

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	October 4, 2018
Time of Incident:	3:55 pm
Location of Incident:	3015 W. Argyle Street
Date of COPA Notification:	October 4, 2018
Time of COPA Notification:	4:45 pm

On October 4, 2018, Officers Luigi Sarli #14398, Brian Cicio #19374, and Georgi Mavrov #3157, assigned to Beat 1962C, were monitoring the radio and heard a report of a stolen gray 2015 Jeep Grand Cherokee. The stolen Jeep was being tracked by a dealer installed GPS device, and the OEMC dispatcher was reading out the locations of the Jeep as it was being driven. At approximately 3:55 pm, the officers observed the Jeep driving northbound in the east alley of Whipple, approaching Argyle. The officers were travelling westbound on Argyle, and Officer Cicio turned their unmarked police SUV toward the mouth of the alley. As Officer Sarli opened the rear driver’s side door of the police SUV to conduct a traffic stop, the Jeep slowly accelerated toward the officers’ vehicle. The Jeep struck Officer Sarli’s open door, briefly pinning his leg between the inside of the door and the rear seat cushion. Officer Sarli discharged his weapon four times in the direction of the Jeep’s driver, striking no one inside the vehicle. The Jeep fled eastbound on Argyle and Beat 1962C lost sight of it. Several minutes later, other responding officers located the vehicle, which at this point was unoccupied. The Jeep had minor collision damage to its front bumper as well as damage from multiple bullet strikes, including a shattered rear window. COPA’s investigation shows that the use of deadly force by Officer Sarli was outside of CPD Policy and finds the allegation against Officer Sarli is SUSTAINED.

II. INVOLVED PARTIES

Involved Officer #1:	SARLI, Luigi; Star #14398; Employee # [REDACTED] Date of Appointment: November 29, 2004; Chicago Police Officer; Unit of Assignment: 019; DOB: [REDACTED] 1974; Male; White.
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III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Luigi Sarli	1. On October 4, 2018, at approximately 1555 hours, in the vicinity of 4999 N. WHIPPLE AVE., the accused discharged his firearm at or into a moving vehicle in violation of Rule 6, specifically in violation of General Order G03-02(III)(B)(1) and/or (III)(C)(4) and/or (III)(D)(6).	SUSTAINED / SEPARATION

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 2. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
 3. Rule 6: Disobedience of an order or directive, whether written or oral.
 4. Rule 38: Unlawful or unnecessary use or display of a weapon.
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General Orders

1. G03-02 – Use of Force (Effective Date: October 17, 2017)
 2. G03-02-01 – Force Options (Effective Date: October 17, 2017)
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Federal Laws

1. Fourth Amendment, United States Constitution
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State Laws

1. Illinois Compiled Statutes 720 ILCS 5/7-5 (Use of force; Exoneration)

V. INVESTIGATION¹

a. Interviews²

In a **statement to COPA on October 12, 2018, Officer Georgi Mavrov #3157³** (“Officer Mavrov”) provided his account of the incident. Officer Mavrov stated that he, Officer Brian Cicio (“Officer Cicio”) and Officer Luigi Sarli (“Officer Sarli”) were part of a three-member team assigned to Beat 1962C. Officer Cicio was driving their unmarked police SUV, Officer Mavrov was the front seat passenger, and Officer Sarli was the driver's side rear seat passenger. The officers were in the area of Addison and Sheffield when they heard a radio dispatch of a stolen vehicle. The dispatcher read a description of the vehicle (a gray 2015 Jeep Grand Cherokee) over the radio, and the information was also in the officers' PDT. The vehicle was reported stolen from 4015 N. Lincoln, and its location was being tracked by an internal GPS device and read over the air. The officers learned the Jeep was reportedly stolen when it was left running by the owner, and

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² The following are summaries and are not verbatim unless indicated otherwise.

³ Atts. 24, 27.

Officer Mavrov acknowledged that he and his partners knew it was a “straight theft,”⁴ not a carjacking which is typically a vehicle theft accompanied by the threat of imminent force or through the use of force. No description of the offender(s) was provided. Officer Mavrov and his partners followed the location of the Jeep, but they were not familiar with the area, requiring Officer Mavrov to use Google Maps on his cell phone to direct Officer Cicio.

As the officers travelled westbound on Argyle, they spotted the suspected stolen Jeep driving northbound in the east alley of Whipple, approaching the mouth of the alley. Officer Cicio drove toward the vehicle and turned the police SUV slightly into the mouth of the alley. Officer Mavrov observed that the vehicle’s plate and description matched the stolen Jeep. He was focused on the Jeep as they pulled up, and he did not notice if there was any pedestrian or vehicular traffic.

Once the police SUV came to a stop, Officer Mavrov opened the passenger’s side door and began to exit the vehicle to conduct a traffic stop. Before he was able to step out of the police SUV, he saw the Jeep accelerate toward their vehicle. Officer Mavrov braced for impact, then heard two or three gunshots coming from behind him. He believed Officer Sarli fired the shots from inside the police SUV and did not see any shots coming from Jeep. Officer Mavrov stated the only person he saw in the Jeep was the driver, who had a hoodie pulled over his head that obscured much of his face. At approximately the same time that Officer Mavrov heard the gunshots, the Jeep rammed the rear driver’s side door of the police SUV and continued onto Argyle.

Officer Mavrov exited the police SUV, then immediately reentered the vehicle so the officers could pursue the Jeep. Officer Cicio made a three-point turn and drove eastbound on Argyle, but the officers lost sight of the Jeep. Officer Cicio turned onto Francisco, where the officers stopped and radioed an update. Officer Mavrov checked on Officer Sarli, who complained of leg pain. Officer Sarli stated his leg got caught in the door during the incident, and Officer Mavrov observed a scrape on one of his legs.

Officer Mavrov classified the driver of the Jeep as an assailant who used the vehicle as a weapon. He stated he did not have the opportunity to draw his weapon prior to the collision, as he was in the process of opening the passenger’s side door of the police SUV and could not simultaneously hold his weapon. Officer Mavrov added that he likely would have drawn his weapon once he exited the police SUV, holding it in a low-ready position. He explained that stolen vehicles are often used in armed robberies, and “most times with a hot car comes usually [a] weapon.”⁵

In a **statement to COPA on October 12, 2018, Officer Brian Cicio #19374**⁶ provided his account of the incident. Officer Cicio stated that he and his partners, Officers Mavrov and Sarli, were travelling eastbound on Addison when they heard a radio call of an auto theft that had just occurred in the vicinity of Montrose and Lincoln. Beat 1921 reported the stolen vehicle was a dark colored Jeep Cherokee and the victim was tracking the Jeep’s location via GPS. The Jeep was reportedly stolen when the victim either left the vehicle running or had left the keys in the car.

⁴ Att. 27, pg. 16, line 13.

⁵ Att. 27, pg. 16, line 11.

⁶ Atts. 25, 28.

Officer Cicio added that there had been a rash of vehicular hijackings in the area and offenders often steal a vehicle to commit armed robberies.

