, at or near ██████ or ██████ when the officer fired.⁴³ ██████ did not observe ██████ with a weapon. He did not observe ██████ “...turn around. He didn’t cause no threat...He was just running.”⁴⁴ When asked if he could see ██████ hands, ██████ responded that he observed ██████ holding up his pants while running. The distance from ██████ front porch to across the street, where the shots fired took place was approximately 100 feet, by ██████ estimation.⁴⁵ ██████ described the lighting conditions as dark, with illuminated streetlights.

At no time did ██████ hear ██████ say anything. After the shots were fired, people from the party “all converged”⁴⁶ yelling that ██████ had been shot. The shooting officer was removed from the scene. Officers were “beating” people while repeatedly telling members of the crowd them to “Get back.”⁴⁷ ██████ sister⁴⁸ “ran over there” and was attempting to hold ██████

³³ No evidence supports ██████ assertion that a squad car experienced a “blown-out” tire.

³⁴ The name and description of this officer was not provided, but the investigation determined that it was Officer Huberts based on the statement of Officer Huberts and the statement provided by ██████ to CPD.

³⁵ Att. 101, p. 9, line 5.

³⁶ ██████ stated ██████ mother, ██████ recently deceased.

³⁷ This address is two residences west of ██████ ██████

³⁸ Att. 101, p. 10, line 7-9.

³⁹ Att. 101, p. 7, line 20-22.

⁴⁰ Att. 101, p. 12, line 8-12.

⁴¹ According to General Progress Reports, Att. 70, p. 39, ██████ stated that the officer was in a foot pursuit [of ██████ when he fired.

⁴² Att. 101, p. 8, line 1.

⁴³ Att. 101, p. 12, line 13-15.

⁴⁴ Att. 101, p. 13, line 10-11.

⁴⁵ Att. 101, p. 15, line 5-9.

⁴⁶ Att. 101, p. 13, line 17.

⁴⁷ Att. 101, p.13, line 24.

⁴⁸ ██████ knew her by her nickname of ██████

as “they hit her with the baton,⁴⁹ told her to ‘Get back. Get off of him.’”⁵⁰ The entire block then was blocked off with police response.

██████████ had no knowledge as to why the officer fired his weapon toward ██████████. He had no knowledge as to why officers ran after ██████████ did not see anyone else fire a weapon, nor did he hear any other gunshots. ██████████ learned, the day after the incident, “by some of the guys around here”⁵² that a firearm was recovered on scene.

In a telephone statement to COPA on June 22, 2020, Witness and Complainant, ██████████⁵³ stated that on September 14, 2012, she had attended a block party on the ██████████ block of west 110th Street.⁵⁵ There were approximately 50 to 100 people in attendance. She arrived between 5:00 or 6:00 p.m. and saw her brother, ██████████ at the party with ██████████ and ██████████. People at the party were drinking, listening to music and possibly smoking. At approximately 8:00 p.m., she spoke with ██████████ on a porch in front of a brown corner house, on the south side of 110th Street and Princeton Avenue, where ██████████ resided.⁵⁶ ██████████ went back inside of the house after they spoke. Shortly thereafter, near the same corner house a fight broke out on the street between two unknown individuals. During the fight a gun fell onto the street and people began to run in fear of someone firing a weapon. ██████████ walked east on 110th Street and hid underneath a porch of a residence for approximately 3 to 5 minutes.⁵⁷ During this time, people were running, and someone called the police. She last knew ██████████ was inside of the corner house.⁵⁸

██████████ learned after the incident from ██████████ that when the police arrived, ██████████ was still inside ██████████ house. The police attempted to “barge into that house, whoever was in the house went out the back door” including ██████████.⁵⁹

After ██████████ left from hiding underneath a porch, she walked eastbound down the parallel alley that ran south of 110th Street and then turned southbound on Wentworth Avenue toward 110th Place. She heard police sirens but did not see any officers. Subsequently, she received a phone call from ██████████ ██████████ girlfriend at the time, who was with ██████████

⁴⁹ ██████████ reported that an officer pushed her but denied additional physical contact by police.

⁵⁰ Att. 101, p. 14, line 2-4.

⁵¹ There were no additional questions regarding the use of force by any officers.

⁵² Att. 101, p. 25, line 21.

⁵³ Att. 116. ██████████ filed a web complaint approximately three years after the date of incident alleging that she had been pushed to the ground by an unknown officer. No previous attempts to contact Ms. ██████████ were documented by IPRA.

⁵⁴ She requested a telephonic interview as a safety measure due to the Covid19 pandemic.

⁵⁵ At the time of incident, ██████████ her brother ██████████ and her mother lived at ██████████ ██████████

⁵⁶ ██████████ stated that at the time of incident, ██████████ resided at this house and through an arrest report of ██████████ from the date of incident, RD #HV476470, the address was ██████████ ██████████

⁵⁷ ██████████ explained that this residence was on the south side of ██████████ ██████████, approximately across the street of her former residence, ██████████ ██████████ and next to a field.

⁵⁸ Att. 116, p. 28, line

⁵⁹ Att. 116, p. 24, line 10-12. The investigation revealed that on the date of incident, at approximately 9:55 p.m. ██████████ was arrested, RD #HV476470, at her residence, ██████████ ██████████ for an aggravated battery to the police.

mother, ██████████⁶⁰ Following this phone call, ██████████ and ██████████ picked up ██████████ at 110th Place and Wentworth Avenue. ██████████ sat in the rear seat. They proceeded westbound on 110th Place when she observed ██████████ on the northside of 110th Place, “stopping at his gate, where his grandma lives”⁶¹ and doing something outside of the gate, but she did not know what. The vehicle she was in reached the stop sign and turned right onto northbound Princeton Avenue. The vehicle stopped at the crosswalk upon turning the corner. ██████████ looked through the rear passenger window and observed a detective car rolling backwards, after just hitting a gate on the north side of 110th Place. ██████████ took off running towards Princeton Avenue and an unknown officer grabbed him and took him down to the ground while on Princeton. ██████████ did not know where the detective car came from; it did not have lights or sirens activated.

██████████ was inside of the vehicle when she heard shots fired but did not see anyone fire a weapon. She heard more than two gunshots in rapid succession.⁶² She did not know where the gunshots were coming from and did not hear any verbal exchange prior to the shots being fired. When the gunshots stopped, ██████████ and ██████████ exited their vehicle. ██████████ took a few steps on Princeton Avenue and asked ██████████ if he was okay. She then saw ██████████ laying on his right side, on the south sidewalk of 110th Place and ran towards him. A few officers were near him, but she did not recall which direction they faced.

As ██████████ was about to touch ██████████ an unknown male officer pushed her down. ██████████ and ██████████ were somewhere behind her and they were also pushed by the same officer. She described this officer as Caucasian, in a blue uniform, heavy-set, approximately 5’5” and likely older than 20 or 30 years of age. ██████████ could not recall anything further about the officer. She fell and hit the back of her head.⁶³ There was no other physical contact that this officer, or any officer, made against her.⁶⁴ When asked ██████████ why the unknown officer pushed her she responded “I guess because...it was a crime scene if that’s what they want to call it.”⁶⁵ After ██████████ was pushed she dropped her belongings, including her purse.⁶⁶

⁶⁰ ██████████ stated that she did not have a phone number for either ██████████ or ██████████. She stated that the last time she spoke to ██████████ whose nickname is ██████████ was approximately two years ago. COPA conducted a social media search as well as a search via Thomas Reuters CLEAR for contact information which proved unsuccessful.

⁶¹ Att. 116, p. 33, line 9-10. ██████████ described this residence to be on ██████████, across the street from where the incident (shots fired) took place, and closer to Princeton Avenue. Department reports documented, ██████████ address as ██████████ ██████████

⁶² Att. 116, p. 39, 40.

⁶³ Att. 116, p. 48. ██████████ described that she did not feel the injury to her head because she was in shock from seeing her brother. She did not sustain any further injuries, nor did she seek medical treatment. The physical description she gave of the officer did not match any officers known to be present during this incident. Due to the lack of additional evidence, the unknown identity of the officer, the lack of contact information for potential witnesses and the years passed since the incident, COPA did not proceed with this allegation.

