

**SUMMARY REPORT OF INVESTIGATION****I. EXECUTIVE SUMMARY**

Date of Incident:	March 29, 2021
Time of Incident:	2:36 am
Location of Incident:	2356 S. Sawyer Ave. (Alley)
Date of COPA Notification:	March 29, 2021
Time of COPA Notification:	Approximately 3:00 am

Officers Eric Stillman (driver) and Corina Gallegos were on routine patrol when they were notified of a ShotSpotter call in the vicinity of 2358 S. Sawyer. Officers Stillman and Gallegos responded to the location and observed two individuals, now known to be [REDACTED] (later learned to be 13 years old) and [REDACTED] (later learned to be 21 years old), in the alley between Sawyer and Spaulding. The officers approached [REDACTED] and [REDACTED] in the alley, and upon seeing the officers, [REDACTED] and [REDACTED] ran southbound in the alley. Officers Stillman and Gallegos exited their vehicle and pursued [REDACTED] and [REDACTED] on foot without notifying OEMC of the pursuit. Officer Gallegos apprehended [REDACTED] who immediately fell to the ground, and Officer Stillman chased [REDACTED]

As Officer Stillman pursued [REDACTED] and closed the distance between himself and [REDACTED] he ordered [REDACTED] to show his hands. During this time, Officer Stillman observed that [REDACTED] whose back was turned toward Officer Stillman, had a dark-colored pistol in his right hand. Unbeknownst to Officer Stillman, [REDACTED] then tossed the weapon alongside a wood fence and simultaneously began turning toward Officer Stillman with his hands raised. As [REDACTED] started to turn and face Officer Stillman, Officer Stillman fired one time at [REDACTED] striking him in the left side of his chest. [REDACTED] instantly fell to the ground, and Officer Stillman holstered his weapon and rendered aid to [REDACTED] died on the scene. A black, semi-automatic pistol was later found next to the wood fence, several feet from where [REDACTED] fell.

**II. INVOLVED PARTIES**

Involved Officer #1:	Eric Stillman, Star #19277, Empl. # [REDACTED], DOA: August 31, 2015, P.O., 010 <sup>th</sup> District, DOB: [REDACTED] 1986, male, white
Involved Officer #2:	Corina Gallegos, Star #17521, Empl. # [REDACTED], DOA: October 31, 2016, P.O., 010 <sup>th</sup> District, DOB: [REDACTED] 1993, female, Hispanic
Involved Individual #1:	[REDACTED] 13 YOA, male, Hispanic
Involved Individual #2:	[REDACTED] 21 YOA, male, Hispanic

### III. ALLEGATIONS

Pursuant to section 2-78-120 of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm and/or a person dies as a result of police action. In connection with its investigation, COPA made the following allegations and makes the following findings and recommendations:

Officer	Allegation	Finding
Officer Eric Stillman	1. Detaining and/or seizing [REDACTED] without justification;	Exonerated
	2. Detaining and/or seizing [REDACTED] without justification;	Not Sustained
	3. Discharging your firearm at or in the direction of [REDACTED] in violation of General order 03-02;	Sustained
	4. Used excessive force with respect to [REDACTED] in violation in General Order 03-02;	Not Sustained
	5. Acting inconsistently with your training under EBT#18-01, Foot Pursuits Training Bulletin; and	Sustained
	6. Failing to comply with S03-14 by failing to timely activate your body-worn camera.	Sustained
Officer Corina Gallegos	1. Detained and/or seized [REDACTED] without justification;	Exonerated
	2. Detained and/or seized [REDACTED] without justification; and	Not Sustained
	3. Failed to comply with S03-14 by failing to timely activate your body-worn camera.	Sustained

### IV. APPLICABLE RULES AND LAWS

#### Rules<sup>1</sup>

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 6: Disobedience of an order, whether written or oral.
3. Rule 10: Inattention to duty.
4. Rule 11: Incompetency or inefficiency in the performance of duty.

<sup>1</sup> Police Board of Chicago, *Rules and Regulations of the Chicago Police Department, Article V. Rules of Conduct* (April 1, 2010) <https://www.chicago.gov/dam/city/depts/cpb/PoliceDiscipline/RulesofConduct.pdf>

5. Rule 38: Unlawful or unnecessary use of a weapon.

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General Orders<sup>2</sup>

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1. General Order G03-02: Use of Force (effective February 20, 2020 to April 14, 2021)
  2. General Order 03-02-01: Force Options (effective February 20, 2020 to April 14, 2021)
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Special Orders

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1. Special Order S03-14: Body Worn Cameras (effective April 30, 2018 to present)
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Federal Laws

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1. Fourth Amendment to the United States Constitution

## V. INVESTIGATION

### a. Interviews

In an **interview with COPA on April 6, 2021, Officer Gallegos<sup>1</sup>** stated that on March 29, 2001, at approximately 2:36 a.m., she and Officer Stillman were on routine patrol in the vicinity of 2600 S. Christiana when they received an alert of a ShotSpotter call in the vicinity of 2400 S. Sawyer Avenue. Officer Gallegos explained that they received the alert over the radio and that she has a ShotSpotter application on her phone. They immediately responded to the location of the ShotSpotter alert, which was “a couple of blocks”<sup>3</sup> away. As they drove eastbound on 24th Street, Officer Stillman observed [REDACTED] and [REDACTED] in the alley to the west of Sawyer Avenue and north of 24th Street. Officer Gallegos did not see [REDACTED] and [REDACTED] at that time because Officer Stillman was blocking her line of sight to the alley, and her focus was to their south (the passenger side of the vehicle). Officer Gallegos indicated that she believed [REDACTED] and [REDACTED] to be the individuals involved in the ShotSpotter call because, “Given that it was 2:30 in the morning, we didn’t see anybody out on our way there. Shots were fired just right there, in that location. There is nobody else around.”<sup>4</sup>

The officers proceeded north on Sawyer to the T-Alley west of Sawyer on the 2300 block. The officers turned left (westbound) into the alley, then turned southbound. As they drove south through the alley, Officer Gallegos observed [REDACTED] and [REDACTED] huddled together. Officer Gallegos explained that she did not know precisely what they were doing, but they were right next to each other, facing southbound. Officer Gallegos could not see [REDACTED] or [REDACTED] hands, but she believed their hands were near their waistbands. Officers Gallegos and Stillman exited the

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<sup>2</sup> Department general and special orders, also known as directives, “are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police.” Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, available at <http://directives.chicagopolice.org/directives/> (last accessed December 16, 2021).

<sup>1</sup> Attachment 53.

<sup>3</sup> *Id.* at Page 16, Line 18.

<sup>4</sup> *Id.* at Page 19, Lines 1 – 4.

squad car and approached [REDACTED] and [REDACTED]<sup>5</sup> [REDACTED] and [REDACTED] walked a little faster southbound, away from the officers. Officers Gallegos and Stillman told them, “Police. Stop.”<sup>6</sup> [REDACTED] and [REDACTED] then fled on foot. During this time, [REDACTED] fell to the ground, and [REDACTED] continued running southbound through the alley. Officer Gallegos did not recall how [REDACTED] got to the ground but said she did not push him. Officer Gallegos placed [REDACTED] into custody and ordered [REDACTED] to “give me his hands”<sup>7</sup> because she believed [REDACTED] had a gun. Officer Stillman pursued [REDACTED] in the alley. As Officer Gallegos placed [REDACTED] in custody, she attempted to radio the direction her partner was running. At this time, Officer Gallegos stated, “I see a flash and hear a pop.”<sup>8</sup> Officer Gallegos detained [REDACTED] patted him down, and then passed him off to the other units that arrived on the scene.