As Officer Cicio and his partners monitored the radio, he drove their unmarked Ford Explorer in the direction of the stolen Jeep. Beat 1921 reported the Jeep was near a grassy park in the vicinity of Argyle and Whipple. Officer Cicio drove westbound on Argyle, toward Whipple, and observed a dark colored Jeep driving northbound in the east alley of Whipple. Officer Cicio turned the police SUV toward the mouth of the alley to get a better view of the Jeep's front license plate, and Officer Sarli stated, "I think that could be the car."⁷ Immediately, Officer Cicio saw the Jeep accelerate rapidly toward the police SUV. Officer Cicio had one hand on the driver's side door and the other hand on the steering wheel, and he shifted his body away from the impact of the Jeep. Officer Cicio observed that the driver of the Jeep was wearing a dark gray hoodie over his head; he could not see if there were other occupants in the vehicle. The Jeep struck the rear driver's side door of the police SUV, which was open, and Officer Cicio heard two or three gunshots in rapid succession. Officer Sarli yelled that he shot out the Jeep's window, then told Officer Cicio to pursue the Jeep. Officer Cicio drove eastbound on Argyle but stopped on Francisco when they lost sight of the Jeep.

When asked, Officer Cicio stated he did not feel the need to fire his own weapon. He stated he was in control of the police SUV and was in a different position than Officer Sarli. For Officer Cicio, the best response to the accelerating Jeep was to stay in the police SUV and shift his body away from the location of the impact. He added that the incident happened so quickly he did not have time to do anything other than brace for impact.⁸

In a **statement to COPA on November 30, 2018, Officer Luigi Sarli #14398⁹** provided his account of the incident. On the date and time of the incident, Officer Sarli was on duty, in uniform, and assigned to Beat 1962C. He and his partners, Officers Mavrov and Cicio, were on routine patrol in the vicinity of 850 W. Addison when they heard a radio call of an auto theft. The dispatcher was reading out the stolen Jeep's current location, and although the officers were several miles away, they decided to respond to the area as backup for other officers. Officer Sarli stated that offenders known to carry firearms had recently committed numerous carjackings in the area. He said he did not know the complete circumstances of this vehicle theft so he considered it to be high-risk. The dispatcher stated that the stolen Jeep was near Whipple and Argyle, and the officers drove toward that location in their unmarked police SUV.¹⁰ Officer Sarli spotted the Jeep in the east alley of Whipple and told Officers Mavrov and Cicio, "I think that's the car."¹¹

Officer Sarli drew his weapon and readied himself to exit the rear driver's side door of the police SUV. When the Jeep approached the mouth of the alley, Officer Cicio stopped the police SUV. Officer Sarli opened his door with his left hand and kicked the door open with his left foot. As he was about to step out, he saw the Jeep accelerate toward him and felt the impact as it struck

⁷ Att. 28, pg. 18, lines 3-4.

⁸ Officer Cicio stated the situation unfolded so rapidly, he had no time to activate his body worn camera (BWC) prior to the shooting. After Officer Sarli discharged his weapon, Officer Cicio said he was focused on regaining his bearings (his ears were ringing), operating the police SUV, and pursuing the Jeep. He activated his BWC at 3:59 pm.

⁹ Atts. 26, 29.

¹⁰ Officer Sarli did not provide further details on the specific information conveyed by the dispatcher.

¹¹ Att. 29, pg. 9, lines 8-9.

his door. Officer Sarli immediately felt pain in his left leg and believed that his leg was outside of the police SUV, being crushed between the door and the body of the vehicle. He stated he feared he was “going to get killed or lose my leg.”¹² As the force of the impact threw Officer Sarli backward, he discharged his weapon in the direction of the Jeep’s driver. Officer Sarli stated he only saw the shadow of the driver and did not notice if anyone else was in the Jeep. He sat up and continued to fire, discharging his weapon a total of four times. He stated he fired all four shots consecutively and believed the Jeep was still in contact with his leg each time he fired. When asked if he could “see specifically what area of the vehicle [he] was firing into,” Officer Sarli did not directly answer, stating, “I was trying to stop the threat, so I was shooting at the driver.”¹³ He stopped shooting when he realized that his fourth shot had hit the rear window of the Jeep, the Jeep was fleeing, and the threat was gone. Officer Sarli stated he did not fire any shots from outside the police SUV’s window.

The officers gave chase in the police SUV, but they lost sight of the Jeep and stopped on Francisco. Officer Sarli complained of leg pain. An ambulance was subsequently called and transported him to the hospital. He described his injuries as bruising on his left leg and elevated blood pressure. Upon reviewing his BWC video, Officer Sarli acknowledged that his left leg was not actually outside of the police SUV at the time of the collision. When the Jeep struck the police SUV, his left foot was on the inside of the door, and the impact momentarily pinned his leg between the door and the seat cushion inside the police SUV.

When questioned about his last shot, Officer Sarli denied he fired his weapon when it was extended outside the police SUV’s window. He speculated that the shell casings recovered from the alley pavement might have bounced off something and flown out the window or fallen out of the vehicle when the door was open. Officer Sarli also denied he intentionally shot at the Jeep’s rear window. He stated he told other officers he shot out the rear window as a factual statement, so that they would know to look for a Jeep with a shattered rear window.

In a statement to COPA on February 6, 2019, civilian witness [REDACTED]
[REDACTED]¹⁴ stated he is 14 years old and resides at [REDACTED]. On the date and time of the incident, [REDACTED] was walking in the alley behind his home when he saw a silver Jeep and a black Jeep stopped near his back door. The silver Jeep was occupied by a black male driver, approximately thirty years of age, and a white male passenger. The black Jeep was occupied by a black male driver, thirty to forty years of age, with short black hair. The rear hatch of the black Jeep was open, and the three males were engaged in a conversation. As [REDACTED] started to enter his back door, he noticed a marked police vehicle driving on the road inside Ronan Park, which runs parallel to the alley. The police vehicle approached Argyle, and [REDACTED] heard an officer scream out, “There he is.”¹⁵

The silver Jeep, which was in front of the black Jeep, sped northbound in the alley and turned right onto Argyle. [REDACTED] heard at least five gunshots, which he assumed came from the silver Jeep. The black Jeep followed the silver Jeep onto Argyle, and [REDACTED] heard an additional

¹² Att. 29, pg. 37, line 12.

¹³ Att. 29, pg. 27, line 15-21.

¹⁴ Atts. 38-39, 58.

¹⁵ Att. 58, pg. 41, line 20.

five to ten shots.¹⁶ ██████ did not believe that either Jeep made contact with the police vehicle. ██████ walked northbound in the alley, then westbound on Argyle, and he saw additional officers arriving at the scene. As ██████ was standing near the alley, an unidentified officer approached him and asked him what he witnessed. ██████ gave the officer a brief summary of the incident. The officer then transported ██████ to the location where the silver and black Jeeps were recovered to verify that they were the vehicles involved in the shooting.

COPA investigators conducted a **canvass**¹⁷ of the area near the shooting scene on October 11, 2018. ██████ of ██████ reported he heard multiple gunshots and went outside after the shooting, but he did not see the incident. Investigators did not locate any additional witnesses to the incident.

b. Digital Evidence¹⁸

COPA obtained and reviewed **third-party surveillance video**¹⁹ from 4957 N. Whipple. The camera is located in the rear of the building and faces north toward the mouth of the alley and Argyle. On the date and time of the incident, the video shows a silver Ford Escape and a dark gray Jeep Cherokee driving northbound in the alley. The Ford turns right (eastbound) onto Argyle and drives off camera. When the Jeep reaches the mouth of the alley, it comes to a complete stop and turns on its right turn signal. At the same time, a silver unmarked police SUV driving westbound on Argyle abruptly turns southbound, into the path of the Jeep. The video then shows the Jeep slowly accelerates around the police SUV and turns eastbound onto Argyle. The collision and shooting occur outside the frame of the camera and are not captured on the video.