⁶⁴ Att. 116, p. 66, line 8-11

⁶⁵ Att. 116, p. 49, line 21-22

⁶⁶ ██████████ stated that a few months after the incident, she was contacted [by CPD] and she went to the police station on 111th Street to retrieve her belongings. Att. 70, p. 33 corroborate that ██████████ picked up her belongings on February 16, 2013.

After the unknown white male officer pushed her, [REDACTED] and [REDACTED] he “drew the gun and told us to get the fuck on.”⁶⁷ [REDACTED] explained that “he probably did that due to the fact that everyone that was on the next block started coming over there.”⁶⁸ [REDACTED] described the scene as chaos. She screamed back at the officer, “That’s my brother. You all killed my brother.”⁶⁹ [REDACTED] recalled that the officer unholstered his firearm but she did not “pay attention to if he pointed it at us, or if he just drew it.”⁷⁰ The unknown officer did not point the gun in the direction of other people. Subsequently, [REDACTED] moved away from the scene, stood around the area for approximately 15 minutes and then went home. She did not recall any other physical altercations between the police and the crowd of civilians on 110th Place.

[REDACTED] later learned from police reports and from speaking to a man named [REDACTED]⁷¹ now known to be [REDACTED] a few days after the incident, that an officer shot her brother while he was trying to jump a fence. She stated that [REDACTED] “... didn’t really go into detail as far as what happened.”⁷² [REDACTED] was on his porch on [REDACTED] [REDACTED] when the shots were fired.⁷³

[REDACTED] did not know whether [REDACTED] had a gun on the date of incident. She had never seen him with a gun and had not known him to carry a gun. When asked if [REDACTED] was under the influence, [REDACTED] stated that he may have smoked and would have been under the influence in that way. [REDACTED] has not spoken to the police about the incident.

b. Officer Interviews

In a statement to IPRA, on September 15, 2012, **Officer Dennis Huberts Jr.**⁷⁴ stated that on September 14, 2012, he was working in civilian dress with Officer Brandon Smith in an unmarked car. Officer Huberts stated that he and his partner responded to a man with a gun call near [REDACTED] [REDACTED].⁷⁵ When they arrived, Officer Huberts observed approximately 100 people in the area, attending what appeared to be a block party. Officer Huberts stated a woman⁷⁶ pointed towards the rear of the residence in “the direction of the person,”⁷⁷ who was believed to have the gun. At about this time, Officer Huberts observed a group of individuals running away from the scene. Officer Smith exited the squad car to speak with the woman, who began to take Officer Smith to the person with the gun.⁷⁸ Officer Huberts drove westbound on 110th Street toward Princeton Avenue to investigate the group of individuals who had fled.

While driving in the area Officer Huberts observed a group of unknown individuals on 110th Place behind his police vehicle, who looked in his direction. Officer Huberts stated “I reversed my car all the way down the street to see where they were ...they began running. They

⁶⁷ Att. 116, p. 50, line 9-10.

⁶⁸ Att. 116, p. 50, line 19-22

⁶⁹ Att. 116, p. 49, line 7-11

⁷⁰ Att. 116, p. 80, line 16-18

⁷¹ Att. 116, p. 56, line 9

⁷² Att. 116, p. 56, line 23-24

⁷³ Att. 116, p. 41, line 7-17

⁷⁴ Att. 12, 82

⁷⁵ According to Att. 48, p. 21, Officer Huberts told detectives he responded to 254 W. 110th Street.

⁷⁶ No further information about the woman was asked or provided.

⁷⁷ Att. 82, p. 7, line 11-12.

⁷⁸ The address of residence was not specified.

went westbound to the alley...⁷⁹ Officer Huberts stopped his vehicle and heard two gunshots.⁸⁰ He did not see anyone fire their weapon. Officer Huberts placed his vehicle in drive heading “northbound”⁸¹ and observed two unknown black men run out of a yard, who were not part of the group he had pursued. The shorter subject, now known to be [REDACTED] was holding his waistband, while running in front of the larger subject with braids, later learned to be [REDACTED] [REDACTED] also was holding his waistband. Officer Huberts believed the men were both carrying firearms, although he did not see them holding firearms.⁸²

Subsequently, Officer Huberts drove over the grass on the north side of the 110th Place in an attempt to block their path with his vehicle, near the northeast corner of 110th Place and Princeton. Officer Huberts stopped his vehicle in front of a fence⁸³ and saw the two black men were between Officer Huberts’ police vehicle and the fence. The two men “doubled back”⁸⁴ and ran to the rear of his vehicle. Officer Huberts exited his vehicle. [REDACTED] ran westbound while [REDACTED] ran southwest,⁸⁵ which was east of Officer Huberts’ location.

Officer Huberts observed another officer, now known to be Officer Joseph Byrne, at the intersection of Princeton and 110th Place with his police vehicle. Officer Huberts engaged in a foot pursuit of [REDACTED] and assumed Officer Byrne would pursue [REDACTED] who was running toward Officer Byrne’s direction. Officer Huberts heard multiple gunshots and turned around to observe [REDACTED] lying on the ground, with Officer Byrne standing nearby with his firearm out. Officer Huberts did not see Officer Byrne fire his weapon. However, at the time he heard gunshots, he believed it was Officer Byrne who fired.

During the foot chase, [REDACTED] stopped running and told Officer Huberts he did not have anything on him. After [REDACTED] was handcuffed by other officers, Officer Huberts patted down [REDACTED] and did not find a gun on him.

Officer Huberts ran back to assist Officer Byrne. Officer Huberts helped Officer Byrne secure the crime scene. Officer Huberts stated approximately 60-70 unknown individuals were “rushing us,”⁸⁶ screaming and attempting to get on top of [REDACTED] body. Officer Huberts and Byrne attempted to get people off the body and away from the crime scene. Officer Huberts

⁷⁹ Att. 82, p. 9, lines 19-23. The interviewer did not clarify Officer Huberts’ path of travel. According to his statement to detectives (Att. 48, p. 21), Officer Huberts drove west on 110th Street, south on Princeton Avenue, then reversed westbound on 110th Place and drove onto the north side of the street to block the path of travel of [REDACTED] and [REDACTED].

⁸⁰ Att. 82, p. 16, line 11-14.

⁸¹ Att. 82, p. 10, line 2. Exact street or location was not specified. However, based on ET photos, it appears that Officer Huberts was on 110th Place, facing westbound.

⁸² At the end of the interview, Officer Huberts stated he had nothing to add to his statement; however, after prompting from an unidentified whisperer, possibly from his Attorney Ron Dahms or FOP representative, Kriston Kato, Officer Huberts explained [REDACTED] and [REDACTED] were holding their waistbands as they ran near Officer Huberts’ vehicle. Officer Huberts stated he believed both individuals had handguns.

⁸³ According to ET photos and department reports, Officer Huberts drove his vehicle, bearing LP #M147046, in a northwest direction, onto 110th place, over the parkway, and struck the southeast end of black-iron gate, in front of [REDACTED] [REDACTED], immediately west of [REDACTED] [REDACTED].

⁸⁴ Att. 82, p. 11, line 1.

⁸⁵ According to Officer Huberts statement to detectives, [REDACTED] ran in a southeast direction. Att. 48, p.22

⁸⁶ Att. 82, p. 18, line 2.

requested Office of Emergency Management and Communications (OEMC) to send additional assistance. Officer Huberts stated a firearm was recovered near [REDACTED] Officer Huberts did not discharge his firearm, during this incident.

In a statement to IPRA, on September 16, 2012, involved **Officer Chris Skarupinski**⁸⁷ stated that on September 14, 2012 he was on duty working in civilian dress, working Beat 563C, in a black unmarked Ford Crown Victoria with Officer Joseph Byrne. Officer Skarupinski was the passenger while Officer Byrne was the driver.