Officer Gallegos ran to Officer Stillman, who was giving chest compressions to [REDACTED]. Officer Stillman continued to render aid until the other officers on the scene replaced Officer Stillman.

**Police Officer Eric Stillman (Officer Stillman) was interviewed by COPA investigators on April 21, 2021.**<sup>9</sup> Officer Stillman provided the following account of the events of March 29, 2021. Officer Stillman began his tour at 10:00 pm on March 28, 2021, assigned to Beat 1065B as a member of the 10th District tactical team. Officer Stillman explained that he volunteered to work on what should have been his scheduled day off, and he worked from 6:00 pm the previous day to 3:00 am on the 29th. When he began his tour at 10:00 pm on the 28<sup>th</sup>, Officer Stillman was in uniform and driving an unmarked maroon sport utility vehicle (SUV). The vehicle was equipped with emergency lights, a siren, and a police data terminal (PDT). Officer Stillman’s partner was Officer Corina Gallegos, who had been his regular partner for approximately one year, and she also had volunteered to work on her scheduled day off.

Officers Stillman and Gallegos were assigned to patrol an area within the 10th District bounded by 26<sup>th</sup> Street to the south and Kedzie Avenue to the east. Officer Stillman explained that the area they were assigned to patrol had been designated as a “violence box,”<sup>10</sup> and the purpose of his assignment was to provide an additional police presence within the box, augmenting the regular beat officers. Officer Stillman was familiar with the area around 2356 South Sawyer Avenue, having patrolled there often. Officer Stillman characterized it as “a high gang area”<sup>11</sup> where the Latin Kings gang was prominent. He had previously patrolled the area, and the frequency of the patrols varied based on where there was violence or calls for ShotSpotter. He could not recall making any stops, arrests, or civilian contacts in the area.<sup>12</sup>

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<sup>5</sup> She indicated that at this time, she intended to conduct a “police-civilian interaction” to investigate if they had been shot, if they were involved, or if they had seen or heard anything. Attachment 53, page, 25, lines 16-23.

<sup>6</sup> *Id.* at Page 26, Line 6.

<sup>7</sup> *Id.* at Page 13, Line 12.

<sup>8</sup> *Id.* at Page 13, Lines 23-24.

<sup>9</sup> Attachments 42, 68.

<sup>10</sup> Attachment 68, Page 34, Line 16. Officer Stillman also explained that the north and west boundaries of the box were the district borders.

<sup>11</sup> *Id.* at Page 36, Line 19.

<sup>12</sup> Attachment 68, page 36, lines 22-24.

On March 29, 2021, at approximately 1:30 am,<sup>13</sup> Officer Stillman and his partner were driving on 26<sup>th</sup> Street when they received a ShotSpotter alert indicating that eight rounds had been fired,<sup>14</sup> and they drove towards the location indicated by ShotSpotter. Officer Stillman recalled driving north on Spaulding Avenue and turning east on 24<sup>th</sup> Street, arriving at 24<sup>th</sup> and Spaulding in less than a minute. At first, Officer Stillman did not see anyone in the area, but then he noticed one or two people in the middle of the alley to the north of 24<sup>th</sup> Street, west of Sawyer Avenue and east of Farragut High School. The individual or individuals were closer to 23<sup>rd</sup> Street, approximately three-quarters of a block to the north of 24<sup>th</sup> Street and Sawyer. The alley was lit with artificial street lighting and Officer Stillman's view was unobstructed, but he could not make out any details of the individual or individuals' description, both because of the distance and because he was driving. Officer Stillman alerted Officer Gallegos to the presence of the people in the alley, and then he drove north on Sawyer.

Officer Stillman explained that he believed the people in the alley might be related to the ShotSpotter alert because the alert was recent, no one else was present, it was an area with high gang activity, and another shooting had recently occurred in the area – the shooting that prompted the officers' prior trip to the hospital – inviting potential gang retaliation. Because Officer Stillman anticipated that something could happen, he noted the closest street address<sup>15</sup> and asked Officer Gallegos to notify the Office of Emergency Management and Communication (OEMC) that they were there. Officer Stillman did not activate the patrol vehicle's emergency lights or sirens because he did not want the potential offender to be alerted to the presence of the police, potentially prompting the offender to flee or to hide their firearm.

Heading north on Sawyer, Officer Stillman turned west into an alley and then turned south into the same alley he had observed from 24<sup>th</sup> Street. Officer Stillman remembered turning off the patrol vehicle's headlights either just before he entered the alley or as he was entering the alley, and he explained that he did so because he did not want the subjects in the alley to see the headlights and flee. As soon as he made the final turn, he saw two subjects standing on the east side of the alley facing north, towards him, just a couple of houses away. Both subjects immediately turned away from the officers and moved closer to each other, positioning their bodies side by side. Officer Stillman noted that both subjects were about equal in height, and both were wearing dark clothing. Officer Stillman could not immediately determine anything else about the subjects, and he could not tell their ages or if they were male or female. Officer Stillman stopped his vehicle and exited, and he ordered both subjects, "Show me your hands and don't move."<sup>16</sup> When the subjects were standing shoulder-to-shoulder and facing away from him, Officer Stillman saw that their arms were bent, and he believed they could be passing an unseen object between them. He conceded that he did not know what, if anything, they were passing. Both subjects ignored Officer Stillman's command not to move, and they began fleeing southbound in the alley. Officer Stillman was able to wrap his arms around the subject closest to him (later identified as [REDACTED]) and he felt [REDACTED] clothing around his waistband for a firearm as [REDACTED] went

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<sup>13</sup> Just prior to this, they had responded to a hospital to meet with a victim who had been shot in the stomach during a gang conflict. After speaking with the shooting victim, the officers returned to their violence box.

<sup>14</sup> He indicated that in his experience, more rounds (such as the eight in this case) indicated there was a bona fide shooting, as opposed to when there was one round it may indicate it was someone negligently shooting a gun into the air.

<sup>15</sup> He informed COPA that he believed the address was 2318 S. Sawyer.

<sup>16</sup> *Id.* at Page 56, Line 20.

stiff and fell to the ground. Once Officer Stillman determined that [REDACTED] was unarmed, he told Officer Gallegos to grab [REDACTED] believing that [REDACTED] might be a decoy.<sup>17</sup>

As Officer Stillman briefly held [REDACTED] on the ground, he looked up and noticed that the other subject (later identified as [REDACTED]) was fleeing, while grabbing his right side. He chased after [REDACTED] and as [REDACTED] ran, his right arm bent at the elbow in a running position and his left hand coming across his body to cover his right hand. [REDACTED] was about three car-lengths ahead of Officer Stillman. Officer Stillman could not see a firearm in [REDACTED] hands, but based on the positioning of [REDACTED] arms and hands, Officer Stillman believed [REDACTED] might be cycling the slide on a semi-automatic handgun for the purpose of chambering a round.<sup>18</sup> Officer Stillman clarified that he could not see [REDACTED] right hand because he was behind [REDACTED] but he could infer where [REDACTED] hand was located based on the position of [REDACTED] arm.