COPA obtained and reviewed **Officer Sarli's Body Worn Camera (BWC) video**²⁰ relative to this incident. The video begins at 3:53:57 pm as Officer Sarli is sitting in the rear driver's side seat of the police SUV. The police SUV slows down, turns slightly to the left, and stops as Officer Sarli draws his firearm and opens the rear driver's side door. Officer Sarli's left knee comes up, as if he is about to exit the police SUV, but his leg does not appear to leave the inside of the vehicle. At the same time, the Jeep drives out of the alley and appears to strike the open rear driver's side door from which Officer Sarli was attempting to exit. Officer Sarli then discharges his weapon through the rear driver's side window of the police SUV, shattering the window. At the moment the window shatters, the front half of the Jeep appears to have passed the police SUV, and the driver of the Jeep is roughly parallel to Officer Sarli. (Figure 1.) As Officer Sarli is thrown backward from the impact, he discharges his weapon two additional times. He pulls himself upright, leans forward, and extends his right arm and firearm outside his shattered window. (Figure 2.) While Officer Sarli's arm is outside the window, the video captures what appears to be the recoil of Officer Sarli's weapon as he fires the fourth gunshot. By this time, the Jeep is no longer adjacent to the police SUV.

¹⁶ ██████ provided conflicting accounts of which vehicle the shots came from and how many gunshots he heard. The only casings recovered from the scene were the four fired by Officer Sarli, and there is no evidence anyone else discharged a weapon at the time of the incident.

¹⁷ Att. 55.

¹⁸ The following summaries reflect the most material evidence to the investigation. The relevant BWC video and third-party video are available on COPA's website at <https://www.chicagocopa.org/case/1091275/>.

¹⁹ Att. 8, file 3_02_R_1810040240000.avi.

²⁰ Att. 40.

As Officer Sarli sits up, his left leg does not appear to be trapped by the door of the police SUV: his knee is touching the back of his seat and his foot is dangling free above the footwell. (Figure 2.) The rear driver's side door appears to be completely shut, and Officer Sarli uses the latch to open the door. He does not exit the vehicle, but the video captures the location where the Jeep was driving, and it is no longer in sight.

Officer Sarli then closes the door, activates his BWC²¹, and radios to OEMC that he shot out the rear window of the Jeep. He checks his left leg for injuries and complains of glass from the police SUV's shattered window. The police SUV makes a U-turn, continues driving, and stops on Francisco Ave. Officer Sarli gives similar accounts of the incident to responding supervisors, stating, "He hit our door, and he almost hit me, and I shot through my window... I shot the back window out."²² He repeats the statement that he shot out the rear window of the Jeep more than ten times.



Figure 1. Screenshot from Officer Sarli's BWC showing the location of the Jeep in relation to the police SUV when Officer Sarli fired the first shot.

²¹ At the time Officer Sarli activated his BWC, the previous 30 seconds of video was stored without audio.

²² Att. 40 at 20:56:07. See also Att. 40 at 20:56:24 ("He hit my door and I shot through the window."); Att. 40 at 20:57:03 ("I just hit my leg on the door cause he went to hit me."); Att. 40 at 20:57:55 ("He pinned my leg a little bit, so I shot through a window...I was getting out, we moved to block him in, and he went to ram our car. So I shot through the back window, and I shot his back window out too."); and Att. 40 at 20:57:37 ("I shot the rear window out, bro... Yeah, the offender's car. I shot the rear window out. He jacked me in.").



Figure 2. Screenshot from Officer Sarli's BWC showing him reach out the window just before he fired the fourth shot. The screenshot also shows the position of Officer Sarli's left leg inside the police SUV at the time he discharged his weapon.

COPA obtained and reviewed the **BWC videos of Officers Mavrov²³ and Cicio²⁴** relative to this incident. Both officers activated their cameras after the shooting, and neither video depicts the incident. However, Officer Cicio's BWC captures him describing the shooting to an unknown officer who is standing off camera. Officer Cicio states they observed the Jeep driving northbound in the alley near Argyle and Albany. Officer Sarli went to exit the rear door of the police SUV, and the Jeep rammed Officer Sarli's door while he was outside of the vehicle. Officer Sarli then fired two or three shots at the Jeep.

The **Office of Emergency Management and Communications (OEMC) Event Queries²⁵, Zone 2 Radio Transmissions²⁶, and 911 calls²⁷** include the following relevant and material communications. At 3:42 pm, Beat 1921 informs an OEMC dispatcher that a citizen just flagged him down at 4015 N. Lincoln and reported someone stole her Jeep Grand Cherokee, IL license plate # [REDACTED] while she was inside a UPS store. The citizen relayed that her vehicle operates with a key FOB and can be driven for up to thirty miles. Beat 1921 reports the citizen's husband is tracking Jeep's location on his cell phone, and the GPS is currently stationary at Richmond and Cullom. At 3:51:30 pm, OEMC broadcasts that the theft is a "straight steal," not a carjacking. Beat 1921 continues to relay the location of the Jeep, and it is tracked northbound to a park on Sacramento, just east of Whipple. At 3:54:11 pm, Beat 1962C reports that they located a

²³ Att. 41.

²⁴ Att. 42.

²⁵ Att. 7.

²⁶ Att. 31.

²⁷ Att. 31.

vehicle with a partial plate number that matches the Jeep, and the dispatcher repeats the entire plate number. At 3:54:58 pm, Beat 1962C reports shots fired by the police at Whipple and Argyle. The officer relays that the driver of the Jeep is a black male wearing a gray hoodie over his head, and he just tried to ram their police vehicle. Approximately thirty seconds later, a 911 caller reports that she just heard four gunshots at Whipple and Argyle, and a car screech as it drove off. At 4:14 pm, the now unoccupied Jeep is located in the rear of 4920 N. Francisco.

The Evidence Technician (ET) Photographs²⁸ capture the shooting scene, involved vehicles, and recovered evidence from various angles. The photos of the stolen Jeep include images of suspected bullet damage to the rear driver's side door pillar, the rear driver's side quarter panel, and the interior frame of the rear hatch window. Additionally, the Jeep's rear hatch window is shattered, and there is minor impact damage to the front driver's side bumper. The photos of the police SUV show minor impact damage to the rear driver's side door. The rear driver's side window and quarter glass window of the police SUV are shattered, and there is suspected bullet damage to the inside of the rear driver's side door.

Approximately twenty-four hours after the shooting, an ET photographed Officer Sarli's injuries, including minor scrapes and redness on the back of his left leg.