Officer Skarupinski stated they received an OEMC call of a person with a gun near 254 West 110th Street. Officer Skarupinski observed more than fifty individuals in a large group upon arrival. Officer Skarupinski heard and observed an unidentified female pointing east, toward a group of three men while screaming that they had guns. At that time, the three men ran southbound. Officer Skarupinski stated that one individual was wearing a black shirt, another was wearing a white shirt, and could not recall the attire of the third individual. Officer Skarupinski, who was seated in the front passenger seat, exited the police vehicle, announced his office, commanded the male subjects to stop and, when they failed to comply, he initiated a foot pursuit. Officer Skarupinski did not observe a gun in their hands, but the male subjects grabbed near their waistbands, which he stated was an indication they might be armed. The three males ran southbound from 110th Street through residential yards as Officer Skarupinski followed parallel to them. The three males reached an alley and continued to run southbound through a backyard. Officer Skarupinski was approximately 10 feet behind them and slightly east of them. As the men attempted to jump an unstable chain-link fence⁸⁹ separating the east and west yards of two houses,⁹⁰ he closed the distance.

Officer Skarupinski was within approximately three to five feet of one of the male subjects, later learned to be [REDACTED] Officer Skarupinski attempted to grab [REDACTED] while he was near the fence. [REDACTED] pointed a chrome handgun, that was in his right hand, in the direction of Officer Skarupinski. In fear for his life, Officer Skarupinski unholstered his weapon, took a step back, and fired one time, from the hip position.⁹¹ Officer Skarupinski described his actions as one rapid motion, without time to use his sights. [REDACTED] then tossed his gun across the fence into “the other yard”⁹² and surrendered with his hands up. As Officer Skarupinski fired his weapon, the other two males, one wearing a black shirt and the other, a white shirt, escaped.

Officer Skarupinski handcuffed [REDACTED] and asked him if he was shot. [REDACTED] said that he was not shot.⁹³ Officer Skarupinski announced over the radio, “Shots fired by the police. Send me help.”⁹⁴ As Officer Skarupinski detained [REDACTED] he heard approximately six to eight

⁸⁷ Att. 27, 83

⁸⁸ On numerous occasions throughout Officer Skarupinski’s audio recorded interview, a male voice can be heard whispering immediately prior to Officer Skarupinski providing answers to certain questions.

⁸⁹ Att. 83, p. 10. The fence did not have a top bar and was not secured properly.

⁹⁰ This is now known to be [REDACTED] and [REDACTED]. According to google map photographs of [REDACTED] this residence no longer exists and is now an empty lot.

⁹¹ Att. 83, p. 11, line 21-24, p. 12, lines 1-9.

⁹² Att. 83, p. 12, line 8.

⁹³ Att. 83, p. 18, line 18.

⁹⁴ Att. 83, p. 19, line 13-14.

gunshots, but did not know who fired. He reported the additional shots and again requested assistance. Officer Skarupinski maintained observation of the firearm [REDACTED] tossed over the chain-link fence. [REDACTED] told Officer Skarupinski, “they were shooting at him and he wanted to check on his girl.”⁹⁵ Officer Skarupinski waited for help in the backyard; when none arrived, he “slow jogged”⁹⁶ with [REDACTED] to the front of the residence where the firearm was located.⁹⁷ At this time Officer Skarupinski was met by an unknown uniformed white female officer⁹⁸ and Officer Ewing,⁹⁹ from his tactical team. Officer Skarupinski directed the female officer to place [REDACTED] in a police vehicle and instructed Officer Ewing to guard the recovered firearm.

Officer Skarupinski observed a large crowd, of approximately 50 people, gathering to the west of their location and many responding officers running toward the crowd to control it. He did not see the other two individuals that had evaded him or the male subject lying on the ground. After Officer Skarupinski initiated the foot pursuit, he lost sight of Officer Byrne and did not know where he was. He did not see Officer Byrne again until after the incident.

In a statement to IPRA, on September 16, 2012, involved **Officer Joseph Byrne**¹⁰⁰ stated that on September 14, 2012 he was on duty in plain clothes, working Beat 563C, in a black unmarked squad car with Officer Chris Skarupinski. They received an OEMC call of “shots fired, a person with a gun, or both”¹⁰¹ at [REDACTED] [REDACTED]. Upon arrival, Officer Byrne observed a large group of individuals, consisting of “dozens”¹⁰² of people standing in the front yard, on the porch, and sidewalk, near or at [REDACTED] [REDACTED]. Officer Byrne observed an unidentified woman standing on the porch pointing to a group of three black men; she yelled “they got guns, they got guns.”¹⁰³ He observed the men standing to his left and behind their squad car, but he “did not get a fully clear view,”¹⁰⁴ of them. Officer Byrne did not observe any of the men holding a firearm or anything he believed to be a gun. Officer Skarupinski exited the passenger side of their vehicle to approach the men. The three men fled. Officer Skarupinski initiated a foot pursuit, and “yelled south, south!”¹⁰⁵ Officer Byrne, with the intent to assist his partner, drove south of the foot pursuit to 110th Place. Officer Byrne believed the men may have been armed with weapons. Officer Byrne heard one gunshot, from an unknown location, while he drove from 110th Street to 110th Place.

As Officer Byrne arrived at 110th Place, he stopped and exited his vehicle near the middle of the block between Princeton and Wentworth, closer to Wentworth Avenue. Officer Byrne

⁹⁵ Att. 83, p. 18, line 19-20.

⁹⁶ Att. 83, p. 20, line 17.

⁹⁷ The residence at [REDACTED] [REDACTED], where this weapon was recovered, is setback significantly, aligning it adjacent to the backyard of neighboring lots. Due to the setback position of this home, its front yard is considerably deep. Effectively, the backyard of [REDACTED] [REDACTED], where Officer Skarupinski apprehended and discharged his firearm at [REDACTED] is within feet of the front yard where the chrome firearm was recovered.

⁹⁸ Per the IPRA Preliminary Report, Att. 28, she is Officer Jeanette Cegielski #4171.

⁹⁹ Officer Dean Ewing #8653 worked Beat 563D.

¹⁰⁰ Att. 26, 84

¹⁰¹ Att. 84, p. 5, line 19.

¹⁰² Att. 84, p. 7, line 11.

¹⁰³ Att. 84, p. 8, line 5.

¹⁰⁴ Att. 84, p. 8, line 13.

¹⁰⁵ Att. 84, p. 9, line 10-11.

observed an additional unmarked vehicle¹⁰⁶ attempt to block the path of two of the fleeing black men,¹⁰⁷ one with a thin build with dark clothing, now known to be ██████████ and one with a white shirt, now known to be ██████████ running westbound, on the sidewalk, toward the unmarked vehicle. Officer Byrne did not recall if he was in or out of his vehicle at that time.

As ██████████ and ██████████ continued to flee, Officer Byrne initiated a foot pursuit of ██████████ who he referred to as, “the subject in the dark colored clothing.”¹⁰⁸ While on 110th Place, ██████████ ran across the street, in a “southeast”¹⁰⁹ direction. Officer Byrne “yelled police, police,”¹¹⁰ while chasing ██████████¹¹¹ Officer Byrne’s weapon was not drawn at this time, and he does not recall when he drew his weapon. Officer Byrne described that ██████████ was grabbing the right front side of his waistband area with one hand, giving Officer Byrne reason to suspect ██████████ was armed, even though he could not see a weapon. ██████████ “body was turned”¹¹² toward Officer Byrne, while ██████████ was “in motion,”¹¹³ when he “pointed”¹¹⁴ a blue-steel, semi-automatic handgun¹¹⁵ with his right hand toward Officer Byrne. Officer Byrne did not recall if ██████████ was looking at him, but he observed ██████████ point the gun at him. ██████████ did not discharge his weapon at Officer Byrne. After observing the handgun pointed at him, Officer Byrne discharged his weapon at ██████████ approximately seven (7) times,¹¹⁶ while ██████████ was in motion. Officer Byrne stated he fired his weapon to protect his “life from being shot, from being killed at the hands of the subject.”¹¹⁷ Officer Byrne described that when he fired his weapon, he was in motion “between a walk and a sprint.”¹¹⁸ ██████████ ran another couple of feet, before falling forward to the ground.¹¹⁹ ██████████ “dropped the gun just south of his body.”¹²⁰ Officer Byrne did not handcuff ██████████

Officer Byrne did not issue any verbal commands as he approached ██████████ nor did ██████████ speak to Officer Byrne. Officer Byrne was unaware of what happened to ██████████ and he saw a plain-clothed officer in an orange shirt,¹²¹ when he fired his gun. Officer Byrne believed his partner was in the area and that other officers were behind his location.