Officer Stillman, believing [REDACTED] was armed, used his police radio to broadcast that he was chasing a person who was holding his side. Officer Stillman also drew his own handgun, turned on the attached flashlight, and pointed it at [REDACTED]. When asked why he turned on the flashlight that was attached to his handgun, Officer Stillman replied, "I don't know if it was for light, to strobe for a distraction. I know that the strobe was on. At this moment in time, I don't remember the exact reasoning."<sup>19</sup> Officer Stillman explained that he was worried [REDACTED] was going to shoot over his shoulder, towards the officers. Officer Stillman announced his office, ordered [REDACTED] to stop running, and continued to chase [REDACTED]. Officer Stillman could not remember when he announced his office, but he was certain that he announced it at some point before [REDACTED] stopped running. As they reached the south end of the alley, Officer Stillman was gaining ground on [REDACTED].

[REDACTED] slowed and stopped, facing away from Officer Stillman on the west side of the alley near an opening in a fence separating the alley from the adjacent school grounds. At that time, [REDACTED] was approximately ten to fifteen feet from Officer Stillman. [REDACTED] partially raised his left hand and looked back, over his left shoulder, at Officer Stillman. Officer Stillman ordered [REDACTED] to show his hands, and then Officer Stillman saw that [REDACTED] was holding a dark-colored pistol in his right hand, down by his right side.<sup>20</sup> Officer Stillman began shifting to his left as he ordered [REDACTED] to drop the gun, but [REDACTED] did not comply. Officer Stillman explained that he shifted to the left because he did not want [REDACTED] to know exactly where he was if [REDACTED] turned around to shoot at him. When asked if he anticipated that [REDACTED] might turn around when ordered to show his hands, Officer Stillman replied, "[A]ll he had to do was show me his hands. He didn't have to spin at me. He didn't - - and then when I told him to drop it, all he had to do was drop it. He didn't

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<sup>17</sup> Officer Stillman explained that [REDACTED] may have intentionally allowed himself to be captured, knowing that he did not have the firearm, with the intent of allowing [REDACTED] to escape while the police dealt with him.

<sup>18</sup> Officer Stillman used the term "condition one" to describe chambering a round.

<sup>19</sup> Attachment 68 at Page 95, Lines 12-16. Officer Stillman explained that the purpose of the strobe is to disorientate. He also explained that the same switch is used to activate both the solid stream of light and the strobe, although he did not remember specifically selecting for the strobe effect on the night of this incident. Officer Stillman remembered receiving training in the police academy in the use of a flashlight attached to his firearm, but he could not recall any specific tactics that were taught to him or any reasons for using, or not using, the flashlight. Attachment 68, Pages 109-110.

<sup>20</sup> Officer Stillman indicated this was the first time he had actually seen the firearm.

have to turn it. He didn't follow the command."<sup>21</sup> [REDACTED] began turning towards Officer Stillman. He acknowledged that [REDACTED] left hand was somewhat up, but his right hand was still holding the gun:

His arms slightly – it looks like he's turning around. I know that he's going to go ahead and if he turns at me he's going to shoot me. I know that he's going to kill me. I Just know it. He starts to turn, I end up shooting. I shoot one time. After I shoot, I re-accessed [sic] it. I see his hands. I know he doesn't have the gun.<sup>22</sup>

[REDACTED] dropped to the ground, and Officer Stillman confirmed [REDACTED] did not have the gun in his hands. Officer Stillman then called for emergency medical assistance and began providing first aid. Officer Stillman inspected [REDACTED] body and found a wound in his chest, so he asked other officers for a chest dressing, which he placed on the wound. Officer Stillman checked for a heartbeat, but did not feel one, so he began chest compressions before being relieved by another officer. Officer Stillman then sat on a curb before medical personnel arrived to evaluate him.

When asked directly why he decided to chase [REDACTED] Officer Stillman explained that he had reasonable suspicion to stop [REDACTED] based on the ShotSpotter alert, the fact that no one other than [REDACTED] and [REDACTED] were present, and the fact that they were in an area with high gang activity. Further, [REDACTED] had disregarded verbal commands and fled from the officers, and Officer Stillman believed that [REDACTED] was likely armed. To confirm his suspicion that [REDACTED] was armed and to discharge his responsibilities as a police officer, it was necessary to give chase and apprehend [REDACTED] Officer Stillman did not believe he had any other options besides engaging in a foot pursuit because the incident happened so fast. Officer Stillman also explained that while he did not explicitly request backup, he did broadcast his location and the direction of flight, believing that other officers were listening. Officer Stillman stated that he engaged in the foot pursuit alone because his partner was busy detaining the other subject, [REDACTED] When asked why he chose to run fast enough to gain ground on [REDACTED] rather than staying back and allowing other officers to respond or to set up a perimeter, Officer Stillman said, "I felt that he had a firearm on him and that's why he was fleeing. And I felt that he was a danger to society, and that's why I took chase. I was doing my job."<sup>23</sup>

When asked directly why he discharged his firearm at [REDACTED] Officer Stillman explained that he knew [REDACTED] had a gun in his right hand, that [REDACTED] had not followed verbal commands, that [REDACTED] was turning towards him and looking in his direction, and that he believed [REDACTED] was acquiring a target with the intent to shoot and kill him. Further, Officer Stillman explained that he was in the middle of an alley with no cover or concealment, and there was "nothing else I could do."<sup>24</sup> Elaborating further, Officer Stillman said that he had no option other than discharging his weapon, because he believed that [REDACTED] was using deadly force against him, and he could not respond with less-than-deadly force. Officer Stillman also said that he stopped firing after one shot

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<sup>21</sup> *Id.* at Page 128, Lines 14–19.

<sup>22</sup> *Id.* at Page 61, Line 21–Page 62, Line 4. Officer Stillman further explained that he was using a two-handed grip when he fired, and he was standing upright, facing [REDACTED] *Id.* at Page 96.

<sup>23</sup> *Id.* at Page 123, Lines 4–7.

<sup>24</sup> *Id.* at Page 94, Line 19.

because he re-assessed the situation and saw that [REDACTED] hands were empty. Officer Stillman later saw [REDACTED] gun near the fence, within seven or eight feet of his body.

Officer Stillman said that he turned on his body-worn camera (BWC) “[a]s soon as [he] felt it was reasonably safe to do so,”<sup>25</sup> while he was running down the alley in pursuit of [REDACTED]. Officer Stillman explained that he did not activate his camera sooner because he “wasn’t in a police encounter yet,”<sup>26</sup> and because he did not feel it was safe to activate his camera earlier. Officer Stillman acknowledged he knew, as he was turning into the alley from Sawyer Avenue, that he planned on stopping the person or persons in the alley, but he explained he did not activate his BWC before turning into the alley because “everything happened very quick, and it wasn’t the first thing that came to mind. I was thinking about a million other things.”<sup>27</sup>

When confronted with each allegation against him, Officer Stillman answered, “I deny that.”<sup>28</sup>

In an interview on April 8, 2021, with the **Cook County State’s Attorney’s Office, witness [REDACTED]**<sup>29</sup> said that on March 29, 2021, at approximately 2:30 a.m., she observed two people, [REDACTED] and [REDACTED] coming out of a gangway. [REDACTED] observed a police car approach [REDACTED] and [REDACTED] with the lights off. [REDACTED] and [REDACTED] began running through the alley toward 24<sup>th</sup> Street. The officers exited their vehicle and pursued [REDACTED] and [REDACTED] on foot. [REDACTED] stopped with his hands up, and [REDACTED] continued to run down the alley. One of the officers, now known as Officer Stillman, pursued [REDACTED] on foot. [REDACTED] indicated that she heard Officer Stillman yell, “Stop, or I will shoot.”<sup>30</sup> [REDACTED] stopped in an alley near a parking lot by an opening in a fence. [REDACTED] began to turn toward Officer Stillman with his left hand up and his right hand up, but his right hand was slightly lower. Officer Stillman then fired his weapon at [REDACTED] and [REDACTED] fell to the ground. [REDACTED] told investigators she never saw anything in [REDACTED] hands.