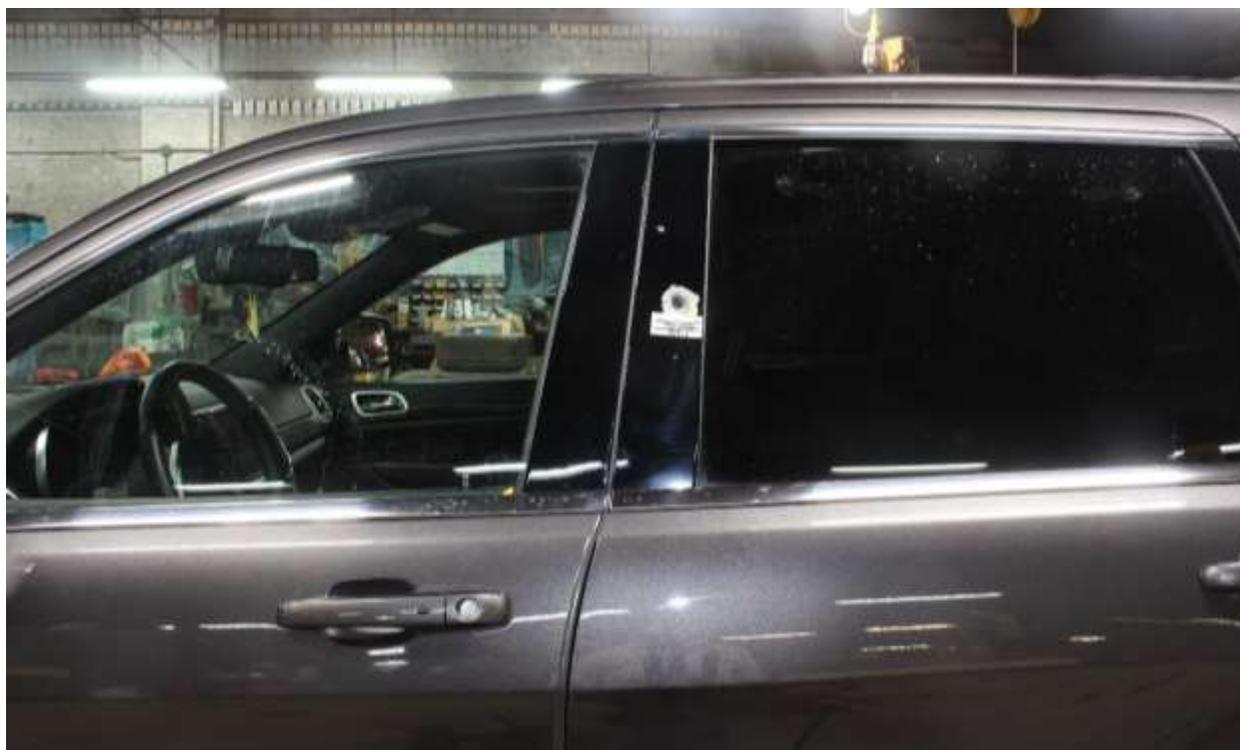


Figure 3. Photo showing apparent gunshot damage to the rear driver's side door pillar of the Jeep.²⁹

²⁸ Att. 30. A COPA investigator also photographed the damage to the stolen Jeep and the police SUV. Atts. 21-22.

²⁹ Att. 32.



Figure 4. Photo showing apparent gunshot damage to the rear driver's side quarter panel and rear hatch window of the Jeep.³⁰



Figure 5. Photo showing minor impact damage to the front driver's side bumper of the Jeep.³¹

³⁰ Att. 32.

³¹ Att. 21, pg. 17.



Figure 6. Photo showing minor impact damage to the rear driver's side door of the police SUV.³²



Figure 7. Photo showing the injury to the back of Officer Sarli's left leg.³³

³² Att. 30, pg. 290.

³³ Att. 30, pg. 94.

c. Physical Evidence

Forensic Evidence

The **Illinois State Police (ISP) Crime Scene Services Command Report, Case #6360-18-1073**³⁴ documents the forensic examination of the Jeep on October 17, 2018. An ISP crime scene investigator photographed and documented a penetrated bullet entry hole defect on the rear driver's side door B-pillar, a deep penetrated bullet entry hole defect on the rear driver's side quarter panel, and a ricochet-type defect on the rear driver's side hatch window frame. None of the defects were suitable for trajectory analysis, thus a Leica 3D scan was not completed.

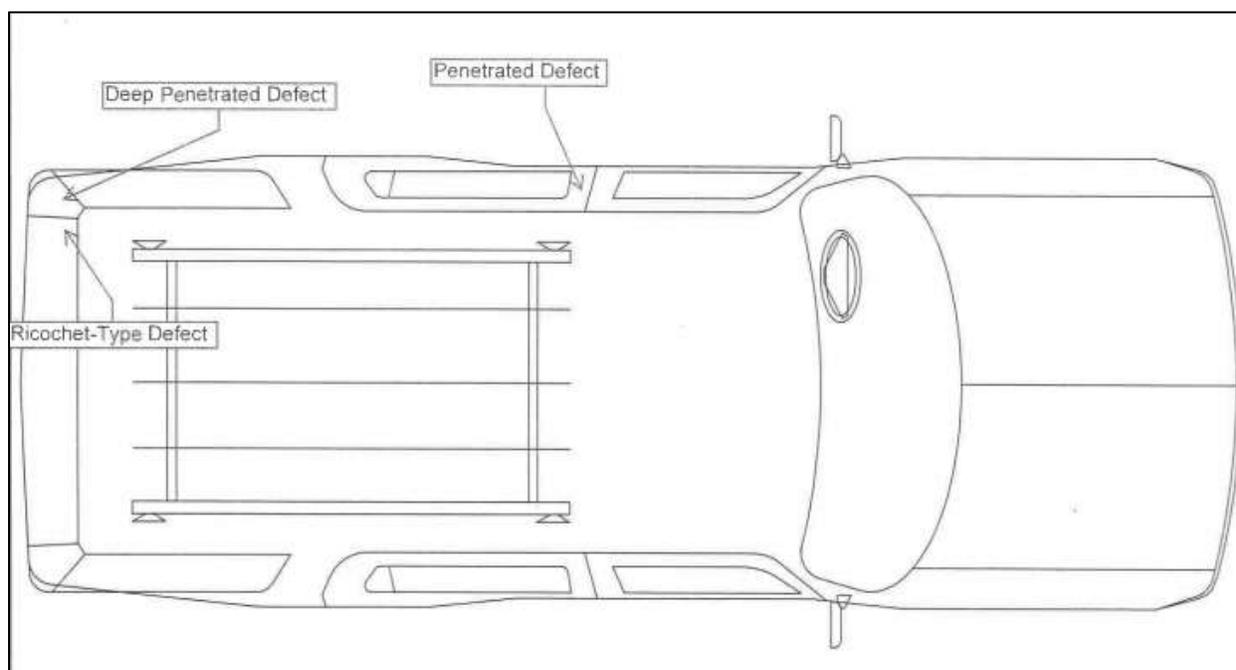


Figure 8. ISP diagram showing the location of the gunshot damage to the Jeep.³⁵

The **Inventory Sheets**³⁶ and **Crime Scene Processing Report**³⁷ document the recovery of evidence after the shooting, including two “Sig 9mm Luger” shell casings recovered from the alley pavement at 3015 W. Argyle and two “Sig 9mm Luger” shell casings recovered from the inside of the police SUV. Additionally, ETs recovered one metal fragment from the street at 3001 W. Argyle and one metal fragment from inside the police SUV’s rear driver’s side door. ETs subsequently relocated to 4908 N. Francisco, where they photographed and processed two stolen vehicles, a gray 2015 Jeep Grand Cherokee (IL license plate # [REDACTED]) and a silver 2018 Ford Escape (IL license plate # [REDACTED]).³⁸ The Jeep was observed to have suspected bullet and impact

³⁴ Att. 32.