¹⁰⁶ This was later learned to be the unmarked vehicle of Officer Dennis Huberts.

¹⁰⁷ Per GPRs, Att. 70, p. 10-1. Officer Byrne provided a more detailed description of the two men that is consistent with this statement.

¹⁰⁸ Att. 84, p. 13, line 23-24.

¹⁰⁹ Att. 84, p. 14, line 3.

¹¹⁰ Att. 84, p. 14, line 10-11.

¹¹¹ According to Officer Byrne’s statement to detectives (Att. 48, p. 21), he pursued ██████████ in a southeast direction.

¹¹² Att. 84, p. 16, line 18-19. According to Officer Byrne’s statement to CPD detectives, ██████████ turned his body to his left and pointed his handgun with his right hand towards Officer Byrne. See Att. 48, p. 21.

¹¹³ Att. 84, p.15, line 18.

¹¹⁴ Att. 84, p.15, line 8.

¹¹⁵ This firearm was identified as a black Smith & Wesson, Model SW 40 F.

¹¹⁶ According to Officer Byrne’s TRR he fired his weapon eight (8) times. Att. 8.

¹¹⁷ Att. 84, p. 17, line 12-13.

¹¹⁸ Att. 84, p. 27, line 14.

¹¹⁹ According to the Crime Scene Processing Report, ██████████ was on the sidewalk at ██████████ ██████████ (Att. 74, p. 5-6).

¹²⁰ Att. 84, p. 19, line 20.

¹²¹ The identity of such officer was not provided, and a further description was not asked.

Officer Byrne heard “a large mob,”¹²² and observed approximately 100 people approaching him. The screaming crowd came through gangways and jumped fences. [REDACTED] gun was on a grassy area just south of [REDACTED] body. Officer Byrne picked up [REDACTED] gun, by the handle, for officer safety. Officer Byrne began to walk eastbound and met with a male sergeant, now known to be Sergeant Spiro Georgas¹²³ east of his location. This Sergeant instructed him to place the gun in the trunk of the sergeant’s squad car. The crowd began to converge on his location. There were “physical conflicts between the large mob, the angry mob of people, and the police.”¹²⁴ He described there was pushing and shoving.¹²⁵ Officer Byrne remained east of the shooting scene, until responding officers dispersed the crowd and taped off the crime scene. Officer Byrne used his radio to request an ambulance and attempted to locate his partner. Officer Byrne learned Officer Skarupinski fired his weapon when Officer Skarupinski announced it over the radio.

c. Digital Evidence

Office of Emergency Management and Communication (OEMC) 911 calls CPD Transmissions and event queries included a total of eleven 911 calls and four CPD transmissions.¹²⁶ In summary, four of the 911 calls were made prior to the officers arriving on scene. In these calls, civilians, including but not limited to, a female named [REDACTED]¹²⁷ from [REDACTED] [REDACTED], reported two young black men observed with guns in their hand, running eastbound. In addition, there were reports of fighting. Seven 911 calls seemed to have been made following the officer involved shootings. These calls included requests for an ambulance. A male civilian, who identified himself as Superintendent “[REDACTED]” with the Department of Streets and Sanitation, called 911 twice, on behalf of an anonymous male on the [REDACTED] block of 110th Street, and provided a description of the “shooter” who police were looking for.

CPD radio transmissions include, but are not limited to, reports of shots fired by the police, on-scene response by multiple police units after the incident, medical requests and securing the scene. Dispatch announced a 911 call of a person with a gun at [REDACTED] [REDACTED].¹²⁸ Dispatch reported additional 911 calls of men with guns near the location of incident.¹²⁹ Beat 563C responded they were in route. Several seconds later, 563C announced a large crowd. Dispatch requested more cars to respond to the area. A male officer announced a few “guys” going southbound of 110th Street.¹³⁰ Next, a male officer announced, “shots fired by the police,”¹³¹ and an ambulance was requested.¹³²

¹²² Att. 84, p. 21, line 19-20.

¹²³ Sergeant Georgas, now Lieutenant Georgas #270, worked Beat 4528, vehicle number #8145, at the time of the incident.

¹²⁴ Att. 84, p. 25, line 1-3.

¹²⁵ There were no additional questions asked related to any physical altercations.

¹²⁶ Att. 17, 51-65

¹²⁷ Att. 51

¹²⁸ Att. 59, 00:09.

¹²⁹ See Atts.17, 58-64.

¹³⁰ Att. 59, 02:00.

¹³¹ *Id.* at 02:31.

¹³² *Id.* at 02:56.

An **In-Car Camera (ICC)**¹³³ video from Beat 4528, now known to be Sergeant Georgas, Vehicle #8145, does not depict the incident.

Evidence Technician (ET) Photographs and Video¹³⁴ depict the scene, recovered evidence, and [REDACTED]

d. Physical Evidence

The **Crime Scene Processing Reports**¹³⁵ document the recovered and inventoried physical evidence, videotaped and photographed at the crime scene and photographed at the morgue. Evidence Technicians (ET) administered a Gun Shot Residue (GSR) kit to [REDACTED] at the scene of the incident. In addition, ETs arrived at Area South Detective Division and administered GSR kits to [REDACTED] and [REDACTED]¹³⁶

A **COPA Investigative Report (IR)**¹³⁷ documents that on June 23, 2020, photographs and measurements were taken between the front porch of [REDACTED] [REDACTED] which is the residence of [REDACTED] and the south sidewalk area near [REDACTED] [REDACTED]¹³⁸ which resulted in 132.54 feet in distance. The distance between the front porch of [REDACTED] [REDACTED] and the southeast corner fence post of [REDACTED] [REDACTED], next to what would have been [REDACTED] [REDACTED]e, was 142.15 feet. These specific distances were obtained to establish the distances between [REDACTED] porch and where he observed [REDACTED] on the date of incident.

An **Evidence Technician (ET) Plat**¹³⁹ depicts a sketch of the location of incident, to include the location of evidence recovered, and measurements (not to scale) taken. Specifically, the body of the decedent (now known to be [REDACTED] was drawn to be on the south sidewalk of 110th Place, in front of a fence post in between [REDACTED] [REDACTED] and a vacant house to its east (believed to be [REDACTED] [REDACTED] which no longer exists.) Marker numbers 1-6 and 10 (now known to be expended shell casings), were drawn to be northwest from where the decedent was laid, on the street and near the curb of the south parkway in front of [REDACTED] [REDACTED].

The **Inventory Reports**¹⁴⁰ depict two recovered firearms, including a black Smith & Wesson handgun, Model #SW40F, Serial #PAF1399, loaded with one live round in the chamber and 10 live rounds in the magazine,¹⁴¹ This firearm was recovered by the ETs from the trunk of police vehicle number #8145 at [REDACTED] [REDACTED]. An additional Smith & Wesson magazine¹⁴² loaded with 10 live Winchester 40 S&W cartridges and three Hornady 40 S&W cartridges were

¹³³ Att. 86

¹³⁴ Att. 32, 66

¹³⁵ Att. 5, 74

¹³⁶ Illinois State Police (ISP) lab results obtained by COPA (see p. 15 of this report) document negative GSR results for [REDACTED] and [REDACTED]

¹³⁷ Att. 115

¹³⁸ This was on or about the area in which [REDACTED] body was laid on the ground based on ET photographs.

¹³⁹ Att. 113, 114

¹⁴⁰ Att. 78

¹⁴¹ This firearm is alleged to belong to [REDACTED] This magazine had a capacity of 15 rounds.

¹⁴² This magazine had a capacity of 14 rounds.

found in the front left pants pocket of [REDACTED] while he was on the sidewalk at [REDACTED].

A stainless-steel Ruger revolver handgun, .38 caliber, Serial #159-40576, with six S&B .38 cartridges from the chambers of the cylinder,¹⁴³ was recovered from the front walkway at [REDACTED].

Officer Skarupinski's firearm was a black Glock 17, 9mm semi-automatic with a magazine capacity of 17. This firearm was recovered with 16 cartridges in the magazine and one in the chamber.