At this time, Cook County State’s Attorney’s Office **also interviewed witness [REDACTED]**<sup>24</sup> [REDACTED] statement was materially consistent with his electronically recorded interview from the early morning of March 29 (*see below*). [REDACTED] did clarify that when [REDACTED] and [REDACTED] first emerged from the gangway, they were walking, joking, laughing, and pushing each other.

## **b. Digital Evidence**

The **evidence technician photographs**<sup>31</sup> depicted pictures of the scene at 2356 S. Sawyer Avenue (Alley). The scene consisted of [REDACTED] body, a white baseball hat, a black semi-auto handgun in slide lock, positioned next to a wood fence and one expended shell casing. The

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<sup>25</sup> *Id.* at Page 100, Lines 23–24.

<sup>26</sup> *Id.* At Page 101, Lines 5–6.

<sup>27</sup> *Id.* at Page 125, Line 24—Page 126, Line 2.

<sup>28</sup> *Id.* at Page 136, Line 20—Page 138, Line 3.

<sup>29</sup> Attachment 62. COPA obtained a summary of this interview typed by CCSAO investigator.

<sup>30</sup> *Id.* [REDACTED] indicated that the window was closed when she heard Officer Stillman yell.

<sup>24</sup> *Id.*

<sup>31</sup> Attachment 50.



photographs also depicted photographs of Officers Stillman and Gallegos. The pictures further showed additional shell casings (7) in the lawn and on the sidewalk of a nearby church.<sup>32</sup>



**Figure 1:** ET photograph showing the recovered firearm's location next to the wood fence.<sup>33</sup>

The **Medical Examiner's photographs**<sup>34</sup> depicted one bullet fragment in [REDACTED] clothing. The pictures further showed [REDACTED] with one bullet wound to the left side of the chest and one bullet wound to the right upper area of his back. The bullet wound to the chest was circular, and the one to his back was in the shape of an oval. The photographs did not depict additional injuries to [REDACTED] body.

Detectives Tim Murphy and Jim Brown conducted an **electronically recorded interview** of [REDACTED]<sup>35</sup> at approximately 3:55 a.m. on the morning of the shooting. He indicated that he watched the incident from his [REDACTED] window,<sup>36</sup> which looks out toward the south end of the alley between the parking lot of Farragut Academy and Sawyer Avenue. [REDACTED] said he heard seven shots fired from between the alley and 24th and Sawyer.<sup>37</sup> "Not even a minute"<sup>31</sup> later, "a maroon undercover" drove down Spaulding before going north on Sawyer to the alley. [REDACTED] presumed the officers must have seen the two individuals in a gangway and then followed them

<sup>32</sup> Amor De Dios United Methodist Church – 2358 S. Sawyer Avenue.

<sup>33</sup> Attachment 15, Picture #17.

<sup>34</sup> Attachment 52.

<sup>35</sup> Attachment 21.

<sup>36</sup> The detective panned his video up the front of the home, showing a bay window on the [REDACTED]. [REDACTED] indicated he was in the "angled" window of the bay window. Attachment 21 at 2:55. The video showed his address as [REDACTED], which he later confirmed in an interview with the State's Attorney's Office. Later in the interview, the detective stood on the front porch and turned his camera to see the perspective towards the alley, although he acknowledged this was lower than [REDACTED] had been during the incident. *Id.* at 5:30.

<sup>37</sup> [REDACTED] heard the shots and came to the window, but he did not see who fired the shots or the two individuals at all.

<sup>31</sup> Attachment 21 at 00:40.

into the alley. He said that he saw the taillights of the maroon car going north on Sawyer, at which point he looked into the alley and saw two individuals coming out of a gangway.

█████ saw the two individuals walk into the alley near a white garage.<sup>32</sup> The officers then snuck up on the two individuals with their lights off. When the officers turned on their lights, they jumped out of their vehicle, and the two individuals looked at each other as if deciding what to do.<sup>33</sup> The individual in black (now known as █████ took off running, while the second individual (now known as █████ put his hands up. An officer chased █████ down the alley while holding a flashlight in one hand and a gun in the other. The officer told █████ “Stop freeze, I’m the police.”<sup>34</sup> █████ kept running, and the officer said, “Stop or I’ll shoot. Stop or I’m gonna fire.”<sup>35</sup> During the foot pursuit, █████ could hear the officer “loud and clear”<sup>36</sup> on the radio and yelling stop, but he did not hear the officer yell to put the gun down.

█████ said that █████ then stopped and turned with “one hand up and one hand like mid.”<sup>37</sup> (See Figure 2, below.) █████ did not see anything in █████ hands as he turned. He then saw one puff of a bullet from the officer’s gun. Immediately thereafter, the officer went on the radio and performed CPR on █████



**Figure 2:** █████ describing the position of █████ hands when he was shot.

**Officer Stillman’s body-worn camera video**<sup>39</sup> depicted him (Officer Stillman) driving, then stopping and exiting the police vehicle.<sup>40</sup> As Officer Stillman exited the vehicle, the video showed two individuals, now known to be █████ and █████ running away from

<sup>32</sup> He pointed northeast.

<sup>33</sup> █████ said “I guess the officer told them freeze;” however, he did not clarify if he actually heard this command. Attachment 21 at 1:40.

<sup>34</sup> Attachment 21 at 2:13.

<sup>35</sup> *Id.* at 2:17.

<sup>36</sup> *Id.* at 3:22.

<sup>37</sup> *Id.* at 2:29.

<sup>39</sup> Attachment 23.

<sup>40</sup> *Id.* at 1:46 Mark.