³⁵ Att. 32, pg. 9.

³⁶ Att. 62.

³⁷ Att. 15.

³⁸ The Ford Escape was reported stolen on September 18, 2018, under RD #JB440537.

damage, and ETs recovered a metal fragment from the rear driver's side door frame. Both vehicles were fingerprinted and swabbed for DNA.

The reports also document the processing of Officer Sarli's Glock Model 17 Gen 4, 9mm semi-automatic pistol (Serial # [REDACTED]). The weapon, which had a seventeen-round capacity magazine, was found to have twelve live rounds of ammunition in the magazine and one live round in the chamber (all "Sig 9mm Luger").³⁹

Medical Evidence

The **Chicago Fire Department (CFD) Ambulance Report**⁴⁰ states that paramedics from Ambulance #46 arrived at the scene at 4:07:41 pm. They found Officer Sarli alert, oriented, and ambulatory. He complained of left lower leg pain "where his leg hit the door of his squad car when the [Jeep] swerved and rammed into him." The report notes that Officer Sarli had an abrasion to the calf area but was not bleeding. He denied any other pain or injuries. Paramedics transported Officer Sarli to Swedish Covenant Hospital, where he was transferred into the care of a nurse at 4:24:08 pm.

According to the **Medical Records**⁴¹, Officer Sarli was admitted to Swedish Covenant Hospital at 4:31 pm on October 4, 2018. He presented with left lower extremity pain and an abrasion to his left calf. Officer Sarli reported he sustained the injury when an offender drove into his vehicle at a speed of approximately 15 mph, catching Officer Sarli's left leg between the door and the body of his vehicle. Officer Sarli described his pain level as a one out of ten, and he was able to walk on his leg without difficulty. An X-ray was negative for fractures or dislocations. Officer Sarli was discharged from the hospital at 7:11 pm with an ACE wrap and a prescription for Ibuprofen.

A **Breathalyzer Test**⁴² taken by Officer Sarli at 7:02 pm on October 4, 2018, showed that his Br.A.C. was .000. Officer Sarli also submitted to a urine drug test on the same date, which revealed negative results.

d. Documentary Evidence

The **Tactical Response Report (TRR)**⁴³ completed by Officer Sarli indicates he was conducting an investigatory stop in a three-man tactical vehicle at the time of the incident. The subject fled, presented an imminent threat of battery with a weapon, and used force likely to cause death or great bodily harm, in that he attacked Officer Sarli using a vehicle as a weapon. Officer Sarli responded with member presence, movement to avoid attack, tactical positioning, additional unit members, and by discharging his firearm four times. Officer Sarli reported he sustained minor

³⁹ Officer Sarli described the weapon's capacity as "seventeen plus one," meaning it can hold seventeen rounds in the magazine and one in the chamber. Att. 29, pg. 6. Officer Sarli stated he fired four times, and four casings were recovered after the incident. Therefore, it appears that Officer Sarli's weapon was only loaded with seventeen rounds at the time of the incident.

⁴⁰ Att. 59.

⁴¹ Att. 61.

⁴² Atts. 16-17.

⁴³ Att. 5.

swelling, minor contusions/lacerations, and substantial pain in the incident. Sgt. Robert Creeth #1601 approved the TRR on October 4, 2018.

The **Detectives' Supplementary Reports for RD # [REDACTED] Battery-Aggravated P.O.: Other Dangerous Weapon**⁴⁴ summarize the statements that Officers Sarli, Cicio, and Mavrov provided to detectives on the date of the incident. All of the officers related essentially the same account of the incident that they subsequently provided to COPA. Additionally, the reports document the following results of the canvass that detectives conducted:

- CPD detectives interviewed **civilian witness [REDACTED]** age 12, of [REDACTED] [REDACTED] [REDACTED] stated she was walking on the sidewalk near the east alley of Whipple and Argyle at the time of the incident. She observed a gray SUV pull into the alley. A dark SUV struck the gray SUV, and someone from the gray SUV started shooting. [REDACTED] was close enough to see the puffs of smoke from the gunshots. The dark SUV then drove across the river. [REDACTED] mother, [REDACTED] stated she was inside the apartment at the time of the incident and heard the gunshots, but did not see the shooting.
- CPD detectives interviewed **civilian witness [REDACTED]** age 13, at the scene. [REDACTED] related he was standing across the street from the incident and observed a dark colored SUV crash into a police SUV. The dark SUV struck the door of the police SUV and a police officer shot at the dark SUV. The dark SUV sped off, travelling eastbound on Argyle. [REDACTED] stated additional police cars arrived and drove in the direction of the dark SUV, which [REDACTED] believed was a Jeep.
- CPD detectives interviewed **civilian witness [REDACTED]** age 14, at the scene. [REDACTED] related he was in the alley south of the location of the incident, near Ronan Park. He observed two vehicles, one of which was a black SUV and the other a smaller vehicle. [REDACTED] saw the occupants of the two vehicles arguing but could not hear what was said. Both vehicles then drove northbound in the alley. [REDACTED] heard gunshots and thought someone in the SUV might be shooting, but he was too far away to see.
- **Civilian witness [REDACTED]** of [REDACTED] heard three gunshots, a pause, then two additional gunshots. She heard someone crying but could not understand what was said.
- **Civilian witness [REDACTED]** of [REDACTED] heard five gunshots. Her daughter observed a black vehicle speed off but did not see the shooting.

⁴⁴ Atts. 14, 46, 56.

⁴⁵ COPA made multiple attempts to contact [REDACTED] parents, [REDACTED] and [REDACTED] to arrange an interview with [REDACTED]. A COPA investigator left voicemails for [REDACTED] and [REDACTED] on February 4, 2019, and February 8, 2019, but no one returned the phone calls. Additionally, certified letters sent to both parents were returned to sender. Att. 51; Investigator's Case Log, pg. 2.

⁴⁶ On February 8, 2019, COPA investigators made a personal visit to the [REDACTED] residence to schedule an interview with [REDACTED] but no one answered the door. A certified letter sent to [REDACTED] mother, Olesia [REDACTED] was returned to sender. Att. 52; Investigator's Case Log, pg. 2.

- **Civilian witness** [REDACTED] of [REDACTED] heard four to five gunshots and screaming.
- **Civilian witness** [REDACTED] of [REDACTED] heard six to eight gunshots and a woman screaming.
- **Civilian witness** [REDACTED] of [REDACTED] heard six to eight gunshots and a woman screaming.

VI. LEGAL STANDARD

a. Use of Deadly Force⁴⁷

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.⁴⁸ 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.⁴⁹

The Department's "highest priority is the sanctity of human life."⁵⁰ Discharging a firearm is deadly force under Department policy.⁵¹ 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."⁵² 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.⁵³ 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."⁵⁴

⁴⁷ On October 16, 2017, the Department materially modified its Use of Force policy. The Department's current Use of Force Policy prohibits the use of deadly force under circumstances that would be permissible under the Fourth Amendment to the United States Constitution and Illinois state law. COPA's analysis focuses solely on whether Officer Sarli complied with General Order G03-02. COPA cites case law solely for guidance on how to interpret common concepts or terms.

⁴⁸ General Order G03-02(III)(B)(1).