Officer Byrne's firearm was a Sig Sauer, P220, .45 caliber, semi-automatic with a magazine capacity of eight (8). This firearm contained one Winchester .45 cartridge in the chamber and eight Winchester .45 live cartridges in the magazine. It was later learned, while at Area South on the night of incident, that Officer Byrne had an additional magazine,¹⁴⁴ loaded with one live Winchester .45 cartridge.

Additionally, expended bullet casings and a metal fragment were recovered from the scene. Six expended Winchester .45 shell casings were recovered on the street at [REDACTED]. One expended Winchester .45 shell casing was found in the street after raking the grass near the curb at [REDACTED]. A metal fragment was recovered from the front walkway of [REDACTED].

Illinois State Police (ISP) Forensic Science Laboratory Reports document ballistic, latent print testing results, and preservation of material. The **ISP report dated January 25, 2013**¹⁴⁵ documents the firearm of Officer Byrne identified as a Sig Sauer P220, .45 caliber pistol¹⁴⁶ and the firearm of Officer Skarupinski, identified as a Glock model 17, 9mm Luger pistol.¹⁴⁷ and both were found operable.

Seven (7) fired cartridge casings, and three fired bullets were determined to have been fired from Officer Byrne's weapon. One (1) fired bullet fragment, a 38 caliber, could not be identified or eliminated as having been fired from Officer Skarupinski's weapon, but was eliminated from having been fired from Officer Byrne's weapon.

An **ISP report dated December 5, 2013**,¹⁴⁸ documents fingerprint testing done related to this case. The examination did not reveal latent prints suitable for comparison on the handgun magazine and 13 live bullets, from [REDACTED] pocket the Ruger revolver and related six live bullets; and the Smith & Wesson .40 caliber pistol and related 11 live bullets. The magazine in the Smith & Wesson pistol, had suitable latent prints for comparison, which did not match fingerprint

¹⁴³ This firearm belonged to [REDACTED]

¹⁴⁴ This magazine also had a capacity of 8 rounds. Officer Byrne's TRR, Att. 8, box 60, documents that he reloaded his weapon.

¹⁴⁵ Att. 41

¹⁴⁶ Exhibit 14, inventory #12717430.

¹⁴⁷ Exhibit 20, inventory #12717436.

¹⁴⁸ Att. 80

cards for [REDACTED] or [REDACTED]. It is documented that an AFIS¹⁴⁹ evaluation of the magazine revealed latent prints. An AFIS search and “subsequent comparison revealed the latent prints were made by the person whose fingerprints appeared on a copy of the fingerprint card marked”¹⁵⁰ for [REDACTED].¹⁵¹

An ISP report dated January 27, 2014¹⁵² documents the Smith & Wesson firearm (recovered from [REDACTED] was operable as received. This weapon did not fire the recovered fired bullet fragment, previously described as a 38 caliber in the ISP report dated January 25, 2013.

An ISP report dated January 8, 2020,¹⁵³ documents that microscopy trace testing of Gunshot Residue Collection Kits administered to [REDACTED] and [REDACTED]. All the results showed a negative presence of primer gunshot residue particles.¹⁵⁴

The **Medical Examiner’s (ME) Report**¹⁵⁵ by Dr. Ponni Arunkumar’s documented the autopsy of [REDACTED] on September 15, 2012. The manner of death is Homicide, due to multiple gunshot wounds. Toxicology results were negative.

The report documents the following injuries:

- A perforating circular gunshot entrance on the left arm, 7.2 inches to the left of the midline. The wound course exits the body through the midline area of his back. The wound coursed from front to back, left to right, and downward. The examination of the skin around gunshot wound revealed no evidence of close-range firing.
- A perforating circular gunshot entrance on the anterior left chest, 5 inches left of the midline. The bullet traveled to the right chest area in which a “large caliber copper-jacketed bullet [was] recovered.”¹⁵⁶ The wound coursed from front to back, left to right, and downward. The examination of the skin around gunshot wound revealed no evidence of close-range firing.
- A perforating circular gunshot entrance wound on the back, 11 inches from the top of the head and 2.1 inches left of the posterior midline. The bullet traveled to the right chest wall area in which a “large caliber copper-jacketed bullet [was] recovered. The wound coursed from back to front and left to right.”¹⁵⁷ The wound coursed from back to front, left to right. There is no evidence of close-range firing.
- A perforating circular gunshot entrance wound on the left side of the head. A large caliber copper-jacketed bullet was recovered from the brain. The wound coursed from back to front, left to right. There is no evidence of close-range firing.

¹⁴⁹ Automated Fingerprint Identification System.

¹⁵⁰ Att. 80, p. 2.

¹⁵¹ Additional identifiers for [REDACTED] in this report document he is a male black, DOB: [REDACTED]1983, Stated ID # [REDACTED]

¹⁵² Att. 67

¹⁵³ Att. 97

¹⁵⁴ [REDACTED] and [REDACTED] “...may not have discharged a firearm with the right/left hands (s).

If... [REDACTED] or [REDACTED] did discharge a firearm, then the particles were not deposited, were removed by activity, or were not detected by the procedure.” Att. 97, p.2.

¹⁵⁵ Att. 90

¹⁵⁶ Att. 90, p. 3

¹⁵⁷ Att. 90, p. 3

- All other documented injuries are abrasions about the body.

e. Documentary Evidence

According to the **Tactical Response Report (TRR)**,¹⁵⁸ completed by **Officer Joseph Byrne**, ██████████ did not follow verbal direction, fled, was an imminent threat of battery, attacked Officer Byrne with a weapon, and used force likely to cause death or great bodily harm with a weapon. Officer Byrne responded with member presence, verbal commands, and the discharge of his firearm. It is documented that Officer Byrne fired his weapon eight (8) times and then reloaded his firearm. He was 10 to 15 feet in distance from ██████████ when he fired.

The **Officer's Battery Report (OBR)**¹⁵⁹ for **Officer Joseph Byrne** documents that he was on-duty in civilian dress when he responded to a man with a gun. ██████████ pointed a firearm at him. Officer Byrne received no apparent injuries during the incident.

According to the **Tactical Response Report (TRR)**,¹⁶⁰ completed by **Officer Chris Skarupinski**, ██████████ did not follow verbal direction, fled, was an imminent threat of battery, attacked Officer Skarupinski with a weapon, and used force likely to cause death or great bodily harm when he pointed a firearm at Officer Skarupinski. Officer Skarupinski responded with member presence, verbal commands, and the discharge of his firearm. It is documented that Officer Skarupinski fired his weapon one (1) time. He was within 0 to 5 feet from ██████████ at the time he fired.

The **Officer's Battery Report (OBR)**¹⁶¹ for **Officer Chris Skarupinski** documents that he was on-duty in civilian dress when he responded to a "man with a gun" call. ██████████ pointed a firearm at him. Officer Skarupinski received no apparent injuries, during the incident.

The **Arrest Report**¹⁶² documents that ██████████ was arrested on September 14, 2012 at ██████████, under charges for Aggravated UDW and Aggravated Assault of an Officer with a Firearm.¹⁶³ The victim was listed as Officer Skarupinski. The narrative is consistent with the evidence collected by IPRA and as documented in other CPD reports.

The **Original Case Incident Report** under RD #HV476172 and **Detective Supplemental Reports**,¹⁶⁴ reported under RD #HV478808 and RD #HV476172, are consistent with the other sources of information, to include GPRs, and evidence referenced throughout this report.

¹⁵⁸ Att. 8

¹⁵⁹ Att. 9

¹⁶⁰ Att. 10

¹⁶¹ Att. 11

¹⁶² Att. 14

¹⁶³ ██████████ pleaded guilty to Aggravated Unlawful Use of a Weapon, 720-5/24- 1.6(A)(2), on September 14, 2014. Att. 100.