Officer Stillman.<sup>41</sup> Officer Stillman chased them on foot,<sup>42</sup> approached [REDACTED] (wearing a light-brown coat), and appeared to grab him and push him to the ground. [REDACTED] (wearing a black sweatshirt) continued to run through the alley, and Officer Stillman pursued him. Officer Stillman closed the distance between him and [REDACTED] and stated to [REDACTED] “Stop, stop right fucking now!”<sup>43</sup> [REDACTED] stopped at an opening in a wood fence near the end of the alley.<sup>44</sup> The video briefly showed [REDACTED] had his back facing Officer Stillman.<sup>45</sup> Officer Stillman shined a light on [REDACTED] and stated, “Hey, show me your fucking hands!”<sup>46</sup> [REDACTED] turned toward Officer Stillman and appeared to put his hands in the air. At this time, one gunshot was heard, and [REDACTED] fell to the ground.<sup>47</sup> Officer Stillman immediately called “shots fired”<sup>48</sup> on the radio and requested an ambulance. Officer Stillman attempted to administer immediate medical assistance to [REDACTED]



**Figures 3 - 5:** Screenshots from Officer Stillman’s BWC video showing [REDACTED] actions immediately before the officer discharged his firearm.<sup>38</sup>

**Officer Gallegos’ body-worn camera video**<sup>49</sup> depicted her on the passenger side of the police vehicle. The video showed the vehicle stopped, and Officer Gallegos exited the vehicle.<sup>50</sup> Once Officer Gallegos exited the vehicle, [REDACTED] and [REDACTED] were seen running away from the officers.<sup>51</sup> Officer Stillman ran toward [REDACTED] grabbed him by the arms, and pulled him to the ground.<sup>52</sup> Officer Stillman then continued running toward [REDACTED] Officer Gallegos immediately grabbed [REDACTED] pushed him to the ground, and held him on the ground.<sup>53</sup> Officer

<sup>41</sup> *Id.* at 1:49 Mark.

<sup>42</sup> *Id.* at 1:50 Mark.

<sup>43</sup> *Id.* at 2:00 Mark.

<sup>44</sup> *Id.* at 2:02 Mark.

<sup>45</sup> *Id.* at 2:03 Mark.

<sup>46</sup> *Id.* at 2:03 Mark.

<sup>47</sup> *Id.* at 2:05 Mark.

<sup>48</sup> *Id.* at 2:09 Mark.

<sup>38</sup> *Id.* at 2:04 Mark (Figures 3 – 4); *Id.* at 2:05 Mark (Figure 5).

<sup>49</sup> Attachment 22.

<sup>50</sup> *Id.* at 1:32 Mark.

<sup>51</sup> *Id.* at 1:35 Mark.

<sup>52</sup> *Id.* at 1:39 Mark.

<sup>53</sup> *Id.* at 1:41 Mark.

Gallegos appeared to briefly search [REDACTED] then placed him in handcuffs.<sup>54</sup> Officer Gallegos' video did not capture the Officer-Involved Shooting.

The **third-party video from Farragut High School**<sup>55</sup> depicted the parking lot of Farragut High School and the alley of 2356 S. Sawyer Avenue. The footage captured two people (now known to be Officer Stillman and [REDACTED]) running from the northside of the alley to the southside of the alley, on the left-hand side of the screen behind a white trailer.<sup>56</sup> [REDACTED] stopped at an opening of a wood fence next to the alley.<sup>57</sup> [REDACTED] turned away from Officer Stillman and tossed an object alongside the wood fence, on the side of the fence facing away from the alley.<sup>58</sup> [REDACTED] appeared to turn face-first toward the officer, at which time he fell to the ground.<sup>59</sup>

The **third-party video from [REDACTED]**<sup>60</sup> showed the alley of 2356 S. Sawyer Avenue. The video captured [REDACTED] and Officer Stillman running from the north end of the alley to the south end of the alley.<sup>61</sup> Officer Stillman appeared to be shining a light (the light connected to his weapon) at [REDACTED] stopped running and appeared to be facing away from Officer Stillman for a brief moment. [REDACTED] then turned toward Officer Stillman and fell to the ground. Officer Stillman appeared to holster his weapon and knelt next to [REDACTED]

### c. Physical Evidence

The **toxicology report**<sup>62</sup> indicated that [REDACTED] tested positive for caffeine, which is a xanthine-derived central nervous system stimulant. [REDACTED] was also positive for Delta-9 Carboxy THC (Inactive metabolite), a principal psychoactive ingredient of marijuana/hashish. [REDACTED] tested positive for Delta-9 THC (Active Ingredient of Marijuana), a DEA Schedule I hallucinogen.

The **Postmortem Examination Report**<sup>63</sup> conducted by [REDACTED] indicated that [REDACTED] had a 1/4 inch diameter circular entrance gunshot wound to the left side of his chest, centered at a point 12 inches below the top of the head and 3/4 inches to the left of the anterior midline. A 1/8 inch eccentric marginal abrasion extended from the 12 o'clock to the 4 o'clock wound margin. [REDACTED] further documented a 1/2 x 1/4 inch ovoid<sup>64</sup> exit gunshot wound to the right side of the back, centered at a point 12 – 1/2 inches below the top of the head and 3 - 3/8 inches to the right of the posterior midline. A deformed gray metal projectile with a copper-colored jacket was recovered from a black T-shirt. The wound path was directed from front to back, left to right, and downwards. [REDACTED] reported that the cause of death was a gunshot wound to the chest and the manner of death is homicide.

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<sup>54</sup> *Id.* at 2:18 Mark.

<sup>55</sup> Attachment. 38.

<sup>56</sup> *Id.* at 8:31 Mark.

<sup>57</sup> *Id.* at 8:42 Mark.

<sup>58</sup> *Id.* at 8:43 Mark.

<sup>59</sup> *Id.* at 8:44 Mark.

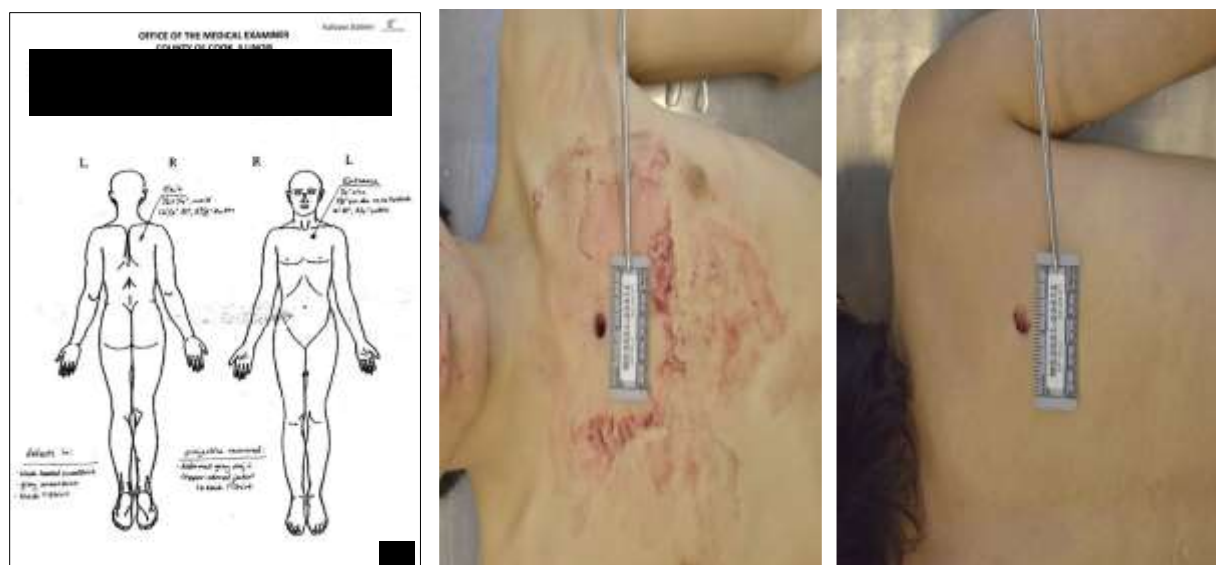
<sup>60</sup> Attachment 27.