⁴⁹ *Id.*

⁵⁰ General Order G03-02(II)(A).

⁵¹ General Order 03-02(III)(C)(1).

⁵² General Order G03-02(III)(C)(3).

⁵³ *Id.*

⁵⁴ General Order G03-02(III)(C)(2).

Moreover, Department policy places prohibitions on the use of firearms in certain enumerated situations.⁵⁵ In pertinent part, this policy prohibits: “Firing at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person, unless such force is reasonably necessary to prevent death or great bodily harm to the sworn member or to another person.”⁵⁶

Department policy recognizes that Department members must “make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”⁵⁷

b. Standard of Proof

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

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

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

⁵⁵ General Order G03-02(D).

⁵⁶ General Order G03-02(D)(6). The prohibition further requires that “a member will not place themselves in the path of the moving vehicle and will make every effort to move out of the path of the vehicle.”

⁵⁷ General Order G03-02(II)(D).

VII. ANALYSIS

a. Findings of Fact

i. Officer Sarli fired four shots.

COPA finds that Officer Sarli fired four shots, which is consistent with Officer Sarli's account of the incident as well as the physical and video evidence. COPA makes the following findings about when those shots were fired:

The first shot was captured on Officer Sarli's BWC as the rear driver's side window of the police SUV shattered. The video shows that the front half of the Jeep had already passed the police SUV, and the driver of the Jeep was roughly parallel to Officer Sarli. (*See* Figure 1.) Analysis of the Jeep shows one bullet hole on the pillar between the front and rear driver's side doors of the Jeep (*See* Figure 3) and demonstrates the point of view that Officer Sarli had at the time of the first shot.

The second and third shots were fired in rapid succession as Officer Sarli was falling backward onto the rear seat. His BWC video shows he fired both shots while angled toward the rear of the police SUV. One shot hit the inside of the police SUV's rear driver's side door, and the other shot hit the rear driver's side quarter panel of the Jeep (*See* Figure 4).

The fourth shot, as acknowledged by Officer Sarli, struck the rear window of the Jeep, shattering it.⁵⁸ By this point, the Jeep had completely cleared the police SUV and was not visible on Officer Sarli's BWC. Officer Sarli stated he stopped firing when he saw the rear window shatter and realized the Jeep was no longer a threat. He believed he fired all four shots in rapid succession and denied he fired with his arm outside the police SUV. However, the video and physical evidence indicate that after Officer Sarli fired the third shot, he leaned forward and extended his right arm and firearm outside the rear driver's side window of the police SUV, then fired the fourth and final shot at the fleeing Jeep. Officer Sarli's BWC video shows the recoil of his weapon as his right hand is extended outside the rear driver's side window. (*See* Figure 2.) Additionally, two fired cartridge cases were recovered from the alley, consistent with at least one of them being fired when the weapon was outside the window.

ii. Officer Sarli discharged his weapon after the driver of the Jeep ceased any use of force.

Second, COPA finds that Officer Sarli fired all four shots after the Jeep struck the police SUV, and the driver of the Jeep ceased any use of force. Photographic evidence shows damage to only the front left bumper of the Jeep (*See* Figure 5) and the rear driver's side door of the police SUV, at the part of the door that is furthest from the vehicle when open (*See* Figure 6). Because the Jeep was in motion, the side of the Jeep would be damaged if it made additional contact with the police SUV, but no such damage exists. Thus, the evidence shows that the two vehicles only made contact this one time.

⁵⁸ Immediately after the shooting, Officer Sarli told the dispatcher, "The back window is shot, squad. I shot the back window." Att. 40 at 20:54:35. His BWC video captures him repeating, at least ten times, the statement that he shot the rear window of the Jeep.

Moreover, Officer Sarli's BWC shows that when he started firing, the Jeep had already struck the police SUV and was beginning to move away. The video captures the moment when Officer Sarli fired the first shot, and the rear driver's side window of the police SUV shattered. At that point, the police SUV's door was already pushed closed, and the area between the Jeep's front and rear driver's side doors was visible on Officer Sarli's BWC. (See Figure 1). Thus, the front bumper area of the Jeep was already past the area of contact with the police SUV, and COPA finds that the only "force" used by the Jeep ceased before Officer Sarli discharged his weapon.

Additionally, the Jeep was travelling slowly, and the force from the Jeep's contact with the police SUV was minimal. The third-party surveillance video shows that the Jeep came to a complete stop at the mouth of the alley and Argyle. It then accelerated slowly as it turned eastbound onto Argyle, striking the police SUV's open door at a slow rate of speed. Officer Sarli's medical records indicate he told doctors the Jeep was going approximately 15 mph. (None of the officers would/could estimate the Jeep's speed during their COPA statements.) There was also minimal damage to either vehicle as a result of the collision. The ET photos and the Crime Scene Processing Report document scratches and small dents to the front driver's side bumper of the Jeep and the rear driver's side door of the police SUV, but no major damage. (See Figures 5, 6.)

Officer Sarli's injuries are also consistent with a minimal amount of force being used. Officer Sarli stated he discharged his weapon because he believed his leg was being crushed by the Jeep and was in danger of being amputated. However, Officer Sarli's belief that he was going to "get killed or lose [his] leg" is not consistent with the physical evidence, which shows only minor scrapes and bruising to his left leg. (See Figure 7.) Additionally, Officer Sarli's BWC video shows his leg was not actually outside the police SUV at the time of the collision. It was inside the vehicle, momentarily pinned between the door and the seat cushion. Officer Sarli acknowledged this during his COPA statement. Officer Sarli's claim that he believed his leg was being crushed is also inconsistent with some of the statements he made on BWC immediately after the OIS.⁵⁹

iii. Officer Sarli had no basis to believe the driver of the Jeep was armed.

Finally, COPA finds that there is no reasonable basis to believe that the driver of the Jeep was armed with a firearm or other weapon. Officer Sarli had no information that the driver and/or occupants of the Jeep had committed a violent crime prior to the incident. To the contrary, OEMC broadcast that the theft of the Jeep was a "straight steal," not a carjacking.⁶⁰ Officer Sarli did not recall hearing this information, but Officer Mavrov stated all three officers in the police SUV were aware of it. Officer Cicio admitted to knowing this information as well.

⁵⁹ See, e.g., Att. 40 at 20:57:03 ("I just hit my leg on the door cause he went to hit me."); Att. 40 at 20:56:07 ("He hit our door, and he almost hit me, and I shot through my window."); Att. 40 at 20:57:55 ("He pinned my leg a little bit, so I shot through a window...I was getting out, we moved to block him in, and he went to ram our car. So I shot through the back window, and I shot his back window out too.")

⁶⁰ For the offense of Vehicular Highjacking, an offender "takes a motor vehicle from the person or the immediate presence of another by the use of force or by threatening the imminent use of force." 720 ILCS 5/18-3. The hijacking is considered Aggravated Vehicular Highjacking if the offender carries, displays or discharges a firearm, or carries another deadly weapon. 720 ILCS 5/18-4. On the other hand, Theft (720 ILCS 5/16-1) and Possession of a Stolen Motor Vehicle (625 ILCS 5/4-103) do not involve the use of force, threat of force, or the use of a weapon.