¹⁶⁴ Att. 44-48

The Detective Supplemental Report titled “Progress”¹⁶⁵ documents statements taken from ██████████¹⁶⁶ and ██████████ was detained for crossing police lines, and ██████████ was detained as the third subject who fled from the scene on 110th Street. ██████████ described the fight that broke out between rival gang members but did not witness the shooting. It is documented that “ASA [Assistant States Attorney] Innes met with and spoke to ██████████ who reiterated similar accounts as previously recorded.”¹⁶⁷

Additionally, the report documents that ██████████ stated that on the date of incident, he was at a party for ██████████ who was killed one year prior. A group of people began fighting and everyone began to run. Several people were armed. ██████████ ran from the party and was “arrested for no reason.”¹⁶⁸ ██████████ heard that ██████████ [██████████] was armed with a gun. ██████████ denied having a gun but has carried a revolver before. He stated he was not armed because if he did have a firearm, “he would have stayed, and he would have been shooting.”¹⁶⁹

The report documents that ██████████ spoke to Detectives Downes and Meister in three separate statements at 11:30 pm, 1:30 am, and 05:00 am. It is documented that ASA Innes spoke with, and took a handwritten statement, from ██████████ who reiterated similar facts that he told detectives (see below handwritten report summary). In addition to details provided in the handwritten report, ██████████ stated that ██████████ normally carried a 9mm Beretta with an extended 30 round clip.¹⁷⁰ On the date of incident, ██████████ observed ██████████ to be armed with a handgun with an extended clip and ██████████ also known as ██████████¹⁷¹ to be armed with a silver revolver. ██████████ began running because ██████████ [██████████] started running, and police were chasing him. ██████████ stated that while he and ██████████ were running from the police, a police car jumped a curb attempting to cut them off. ██████████ ran around the police car and was ordered by an officer to get on the ground. The report documents that ██████████ heard two gunshots and observed ██████████ lying on the ground.¹⁷²

It is documented in a Detective Supplemental Report titled “Canvass,” that Beat 5263¹⁷³ took a statement from ██████████ of ██████████ “Stated that he heard a car squeal back and forth. Stated that the police jumped out of the car and shot five times. Stated that a boy was wearing white pants.” In addition, it is documented that Beat 5283¹⁷⁴ also took a statement from ██████████ who stated “he was looking out his front door, when he heard a screeching noise, and a police car stop in front of his house. Stated that he observed a M/1 running southbound thru a gangway two houses to the west of his. Stated that he hears the police officer who got out of the car state ‘There he goes’. Stated that he heard a couple of gunshots from the area where the M/1

¹⁶⁵ Att. 46

¹⁶⁶ Att. 46, Pages 9-10. ██████████ handwritten statement is included in Att. 70, beginning at page 55.

¹⁶⁷ Att. 46, p. 10. There were no further details provided to include the time the ASA spoke to ██████████

¹⁶⁸ Att. 46, p. 9

¹⁶⁹ Att. 46, p. 8-9

¹⁷⁰ Att. 46, p. 8

¹⁷¹ Att. 46, p. 9

¹⁷² Att. 46, p. 9

¹⁷³ It is documented that Detective Alvarez #20890 was assigned to Beat 5263.

¹⁷⁴ It is documented that Detective Habiak #20221 was assigned to Beat 5283.

came from. Stated that he observed the police officer in foot pursuit of the M/1 shoot approximately five times at the M/1.”¹⁷⁵

Furthermore, it is documented that Beat 5226¹⁷⁶ took a statement from [REDACTED] who resides at [REDACTED] [REDACTED] who stated that during the time of incident he was sleeping and that the exterior video cameras on his residence do not work.

A Detective Supplemental Report titled “Progress-Violent (Scene)”¹⁷⁷ summarizes statements made by the involved officers. The statements of the two shooting officers are consistent with the statements they made to IPRA. In addition, it is documented that Officer Byrne stated to detectives that he drove westbound on 110th Street, southbound on Princeton Avenue and eastbound on 110th Place. He stopped his police vehicle east of [REDACTED] [REDACTED]. Upon pursuing [REDACTED] “he yelled ‘Police, Police’...and unholstered his weapon. Byrne stated that as [REDACTED] continued to run, he turned to his left, and pointed a handgun with his right hand at Byrne.”¹⁷⁸

Officer Skarupinski’s statement is consistent with his statement to IPRA. In addition, it is documented that he “stated that he ran in a southwest direction, and confronted the subjects at the rear northwest corner corner...at [REDACTED] [REDACTED].”¹⁷⁹ He described that the three males were attempting to jump a “cyclone” fence and that [REDACTED] “was next to the fence, at which time he pulled a handgun from his waist with his right hand, turned right, and pointed the handgun...”¹⁸⁰ at him.

The report also includes a statement from Officer Brandon Smith, who indicated that he was Officer Huberts’ partner and that he was running southbound on Princeton at the time of both shooting incidents.

Officer Huberts’ statement is consistent with his statement to IPRA. Additionally, it makes clear that he was driving westbound on 110th Place, to the west of Princeton, when he saw two males running on 110th Place towards him. At this point he drove in reverse, eastbound on 110th Place, before driving forward onto the north sidewalk of 110th Place to block the path of the two men.¹⁸¹

The **General Progress Reports (GPR)**¹⁸² by assigned detectives document handwritten notes relative to the investigation of this incident, including notes regarding canvasses and interviews with witnesses and involved officers. The GPR’s provide essentially the same information as documented in the detective supplemental reports.

¹⁷⁵ Att. 45, p. 10.

¹⁷⁶ It is documented that Detective Gonzalez #20703 was assigned to Beat 5226.

¹⁷⁷ Att. 48

¹⁷⁸ Att. 48, p. 21

¹⁷⁹ Att. 48, p. 20.

¹⁸⁰ Att. 48, p. 20.

¹⁸¹ Att. 48, p. 21.

¹⁸² Att. 70

Assistant States Attorney (ASA) Mary Innes took a **handwritten statement** of ██████████ on September 15, 2012 at Area South Detectives in the presence of Detective Meister.¹⁸⁴ It is documented that ██████████ stated that on the date of incident, he attended a memorial for ██████████ at 110th (Street) and Princeton. There were approximately 100 people in attendance. At approximately 9:30 p.m., ██████████ observed a dark-colored unmarked police vehicle “drive up on Princeton.”¹⁸⁵ ██████████ knew it was the police, because he observed the ‘M’ plates.”¹⁸⁶ ██████████ began to run and his friend ██████████ now known as ██████████ “cut” behind him. As he and ██████████ were running from the police, he heard two gunshots. He neither knew who was shooting, nor what they were shooting at; he kept running and never looked back. The officer behind him was yelling, “Stop. Stop.”¹⁸⁷ ██████████ stopped and was arrested; he did not see either of his friends ██████████ or ██████████ stated that on the date of incident, he observed ██████████ with a semi-automatic firearm and ██████████ with a revolver. They had their firearms for safety.

The GPR of Detective Barsch documents that on the date of incident, Sergeant Georgas¹⁸⁸ responded to a call of shots fired by police. He arrived to 110th Place and observed Officer Byrne walking down the street with a “handgun in his right hand.”¹⁸⁹ Officer Byrne told Sergeant Georgas that he had the subject’s gun. Sergeant Georgas escorted Officer Byrne to Sergeant Georgas’ vehicle where Officer Byrne placed the gun in his trunk to secure it. Sergeant Georgas placed Officer Byrne in the front seat of his vehicle where he remained until Detective Barsch arrived on scene. The report documents that the in-car video of Sergeant Georgas’ vehicle depicts Officer Byrne walking with the gun in his hand and there is recorded audio of Officer Byrne’s conversation with Sergeant Georgas. Sergeant Georgas was going to download the video.¹⁹⁰

In addition, GPRs document canvasses conducted on the date of incident. Several civilians were spoken to who did not witness the shooting incident.¹⁹¹ In a GPR by Detective Barsch it was documented that a civilian by the name of ██████████ stated that on the date of incident, while at a party for ██████████ ██████████ she observed a male black, approximately 20 years of age, with dreadlocks, wearing a white t-shirt, blue jeans and a hat who was armed with a gun. She also described seeing a male with white pants, a black shirt, black shoes, possibly dreadlocks and a baseball cap. However, it was unclear if this male had a gun according to the GPR.

The report documents that during the canvass by detectives, private video camera was observed at ██████████ ██████████ one facing eastbound, two facing southbound. It is documented that none of the cameras were functioning as they were not plugged in.¹⁹²

¹⁸³ Att. 70, p. 55-59

¹⁸⁴ ██████████ essentially provided similar statements during his interview with the detectives.

¹⁸⁵ Att. 70, p. 56 (or page 2 of the handwritten statement).