<sup>61</sup> *Id.* at 11:42 Mark.

<sup>62</sup> Attachment 49.

<sup>63</sup> *Id.*

<sup>64</sup> The Webster definition of ovoid is resembling an egg in shape.



**Figures 6 - 8:** Medical Examiner's diagram and autopsy photographs showing the entry wound to [REDACTED] chest and the exit wound to his back.

The **CFD Ambulance Report**<sup>65</sup> indicated that Officer Stillman was found walking on the scene. Officer Stillman had non-labored breathing and chest discomfort. Officer Stillman did not complain of chest pain. Officer Stillman was taken to the emergency room at [REDACTED] for evaluation. Officer Gallegos denied having any injuries, but indicated that she was “a little shaken up.”<sup>66</sup> Officer Gallegos was taken to [REDACTED].

The **Illinois State Police Forensics Services Report**<sup>67</sup> indicated that the weapon (Ruger, 9mm Semi-automatic) recovered from 2356 S. Sawyer was tested for latent prints and test fired. The results were no suitable latent prints, and the weapon was deemed operable.

The **Illinois State Police Forensics Services Report**<sup>68</sup> (Gunshot Residue Test) indicated [REDACTED] hand and clothing were tested for gunshot residue. The test results showed that [REDACTED] had discharged a firearm, had contacted a gunshot residue-related item, or had been in the environment of a discharged firearm.

The **Crime Scene Processing Report**<sup>69</sup> indicated that the Forensic Investigator, Paul Presnell, recovered a Ruger P89DC in the lot near 2356 S. Sawyer Avenue. The weapon was in the slide-lock position upon recovery and was placed in a gun box. Investigator Presnell also recovered Officer Stillman's weapon, a Smith & Wesson M&P9, a magazine, and a Streamlight TLR-1 HL.<sup>70</sup> Sixteen live rounds were recovered from the magazine, and one live round was

<sup>65</sup> Attachment 32.

<sup>66</sup> *Id.* at page 1 of Gallegos report.

<sup>67</sup> Attachment 57, 58. The weapon was identified by the inventory number [REDACTED]. See Inventory Report (Attachment 8) for further identification.

<sup>68</sup> Attachment 60.

<sup>69</sup> Attachment 10.

<sup>70</sup> The Streamlight was a detachable flashlight that was attached to Officer Stillman's weapon.



recovered from the chamber. E.T. Presnell further recovered seven expanded shell casings<sup>71</sup> at 3232 W. 24<sup>th</sup> Street and one expended shell casing<sup>72</sup> at 2356 S. Sawyer Avenue.

The **ShotSpotter Report**,<sup>73</sup> which reflected the area of 2356 S. Sawyer, depicted the following at approximately 2:36 am: Sensor # [REDACTED] identified nine gunshots; Sensor # [REDACTED] identified nine gunshots; Sensor # [REDACTED] identified nine gunshots.

The **ShotSpotter Report**,<sup>74</sup> which reflected the area of 2356 S. Sawyer, depicted the following at approximately 2:38 am: Sensor # [REDACTED] identified one gunshot; Sensor # [REDACTED] identified two gunshots; Sensor # [REDACTED] identified one gunshot.

#### d. Documentary Evidence

The **arrest report of [REDACTED]** indicated he was arrested on March 29, 2021, for Resisting/Obstruct/PC OFF/CORR EMP/FRFTR, by Officers Gallegos and Stillman. The narrative of the report indicated that the arresting officers responded to a ShotSpotter call at 2356 S. Sawyer. Upon arrival, the arresting officers observed two males ([REDACTED] and [REDACTED]) in the vicinity of 2314 S. Sawyer Avenue, in the alley. The arresting officers exited their vehicle and ordered [REDACTED] to stop. [REDACTED] made a “headlong flight”<sup>76</sup> southbound away from the officers. Officer Gallegos ordered [REDACTED] to stop but he continued to flee southbound. [REDACTED] was apprehended and placed under arrest by Officer Gallegos in the vicinity of 2328 S. Sawyer. [REDACTED] was released from lockup on March 30.

The **Docket from Cook County Circuit Court, Case 21CR [REDACTED]**,<sup>77</sup> shows that [REDACTED] was charged by indictment on May 10, 2021, with bond set on April 10, 2021<sup>78</sup>. [REDACTED] was charged with three counts of Aggravated Unlawful Use of a Weapon and one count of Reckless Discharge of a Firearm. As of December 10, 2021, the case was still pending.

The **OEMC Event Query and Transmissions**<sup>79</sup> indicated that shots were fired by the police (Officer Stillman) in the vicinity of 2356 S. Sawyer, on March 29, 2021, at approximately 2:36 am. Paramedics were requested to the scene. The gunshot victim (now known as [REDACTED]) died on the scene. A male caller reported hearing about six or seven gunshots but did not see anything. A female caller reported hearing five or more gunshots.

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<sup>71</sup> Associated with the Ruger 9mm.

<sup>72</sup> Associated with the Officer Stillman’s weapon.

<sup>73</sup> Attachment 19.

<sup>74</sup> Attachment 9.

<sup>75</sup> Attachment 5.

<sup>76</sup> Attachment 5, Page 2, Line 5.

<sup>77</sup> Attachment 66.

<sup>78</sup> [REDACTED] was arrested on April 9, 2021. See Attachment 69.

<sup>79</sup> Attachments 37, 67.

The **Tactical Response Report (TRR)**<sup>80</sup> submitted by Officer Stillman for ██████ indicated that ██████ did not follow verbal direction, fled, posed an imminent threat of battery with a weapon, and used force likely to cause death or great bodily harm. ██████ was armed with a semi-auto pistol. Officer Stillman responded with member presence, verbal direction, tactical positioning, additional unit members, and by discharging his semi-automatic pistol one time.

The **Tactical Response Report (TRR)**<sup>82</sup> submitted by Officer Stillman for ██████ indicated that ██████ did not follow verbal direction, stiffened, and fled. Officer Stillman responded with member presence, verbal direction, tactical positioning, additional unit members, and by holding ██████ on the ground with his hand.

The **Tactical Response Report (TRR)**<sup>83</sup> submitted by Officer Gallegos for ██████ indicated that ██████ did not follow verbal direction, stiffened, pulled away, and fled. Officer Gallegos responded with member presence, verbal direction/control techniques, and handcuffs/physical restraints.

The **Detective Supplementary Report (R.D. # ██████)**<sup>84</sup> related essentially the same information as the Crime Scene Processing Report, the Medical Examiner Report, Illinois State Police Crime Lab Reports, and Officer Gallegos' interview. The detectives spoke with ██████ who stated that he was looking for a train to take after he dropped a girl off at home. ██████ indicated that he was not in the alley with anyone, and he had no knowledge of any shootings that occurred in the area before his interaction with the police. The detectives attempted to conduct a follow-up interview with ██████ but he refused to cooperate.

#### **e. Additional Evidence**

The **canvass**<sup>85</sup> conducted by COPA investigators on March 30, 2021, 10:00 a.m. in the vicinity of 2356 S. Sawyer, did not produce any additional witnesses.

### **V. LEGAL STANDARD**

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

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<sup>80</sup> Attachment 4.

<sup>81</sup> During the preliminary investigation, ██████ had not been identified. ██████ was initially identified as a John Doe in the Department Reports.