There is also no evidence that Officer Sarli saw the driver of the Jeep with a weapon. In fact, Officer Sarli could not have seen a weapon because he did not see the driver's hands. He admitted the only "weapon" the driver was using was the Jeep itself.

b. Legal Analysis

i. It was not objectively reasonable for Officer Sarli to discharge his firearm under the facts and circumstances that confronted him because deadly force was not necessary to prevent death or great bodily harm.

First, it was not objectively reasonable for Officer Sarli to discharge his weapon at the Jeep, because deadly force was not necessary to prevent death or great bodily harm. There was no basis to believe that the driver of the Jeep possessed a firearm or other weapon, nor did he act in any other way that would lead Officer Sarli to believe he posed a threat of death or great bodily harm. Indeed, Officer Sarli did not make this claim during his interview with COPA.

Moreover, the driver's actions up to this point did not make it reasonable for Officer Sarli to believe that the driving itself presented a threat of death or great bodily harm. The United States Supreme Court case of *Scott v. Harris*⁶¹ and subsequent cases laid the framework for the totality of the circumstances analysis that is used to determine if it is reasonable for an officer to shoot into a moving vehicle, where the vehicle's driving alone causes a risk of injury or death. Those factors include: the subject fleeing at high speeds,⁶² the subject engaging in a lengthy pursuit,⁶³ the subject posing a danger to other vehicles,⁶⁴ the subject evading officers' less-dangerous tactics to stop the vehicle,⁶⁵ the subject ramming and continuing to drive into vehicles,⁶⁶ and threats from the driver that he would shoot apprehending officers.⁶⁷

⁶¹*Scott v. Harris*, 550 U.S. 372, 386 (2007) ("A police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.").

⁶² See, e.g., *Scott*, 550 U.S. at 375 (the driver reached speeds of 85 mph on a two-lane road); *Mullenix v. Luna*, 136 S. Ct. 305, 306 (2015) (the driver reached speeds of 100 mph); *Plumhoff v. Rickard*, 572 U.S. 765, 768 (the driver reached speeds in excess of 100 mph); *Marion v. City of Corydon*, 559 F.3d 700, 702 (7th Cir. 2009) (the driver reached speeds of 80 mph).

⁶³ See, e.g., *Scott*, 550 U.S. at 375 (officers chased the driver for six minutes over nearly ten miles); *Mullenix*, 136 S. Ct. at 306 (the driver engaged in an 18 minute pursuit); *Marion*, 559 F.3d at 702 (the pursuit spanned at least 17 miles and crossed state lines).

⁶⁴ See, e.g., *Plumhoff*, 572 U.S. at 768 (the driver was weaving through traffic on an interstate at a high speed); *Marion*, 559 F.3d at 702 (the driver crossed a grass median to drive the wrong way on an interstate); *Gysan v. Francisko*, 2019 U.S. Dist. Lexis 23805, 16-cv-8254 at *8 (N.D. Ill., Feb 14, 2019) (the driver made a U-turn to drive eastbound in the westbound lanes of an interstate).

⁶⁵ See, e.g., *Scott*, 550 U.S. at 375 (officers had nearly boxed in the driver's car when he pulled into a parking lot); *Plumhoff*, 572 U.S. at 768 (the driver eluded a "rolling roadblock" and continued driving even after being spun out by a police vehicle); *Marion*, 559 F.3d at 702 (the driver did not stop even after "stop sticks" had deflated three tires).

⁶⁶ See, e.g., *Plumhoff*, 572 U.S. at 770 (at the time the officers fired, the driver's bumper was flush against the side of the police cruiser and still accelerating); *Gysan*, 2019 U.S. Dist. Lexis 23805 at *8 (the driver smashed a police vehicle "T-bone style" and continued to accelerate for six seconds, causing the driver's door to fold inward, and the shooting officer heard another officer yelling in pain as his hips may have been pinned between the two cars).

⁶⁷ See, e.g., *Mullenix*, 136 S. Ct. at 375 (the driver twice called the police dispatcher claiming to have a gun and threatening to shoot the police if they did not abandon the pursuit).

None of the factors that potentially support an officer shooting into a moving vehicle were present in this incident. The officers came upon the Jeep while it was stopped, and it pulled forward at a slow rate of speed. Officer Sarli guessed the Jeep was travelling fifteen miles per hour, but at the time it struck the police SUV, it had just started moving. There was no pursuit, and the driver of the Jeep did not ignore any display of police authority; indeed, the police SUV did not even have its emergency equipment activated. The Jeep made minimal and seemingly unintentional contact with the police SUV, as it appeared to be attempting to avoid the police SUV when it turned right onto Argyle. In sum, there was nothing so reckless about the Jeep's driving as to render it a threat to the officers or the general public.

The closest that the Jeep's driver came to satisfy any of these factors was that he (1) drove off when the officers stopped in front of him; and (2) struck Officer Sarli's open car door. However, this does not rise to the level of reckless driving envisioned by *Scott* to justify shooting at the driver in the interest of safety. First, there was no evidence that the driver of the Jeep reasonably should have known the officers were attempting to apprehend him. The officers were driving an unmarked SUV and did not activate their emergency equipment when they pulled in front of the Jeep. Instead, they merely stopped at the mouth of the alley, leaving enough room where the Jeep could have driven safely past had Officer Sarli not opened his door. In fact, the car in front of Jeep, which is now also believed to be stolen, did just that. Thus, there is no objective basis to find the driver of the Jeep was fleeing police contact.

Second, the Jeep's minimal contact with the police SUV did not rise to a level where it put anyone in the SUV in danger of death or great bodily harm. The Jeep made fleeting contact with the police SUV's open door, then continued to drive away. The Jeep was essentially parallel to the police SUV at the time Officer Sarli fired his first shot, and it had completely fled by the time he fired the final shot. This is a far cry from the *Gysan* case, where the subject vehicle continued to accelerate for six seconds while t-boned against a squad car, and the shooting officer believed his partner was pinned.⁶⁸ Here, the Jeep merely grazed the police SUV's open door as it drove past, knocking the door shut and momentarily pinning Officer Sarli's leg between the inside of the door and the seat cushion. Despite Officer Sarli's belief at the time, his leg was not trapped outside the door, being crushed by the Jeep. Officer Sarli's BWC video shows his leg resting on the backseat, and he is easily able to move it when he sits up. While the door appears to be partially open when Officer Sarli fires the first shot, it is fully closed by the time he fires the fourth shot.⁶⁹

This incident is far more akin to a shooting where the Seventh Circuit found the officer's actions to be unjustified.⁷⁰ In that case, officers were also responding to a call of a vehicle stolen without violence; when they attempted to apprehend the driver, the car sped off and the officers fired at it as it pulled away.⁷¹ The officers made a "clear show of authority" by activating their emergency lights and attempting to box in the vehicle, but even that was insufficient for the court

⁶⁸ *Gysan*, 2019 U.S. Dist. Lexis 23805 at *8.

⁶⁹ It is not clear from the video if the door was open or closed when Officer Sarli fired the second and third shots.

⁷⁰ *Estate of Starks v. Enyart*, 5 F.3d 230 (7th Cir. 1993).