¹⁸⁶ Att. 70, p. 56

¹⁸⁷ Att. 70, p. 57 (or page 3 of the handwritten statement).

¹⁸⁸ Att. 70, p. 12

¹⁸⁹ Att. 49

¹⁹⁰ See ICC video, Att. 86

¹⁹¹ It is documented in the GPRs that several civilians were interviewed at ██████████ ██████████ This is the residence of ██████████ according to her arrest report from the date of incident, under RD #HV476470. She was arrested after the incident for an Aggravated Battery to the police.

¹⁹² Att. 70, p. 13

IPRA Canvassed¹⁹³ the area of incident in an attempt to identify civilian witnesses. Attempts made for witnesses produced negative results as the majority people either did not witness the incident or were not home. It is documented that a visit was made to the [REDACTED] residence at [REDACTED] [REDACTED] in which no one was home and a business card was left. Two potential witnesses were located, but neither were willing to provide IPRA with an official statement.

Additional Evidence

A Bureau of Internal Affairs (BIA) Synoptic Reports¹⁹⁴ documents Officer Skarupinski and Officer Byrne took alcohol and drug tests. Both officers' tests resulted in .000 Br.A.C and negative for drugs. Both officers were current with their required weapon qualifications.¹⁹⁵

The Cook County Criminal Court Docket¹⁹⁶ for [REDACTED] criminal court case, 12CR1911001 indicates that [REDACTED] was initially charged with aggravated assault with a firearm on a police officer, and multiple counts of aggravated possession of a firearm. On June 17, 2014, he pleaded guilty to one count of possessing a firearm.¹⁹⁷

VI. LEGAL STANDARD

a. Use of Deadly Force¹⁹⁸

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.¹⁹⁹ At the time of this incident, the factors to be considered in assessing the reasonableness of force included, but were not limited to, (1) the severity of the crime at issue; (2) whether the subject was posing an immediate threat to the safety of officers or others; and (3) whether the subject was actively resisting arrest or attempting to evade arrest by flight.²⁰⁰

At the time of this incident, a Department member was permitted to use deadly force²⁰¹ in only two situations. First, deadly force may be used to prevent death or great bodily harm from an

¹⁹³ Att. 18. The canvass report was dated August 15, 2012, prior to the date of incident of September 14, 2012. Therefore, the month of August appears erroneous. The location of incident is documented as [REDACTED] [REDACTED], instead of [REDACTED] [REDACTED].

¹⁹⁴ Atts. 34-40

¹⁹⁵ Atts. 119, 120.

¹⁹⁶ Att. 100

¹⁹⁷ Aggravated Unlawful Use of a Weapon, 720 ILCS 5/24-1.6(A)(2).

¹⁹⁸ COPA's analysis focuses solely on whether the officers complied with department policy on the Use of Force, Att. 118 and the Use of Deadly Force, Att. 109 (Effective October 1, 2002 to February 10, 2015). COPA cites case-law solely for guidance on how to interpret common concepts or terms.

¹⁹⁹ Use of Force Guidelines, General Order G03-02, effective October 1, 2002 to October 16, 2017.

²⁰⁰ *Id.* at (III)(C)(1).

²⁰¹ Deadly Force is defined by Department Policy as "force which is likely to cause death or great bodily harm and includes (1) the firing of a firearm in the direction of the person to be arrested, even though no intent to kill or inflict great bodily harm; and (2) the firing of a firearm at a vehicle in which the person to be arrested is riding." General Order G03-02-03 at p. 2. See also

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 officer reasonably believes that the person to be arrested:

- a. Has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm;
- b. Is attempting to escape by use of a deadly weapon; or
- c. Otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.²⁰²

Moreover, Illinois statute, as adopted within Department Policy, dictates that officers “need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. [The officer] is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest.”²⁰³

b. Standard of Proof

When evaluating Officer Involved Shootings, COPA follows a **preponderance of the evidence** standard to determine whether the officer has violated department policy. If a preponderance of the evidence does not show that the officer violated department policy, COPA will find the shooting to be within policy.

A preponderance of evidence is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.²⁰⁴ If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

VII. ANALYSIS

a. Officer Skarupinski Reasonably Believed that ██████ Pointed a Firearm and Posed a Threat of Death or Great Bodily Harm.

COPA finds that Officer Skarupinski reasonably believed that ██████ was armed, and that he posed a threat of death or great bodily harm to Officer Skarupinski. In making the determinations herein, COPA evaluated all available statements, as well as all other documents and evidence discussed above, to weigh the credibility of all involved parties. As part of this review, COPA found that ██████ was not credible.²⁰⁵ The evidence uncovered during this investigation support that it was more likely than not that he was possessing a firearm and pointed

²⁰² General Order G03-02-03(II)A(2)

²⁰³ General Order G03-02(II) quoting 720 ILCS 5/7-5.

²⁰⁴ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has been found to be more probably true than not).

²⁰⁵ ██████ admitted to consuming alcohol on the night of incident. Throughout the course of ██████ statement to IPRA he stated that he was drunk, could not recall information and then contradicted himself in stating that he was not drunk. Such contradicting statements further reduce ██████ credibility.

it at Officer Skarupinski. Furthermore, he pleaded guilty to possessing a firearm. Officer Skarupinski, on the other hand, is not contradicted by the evidence, and COPA finds him to be credible. Officer Skarupinski's statement is consistent with OEMC transmissions and ET photographs.

The preponderance of the evidence supports that ██████ was armed. Officer Skarupinski says that he saw ██████ pull the firearm, then throw it over a fence. Additionally, he never let it out of his sight, until a uniformed officer picked up the firearm. ██████ also told officers that he had seen ██████ with a firearm earlier that evening and provided a description of a chrome revolver which was consistent with the weapon found in the yard. While ██████ denied having a gun, as mentioned, he subsequently pled guilty to possessing a firearm in this encounter.²⁰⁶ Thus, the preponderance of the evidence shows that he was carrying a firearm that evening.

It was reasonable for Officer Skarupinski to believe ██████ was armed at the time he fired his weapon. Officer Skarupinski was responding to multiple calls of men with guns at this party. Immediately upon arrival, a civilian pointed towards men with guns. While it is unknown if ██████ was pointed out as one of the men with guns, we do know, by his own admission, that ██████ took off running. According to Officer Skarupinski, while ██████ ran, he grabbed his waist in a manner that Officer Skarupinski believed, based on his training and experience, was indicative of having a gun. Furthermore, the fact that the firearm was found in the yard, over the fence, is also indicative of ██████ exhibiting a firearm and throwing it in such a manner that it landed into the other yard.

Finally, Officer Skarupinski reasonably believed that ██████ was pointing or may be about to point the firearm. While the available evidence implies that ██████ ended up throwing away the weapon without shooting it at Officer Skarupinski, it was reasonable for Officer Skarupinski to believe that ██████ display of a gun, before it was thrown, in it of itself presented a threat of great bodily harm or death. Officers are not required to wait until they are shot at prior to using deadly force.²⁰⁷

Therefore, it was reasonable for Officer Skarupinski to believe he was at risk of death or great bodily harm. He was only a few feet away from ██████ which he estimates to have been about three to five feet away. He states that ██████ turned towards him as he was drawing the weapon, and there is no evidence to contradict this statement. It was only at this point that he fired one shot at ██████. Therefore, the preponderance of the evidence shows that he used deadly force in response to an imminent threat of death and his shooting was within policy.²⁰⁸

²⁰⁶ COPA affords great weight to a judicial finding that is determined beyond a reasonable doubt, thus meeting the preponderance of evidence standard.

²⁰⁷ See, *Thompson v. Hubbard*, 257 F.3d 896 (8th Cir. 2001) (holding that there is no requirement that an officer wait until a shot is fired in his or her direction before employing deadly force to protect himself or herself).

²⁰⁸ COPA acknowledges that both the officers could have been justified in shooting under the so-called "fleeing felon" basis of G03-02-03(II)(A)(2)(a), however, COPA focused its analysis on the fact that the two men posed an imminent threat of death or great bodily harm. A complete and thorough analysis under G03-02-03(II)(A)(2)(a) is not necessary as it would contain the same factual analysis and would likely reach the same conclusions contained herein.

b. Officer Byrne Reasonably Believed that ██████ Pointed a Firearm and Posed a Threat of Death or Great Bodily Harm.