<sup>82</sup> Attachment 16.

<sup>83</sup> Attachment 17.

<sup>84</sup> Attachments 7, 61, 63, 64, RD # ██████ was suspended and investigated under ██████.

<sup>85</sup> Attachment 56.

4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>39</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense.<sup>40</sup> Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>41</sup>

## VI. LEGAL STANDARD

### a. Relevant Fourth Amendment Standards

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures.”<sup>42</sup> As noted by the United States Supreme Court, “No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.”<sup>44</sup> “[T]he ultimate touchstone of the Fourth Amendment is ‘reasonableness.’”<sup>43</sup>

A seizure of a person can take the form of an officer’s application of physical force or an officer’s show of authority that restrains a person’s liberty.<sup>44</sup> The test is whether the officer’s conduct objectively manifested an intent to restrain the person.<sup>45</sup>

### i. Detentions/Investigatory Stops

Under the Fourth Amendment, the police may briefly detain a person if they reasonably suspect that person has committed or is about to commit a crime.<sup>46</sup> Such a detention, which can

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<sup>39</sup> See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition is proved by a preponderance of the evidence when it has found to be more probably true than not.”).

<sup>40</sup> See e.g., *People v. Coan*, 2016 I.L. App (2d) 151036 (2016).

<sup>41</sup> *Id.* at ¶ 28.

<sup>42</sup> U.S. Const. amend. IV.

<sup>43</sup> *Riley v. California*, 573 U.S. 373, 381 (2014) (citations omitted).

<sup>44</sup> *Torres v. Madrid*, 141 S. Ct. 989, 995 (2021) (citing *Terry v. Ohio*, 392 U.S. 1, 19 n.19 (1968)).

<sup>45</sup> *Torres*, 141 S.Ct. at 998.

<sup>46</sup> *United States v. Rickmon*, 952 F.3d 876, 880 (7th Cir. 2020).



constitute a seizure under the Fourth Amendment, is commonly known as an “investigatory stop.”<sup>47</sup>

An officer has reasonable suspicion sufficient to justify an investigatory stop when the totality of the circumstances known to the officer at the time of the stop, including the officer’s experience and the behavior and characteristics of the subject, along with rational inferences drawn from those circumstances, suggests criminal activity.<sup>48</sup> Officers must have more than an unparticularized suspicion or a hunch of criminal activity.<sup>49</sup>

“A proper ‘totality of the circumstances’ review demands that the decision-maker look at the circumstances in their entirety-- taking into account not only those factors that might increase an officer’s level of suspicion but also all factors that should reduce a reasonable officer’s suspicions.”<sup>50</sup>

The analysis is objective and an officer’s subjective intentions are not dispositive.<sup>51</sup> In cases where an officer stops a person departing a suspected crime scene, courts consider a number of circumstances relevant to the reasonable suspicion analysis, including: (1) the reliability of any reports to police; (2) the dangerousness of the crime; (3) the temporal and physical proximity of the stop to the crime; (4) any description of the vehicle and relevant traffic; and (5) the officer’s experience with criminal activity in that area.<sup>52</sup>

## **ii. Seizures Through the Use of Deadly Force**

“A police officer’s use of force to effect an arrest is a seizure within the meaning of the Fourth Amendment.”<sup>53</sup> It therefore must be reasonable.<sup>54</sup> Under the Fourth Amendment, officers may be justified in using deadly force when they reasonably believe a person poses an imminent threat of serious physical harm to themselves or others.<sup>55</sup> An officer may use deadly force even on a fleeing person if that officer reasonably believes the person poses such a threat.<sup>56</sup>

In evaluating an officer’s use of deadly force, courts provide that the fact finder must understand that officers often face situations that are “tense, uncertain, and rapidly evolving” and that they are required to “make split second judgments” about how much force to apply.<sup>57</sup> “Whether use of deadly force constitutes a constitutionally reasonable seizure is an objective

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<sup>47</sup> See, *United States v. Mendenhall*, 446 U.S. 544, 553-554 (1980). No seizure will be found where a person consents to the stop or objectively felt free to ignore the officer. See *id.*

<sup>48</sup> *Rickmon*, 952 at 880.

<sup>49</sup> *People v. D.L.*, 2017 IL App (1st) 171764, ¶ 19 (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123-24 (2000)).

<sup>50</sup> *United States v. Zambrana*, 402 F. Supp. 2d 953, 960 (S.D. Ill. 2005) (emphasis in original).

<sup>51</sup> *United States v. Johnson*, 365 F. Supp. 3d 89, 102 (D.C. 2019).

<sup>52</sup> See *United States v. Burgess*, 759 F.3d 708, 710-11 (7th Cir. 2014); *United States v. Brewer*, 561 F.3d 676, 679 (7th Cir. 2009).

<sup>53</sup> *Doxtator v. O’Brien*, No. 19-C-137, 2021 U.S. Dist. LEXIS 94896, at \*22 (E.D. Wis. May 19, 2021) (citing *Tennessee v. Garner*, 471 U.S. 1, 7 (1985); *Graham v. Connor*, 490 U.S. 386, 388 (1989)).

<sup>54</sup> *Id.*

<sup>55</sup> See *Siler v. City of Kenosha*, 957 F.3d 751, 758, 59 (7th Cir. 2020).

<sup>56</sup> *Garner*, 471 U.S. at 11.

<sup>57</sup> *Garner*, 490 U.S. at 397.

inquiry and must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”<sup>58</sup>

Importantly, “an officer does not possess unfettered authority to shoot a member of the public simply because that person is carrying a weapon. Instead, deadly force may only be used by a police officer when, based on a reasonable assessment, the officer or another person is threatened with the weapon.”<sup>59</sup>

#### **b. Department Policy Regarding the Use of Force**

The Department’s stated highest priority is the sanctity of human life. In all aspects of their conduct, the Department expects that its members act with the foremost regard for the preservation of human life and the safety of all persons involved.<sup>60</sup> Department members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.<sup>61</sup> This means Department members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.<sup>62</sup>

When evaluating every use of force, the main issue is whether the amount of force used by the member was objectively reasonable in light of the totality of the circumstances faced by the member on scene. Factors to be considered include but are not limited to: whether the subject is posing an imminent threat to the member or others; the risk of harm, level of threat or resistance presented by the subject; and the subject’s proximity to weapons.<sup>63</sup>

The force options authorized to be used on a subject depend on the level of resistance being offered by the person. The use of deadly force is authorized only on an “assailant” whose actions constitute an imminent threat of death or great bodily harm to the member or another person.<sup>64</sup> In contrast, when dealing with a cooperative person, members may only use police presence and verbal direction.<sup>65</sup>

#### **c. Department Policy Regarding Use of Deadly Force**

While the Department’s use of force policy in place reflects the standards under Fourth Amendment law, the Department’s Use of Force policy imposes additional restrictions upon an officer’s use of deadly force under circumstances that would be permissible under Fourth

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<sup>58</sup> *Graham*, 490 U.S. at 396.