⁷¹ *Id.* at 232-33.

to find that the fleeing driver created a danger. The Seventh Circuit ruled that the facts “cannot support a reasonable officer’s belief that it was permissible to use deadly force.”⁷²

Further supporting COPA’s finding that deadly force was not necessary in this case is the fact that Officer Sarli’s two partners did not even unholster their weapons, much less fire them. Officers Cicio and Mavrov were in nearly the same position as Officer Sarli, and neither believed the Jeep’s driver posed a threat of death or great bodily harm. In fact, Officer Cicio was in the driver’s seat, directly in front of Officer Sarli, and he was also potentially in the path of the Jeep. He did not feel it necessary to fire his weapon and thought the best course of action was to brace for impact and shift his body away from the driver’s side of the police SUV, using the vehicle as protection.

Officer Sarli’s decision to use deadly force was also unreasonable due to the danger it posed to his partners, and to possible bystanders.⁷³ Officer Sarli did not know whether there was anyone else in the Jeep besides the driver and did not take into account the risk gunfire posed to those potential occupants. The incident occurred during daylight hours on a residential street where pedestrians and other motorists were likely to be present, and were in fact present.⁷⁴ Additionally, Officer Sarli put his two partners at risk when he fired from the backseat of the police SUV, directly behind Officer Cicio. His shots could have gone astray as he fired while falling backward, or they could have ricocheted off the frame of the police SUV and injured his nearby partners.

For these reasons, COPA finds that when Officer Sarli fired all four shots, he used deadly force when it was not objectively reasonable to do so, in violation of G03-02(III)(B)(1).

ii. Officer Sarli improperly fired all four shots at a fleeing subject who did not pose an imminent threat.

Officer Sarli’s actions were also an improper use of deadly force against a fleeing subject. While Fourth Amendment law permits officers greater leeway to shoot at fleeing felons, Department policy only allows officers to use deadly force if the fleeing subject poses an *imminent* threat of death or great bodily harm.⁷⁵ 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.”⁷⁶

Here, COPA finds that only the second element is met. The driver of the Jeep did have the means to cause death or great bodily harm, as he was operating a vehicle that could have killed or severely injured Officer Sarli or others. However, as discussed above, it was not objectively reasonable for Officer Sarli to believe the driver’s actions were immediately likely to cause such

⁷² *Id.* at 233.

⁷³ *See Scott*, 550 U.S. at 384 (discussing the fact that risk of harm to “innocents” weighs against the reasonability of the police use of deadly force).

⁷⁴ At least three juvenile witnesses (██████████ and ██████████) were outside in the immediate vicinity of the incident.

⁷⁵ General Order G03-02(III)(C)(4).

⁷⁶ General Order G03-02(III)(C)(2).

a harm. At the time Officer Sarli discharged his weapon, the Jeep was pulling away fairly cautiously and was not driving so recklessly as to be likely to cause death or great bodily harm.

As to the third element, the driver of the Jeep did not have the opportunity and ability to cause death or great bodily harm. At the time of Officer Sarli's first shot, the Jeep's front bumper was well beyond the position of the police SUV where it could inflict any harm on the SUV's occupants. It was also travelling parallel to the police SUV, and there was little risk it would strike the body of the police SUV, only the open car door. Additionally, there is no evidence the Jeep posed an immediate risk to the people on the street and sidewalk, especially in light of its slow speed. Instead, Officer Sarli's shots caused a *greater* threat, not only to innocent bystanders on the street but also to his partners, who could have been hit as he aimlessly fired in an enclosed vehicle while falling backward.

For these reasons, COPA finds that when Officer Sarli fired all four shots, he used deadly force against a fleeing subject who did not pose an imminent threat, in violation of G03-02(III)(C)(4).

iii. Officer Sarli improperly fired all four shots into a moving vehicle when it was not necessary to use deadly force to prevent death or great bodily harm.

Finally, Officer Sarli improperly fired his weapon at or into a moving vehicle, in violation of Department policy. As with the rules on fleeing felons, the Department's restrictions on firing into moving vehicles are greater than the limits of the Fourth Amendment. If the moving vehicle is the only force used against a sworn member or another person, the member is prohibited from firing into the vehicle "unless such force is reasonably necessary to prevent death or great bodily harm."⁷⁷ Additionally, when a vehicle is the only force used against a member, the member may not place himself in the path of the vehicle and must make every effort to move out of the path of the vehicle.

In this case, the Jeep was the only force used against Officer Sarli, and he had no reason to believe the driver was armed or otherwise dangerous. Officer Sarli does not dispute this, instead claiming that the Jeep was the "weapon" being used. However, as discussed above, it was not reasonable for Officer Sarli to believe that it was necessary to use deadly force to prevent death or great bodily harm to himself or another person.

Therefore, COPA finds that Officer Sarli improperly used deadly force when he fired all four shots at or into a moving vehicle, where the vehicle was the only force used against Officer Sarli, and deadly force was not reasonably necessary to prevent death or great bodily harm, in violation of G03-02(III)(D)(6).

VIII. CONCLUSION

Based on the analysis set forth above, COPA finds that there is an independent basis for determining that Officer Sarli violated all three subsections of General Order pertaining to the Use

⁷⁷ General Order G03-02(III)(D)(6).

of Force—G03-02(III)(B)(1), G03-02(III)(C)(4), and G03-02(III)(D)(6). Therefore, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer Luigi Sarli	1. On October 4, 2018, at approximately 1555 hours, in the vicinity of 4999 N. WHIPPLE AVE., the accused discharged his firearm at or into a moving vehicle in violation of Rule 6, specifically in violation of General Order G03-02(III)(B)(1) and/or (III)(C)(4) and/or (III)(D)(6).	SUSTAINED / SEPARATION

XI. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Luigi Sarli #14398

i. Complimentary and Disciplinary History

Officer Sarli has received one Presidential Election Deployment Award 2008, twelve Emblems of Recognition for Physical Fitness, three Attendance Recognition Awards, one Department Commendation, nineteen Honorable Mentions, three Complimentary Letters, one NATO Summit Service Award, and one 2009 Crime Reduction Award.

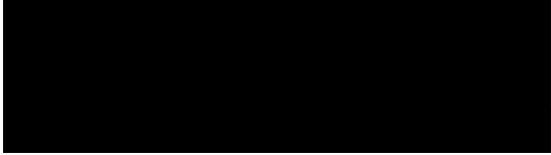
Officer Sarli has no disciplinary history in the past five years.

ii. Recommended Penalty, by Allegation

1. Allegation No. 1

Based upon the totality of the circumstances, COPA recommends that Officer Sarli be Separated from service. While COPA appreciates that officers were engaging a person reasonably believed to have committed a crime, Officer Sarli’s application of deadly force into a vehicle, moving at a slow rate of speed, without any indicia that the driver or the vehicle had been engaged in a violent crime or that a firearm was believed to be present in the vehicle renders him ill-suited to continue as a member of the Chicago Police Department. The Department policy is clear, an attempt to flee capture, in and of itself, is insufficient ground in which to exercise deadly force. For the foregoing reasons as analyzed above, COPA seeks Separation for Officer Sarli’s use of deadly force.

Approved:



Angela Hearts-Glass
Deputy Chief Administrator

5-27-2020

Date



Sydney R. Roberts
Chief Administrator

5-27-2020

Date

Appendix A

Assigned Investigative Staff

Squad#:	8
Major Case Specialist:	Steffany Hreno ⁷⁸
Supervising Investigator:	Sherry Daun
Deputy Chief Administrator:	Angela Hearts-Glass

⁷⁸ This investigation and SRI were begun by Anthony Smajo.