Turning to Officer Byrne's shooting, COPA evaluated all available statements, as well as all other documents and evidence to weigh the credibility of all involved parties. COPA finds that Officer Byrne's explanation was consistent with the available evidence and finds him credible. Likewise, despite some errors in explaining which direction he was driving, Officer Huberts' factual explanation of his conduct immediately preceding Officer Byrne's shooting, as well as Officer Huberts' explanation of Officer Byrne's conduct, is materially consistent with the evidence.

COPA also finds that ██████ attempted to provide a truthful accounting of the incident. However, as described below, some of the facts are not consistent with ██████ recollection of the event. The credibility of an individual relies primarily upon two factors: (1) the individual's truthfulness, and (2) the reliability of the individual's account. The first factor addresses the honesty of an individual making the statement, while the second factor speaks to the individual's ability to accurately perceive the event at the time of the incident and then accurately recall the event from memory. COPA does not find that ██████ was attempting to be untruthful,²⁰⁹ however, there are issues with his ability to perceive the incident which render his statement unreliable and therefore not credible. Mr. ██████ inability to perceive the event is likely attributable to his vantage point of the incident, since ██████ was located between 132.5 -142.15 feet away,²¹⁰ with a view obstructed by trees and parked vehicles.

Additionally, as depicted in the ET photos from the evening, ██████ was shot in a dark area, as there was only one streetlight in this portion of the block which illuminated the street but did not illuminate either sidewalk. It would have been difficult for ██████ to see if ██████ did or did not draw and point a firearm. ██████ stated he could see ██████ running. When asked if he could see ██████ hands, he said ██████ was holding up his pants.

Furthermore, ██████ stated that after the incident a crowd of people converged towards the scene which is corroborated by OEMC calls, the statements of ██████ and all involved officers. However, ██████ stated that officers struck ██████ with batons. The investigation revealed this allegation was not credible; ██████ alleged that she was pushed by an officer but denied any additional physical contact.

i. Officer Byrne Fired at ██████ during a Foot Pursuit.

The evidence establishes that at the time Officer Byrne fired at ██████ was running southeast on 110th Place. Officer Byrne stated that ██████ ran out of a gangway on the north side of 110th Place (which ██████ identified as the ██████ of 110th Place and Princeton) and initially ran west towards Princeton. However, he was cut off by

²⁰⁹ When questioned about inconsistencies between the facts and his recollection, Mr. ██████ explained those inconsistencies by speculating about facts, as exemplified by his statement that the gun found near ██████ must have belonged to CPD. *See* Att. 101, p. 25, lines 12-15.

²¹⁰ *See* Att. 115. As the evidence reflects, ██████ body was ██████ of ██████

Officer Huberts' vehicle on the north side of the street, nearly at Princeton.²¹¹ [REDACTED] then reversed direction, and began running southeast down the block. Officer Hubert corroborated that [REDACTED] began to run in the opposite direction of his police vehicle, on the north side of the street, and towards Officer Byrne. While [REDACTED] explanation seems to portray [REDACTED] as taking a more direct path (seemingly directly south) across 110th Place, [REDACTED] body position—parallel to 110th Place, with his head facing east—is consistent with him traveling eastward at the time he was shot.²¹² Furthermore, ET photographs depict that [REDACTED] was on the south sidewalk when he was shot, which is consistent with all witness accounts and the physical evidence.

Officer Byrne stated he began to pursue [REDACTED] in a southeast direction, when he fired his shots. He indicated that he parked his vehicle somewhere in the middle of the block of 110th Place and upon exiting his vehicle was on the street (facing westbound as he observed two individuals running west). [REDACTED] confirmed that Officer Byrne parked his car in front of [REDACTED] house, before backing up and exiting his vehicle.²¹³

It is less clear where Officer Byrne was positioned at the time, he fired the shots. Officer Byrne says that he was still in motion, somewhere in between a walk and a run, when he fired the shots. Officer Huberts indicates that he saw Officer Byrne standing in the street prior to him firing, while [REDACTED] indicates that he was on the north sidewalk. Moreover, [REDACTED] suggests that Officer Byrne was in front of [REDACTED], which would be approximately two houses east of where [REDACTED] fell, while on the other hand, the ET Plat and ET photographs depict that Officer Byrne's shell casings were slightly northwest of the body, and along the southside of the street. The fact that the wounds all had a left to right trajectory, including two that entered the left side of his upper body (one front and one rear) and then lodged in the right side of his chest, which is consistent with Officer Byrne's explanation of the incident. Therefore, COPA finds that Officer Byrne was positioned in the street on 110th Place, likely closer to the south side of the street. Additionally, Officer Byrne was likely positioned perpendicular or close to perpendicular with [REDACTED] at the time of the shooting.

ii. Officer Byrne Reasonably Believed that [REDACTED] presented an Imminent Threat of Death or Great Bodily Harm

COPA finds that it was reasonable for Officer Byrne to believe that [REDACTED] was pointing a firearm at him. Officer Byrne described that [REDACTED] turned his body left, towards him, pointing a firearm with his right hand. As discussed above, the preponderance of the evidence demonstrates that Officer Byrne and [REDACTED] were moving in approximately the same, or similar, direction when the shots were fired.

[REDACTED] wounds are consistent with him turning towards Officer Byrne. He has two entry wounds to his front (chest and arm) and two to his rear (back and head). While [REDACTED] states

²¹¹ ET photos demonstrate where Officer Huberts jumped the curb to block the path of [REDACTED]. It is in front of the corner house on the northeast corner of 110th Place and Princeton, so [REDACTED] had almost made it entirely to Princeton before changing direction.

²¹² See, Att. 32, p. 106.

²¹³ Byrne's car had been moved by the time the ET took photos.

that [REDACTED] did not turn towards Officer Byrne, it is possible that he merely did not see [REDACTED] turn, due to his distance and obstructions. Therefore, the preponderance of the evidence establishes that it was objectively reasonable for Officer Byrne to believe [REDACTED] was turning towards him.

Moreover, the evidence is consistent with [REDACTED] pointing a firearm at Officer Byrne. Both [REDACTED] and [REDACTED] said they had seen [REDACTED] with a firearm earlier in the evening. Crucially, [REDACTED] had ammunition and a clip in his pocket, and the caliber of that ammunition²¹⁴ was consistent with the weapon found near his body. Therefore, it is more likely than not that [REDACTED] was carrying the firearm found on the sidewalk. The fact that the weapon was on the sidewalk, as opposed to in a pocket, suggests that he had drawn it prior to being shot, making it reasonable for Officer Byrne to believe he was pointing it.

Therefore, the preponderance of the evidence shows that Officer Byrne and [REDACTED] were moving in the same direction, at no more than a street’s width apart, [REDACTED] turned toward Officer Byrne with a firearm drawn. It was reasonable for Officer Byrne to believe that [REDACTED] was going to shoot at him, which constitutes a threat of death or great bodily harm. Officers are not required to wait until they are shot at prior to using deadly force.²¹⁵ It was objectively reasonable for Officer Byrne to believe that [REDACTED] was pointing a firearm at him and was an imminent threat. Officer Byrne reasonably used deadly force in response, and the preponderance of the evidence shows that Officer Byrne’s use of deadly force was within policy.

VI. CONCLUSION

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

This investigation found that the use of deadly force by the involved Chicago Police Officer was **within policy**.

Approved:

[REDACTED]

10-30-2020

Angela Hearts-Glass
Deputy Chief Administrator

Date

[REDACTED]

10-30-2020

Sydney R. Roberts
Chief Administrator

Date

²¹⁴ In [REDACTED] handwritten statement he did not identify the make or model that he believed [REDACTED] possessed and referred to it only as a semiautomatic, Att. 70, P. 57.

²¹⁵ See, *Thompson*, 257 F.3d at 896 (holding that there is no requirement that an officer wait until a shot is fired in his or her direction before employing deadly force to protect himself or herself).

Appendix A

Assigned Investigative Staff

Squad#:	8
Major Case Specialist:	██████████
Supervising Investigator:	██████████
Deputy Chief Administrator:	Angela Hearts-Glass