<sup>59</sup> *Cooper v. Sheehan*, 735 F.3d 153, 159 (4th Cir. 2013) (emphasis in original); *Curnow v. Ridgecrest Police Agency*, 952 F.2d 321, 324-25 (9th Cir. 1991) (deadly force unreasonable when suspect holding gun was not pointing it or facing officers); *Williams v. Ind. State Police Dept.*, 797 F.3d 468, 484-85 (7th Cir. 2015) (deadly force justified not merely by possession of weapon, but by suspect’s actions); *Biegert v. Moliter*, 968 F.3d 693, 699 (7th Cir. 2015) (“We emphasize that someone does not pose “an immediate threat of serious harm” solely because he is armed. . . . Having a weapon is not the same thing as threatening to use a weapon.”).

<sup>60</sup> General Order G03-02 (II)(A).

<sup>61</sup> *Id.* at (III)(B).

<sup>62</sup> *Id.* at (III)(B).

<sup>63</sup> *Id.* at (III)(B)(1).

<sup>64</sup> *Id.* at (IV)(C)(2)

<sup>65</sup> *Id.*

Amendment jurisprudence.<sup>66</sup> For example, Department policy provides a detailed description of the type of force appropriate for varying levels of threats and resistance. Department policy also requires use of de-escalation techniques to avoid or minimize the need for use of force.<sup>67</sup> Department policy also permits use of deadly force only as a “last resort”<sup>68</sup> when necessary to prevent imminent harm.<sup>69</sup>

Under Department policy, deadly force is force by any means that is likely to cause death or great bodily harm, including the firing of a firearm in the direction of the person to be arrested. The 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; or to prevent an arrest from being defeated by resistance or escape, where the person poses an “imminent threat” of death or great bodily harm to a sworn member or another person unless arrested without delay.<sup>70</sup>

A threat is imminent when it is objectively reasonable to believe that the subject’s actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and the subject has the means or instruments to cause death or great bodily harm; and the opportunity of ability to cause death or great bodily harm.<sup>71</sup>

**c. Department Requirement to Use De-Escalation Techniques to Avoid or Prevent the Need for Use of Force**

The Department’s rules and regulations provide: “[w]hile the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances involved.”<sup>72</sup>

Toward that end, Department members are required to use de-escalation techniques to reduce or prevent the need for use of force. Members are to continually assess situations and determine the following:

- 1) If any use of force is necessary;
- 2) The authorized force option based on the totality of the circumstances;
- 3) If the seriousness of the situation requires an immediate response or whether the member can employ other force options or the Force Mitigation Principles; and
- 4) If the level of force employed should be modified based upon the subject’s actions or other changes in the circumstances. The level of force will be de-escalated immediately as

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<sup>66</sup> Thus, although a Department member’s use of force may violate Department policy, it does not necessarily mean that such force would be deemed unreasonable under the Fourth Amendment in a civil suit. COPA may nevertheless cite to Fourth Amendment related judicial opinions but only for guidance on how to interpret common concepts or terms.

<sup>67</sup> General Order 03-02-01(II)(B).

<sup>68</sup> General Order 03-02(III)(C). The Department does not define “last resort.” Merriam-Webster defines “last resort” as “something done only if nothing else works.” <https://www.merriam-webster.com/dictionary/last%20resort>

<sup>69</sup> General Order 03-02(III)(C).

<sup>70</sup> General Order 03-02(III)(C).

<sup>71</sup> General Order 03-02(III)(C)(2).

<sup>72</sup> Rules and Regulations of the Chicago Police Department, Art. I.B.7.

resistance decreases, provided that the member remains in control and as safety permits.<sup>73</sup> As the subject offers less resistance, the member is to immediately lower the amount or type of force used.<sup>74</sup>

The principles of de-escalation, or force mitigation, include:<sup>75</sup>

- 1) Continual Communication<sup>76</sup> - To minimize or avoid confrontations, members are to attempt to use verbal control techniques prior to, during, and after the use of force. They are to attempt to establish and maintain verbal communication in all police-public encounters such as exercising persuasion, advice, and instruction prior to the use of force. When safe and feasible, members are to provide a warning prior to the use of force.
- 2) Tactical Positioning<sup>77</sup> - When safe and feasible to do so, members are to make advantageous use of positioning, distance, and cover by isolating and containing a subject, creating distance between the member and a potential threat, or utilizing barriers or cover. Members will continuously evaluate the members positioning, subject's actions, and available force options.
- 3) Time as a Tactic<sup>78</sup> - When safe and reasonable, members are to slow down the pace of the incident to permit the de-escalation of the subject's emotions and allow the subject an opportunity to comply with the verbal direction given. Using time as a tactic will also allow for the arrival of other officers as well as allow the individual the opportunity to voluntarily comply with lawful verbal direction before force is used.

#### **d. Department Training Regarding Foot Pursuits**

Department members are trained on situations where a foot pursuit may be authorized and how to conduct them to ensure safety of everyone involved. Pursuant to that training, Department members are instructed that they may “engage in a foot pursuit only when they have reasonable articulable suspicion to conduct an investigatory stop or probable cause to arrest.”<sup>79</sup> The Department reminds officers that while the act of fleeing from the police does not create reasonable articulable suspicion to justify a stop, it can be “one factor in the totality of the circumstances to establish reasonable articulable suspicion.”<sup>80</sup>

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<sup>73</sup> General Order G03-02-01(II)(F).

<sup>74</sup> *Id.* at (II)(G).

<sup>75</sup> *Id.* at (III).

<sup>76</sup> *Id.* at (III)(A).

<sup>77</sup> *Id.* at (III)(B).

<sup>78</sup> *Id.* at (III)(C).

<sup>79</sup> Foot Pursuits Training Bulletin ETB #18-01 p.1. “If an officer does not have reasonable articulable suspicion or probable cause to stop a subject, an officer should not engage in a foot pursuit.” *Id.* at p.3. Training Bulletins are issued to: 1. explain, clarify, or restate Department policy and procedure; 2. bring items of special interest to the attention of Department members; and 3. aid members in achieving the mission and goals of the Department.

<sup>80</sup> Foot Pursuits Training Bulletin p. 1. For example, the member should not engage in a foot pursuit, if a person “looks in the direction of an officer and begins to run, and there are NO other factors to contribute to reasonable articulable suspicion...” *Id.* at p.3.

Noting that foot pursuits risk physical injury to all, the decision to engage or continue in a foot pursuit involves a balancing test, where members “will assess the risks to the public, to themselves, and to the fleeing subject, in relation to law enforcement’s duty to enforce the law and apprehend the subject.”<sup>81</sup> The Department emphasizes that, **“when making the decision to pursue, or to continue to pursue, the safety of the public, Department members and the fleeing subject should be the foremost considerations.”**<sup>82</sup>

Factors members should consider when engaging in or continuing<sup>83</sup> a foot pursuit include, but are not limited to:

1. the number of subjects involved,
2. the number of officers involved,
3. whether the subject is believed or known to be armed,
4. the seriousness and nature of the offense committed by the subject,
5. the availability and proximity of assist units,
6. the availability of radio communications,
7. the physical characteristic of the pursuit location, including but not limited to the:
  - a. nature of the area: residential, commercial, school zone, roadway,
  - b. community setting: school dismissal, community event, pedestrian traffic,
  - c. environmental factors: weather, lighting, time of day,
  - d. condition of the structures: abandoned building, troubled building, gang and/or drug house,
  - e. physical hazards: clotheslines, unrestrained animals, unsteady ground, train tracks, rail yards, waterways,
  - f. the officer’s familiarity with the area.<sup>84</sup>

When deciding if a fleeing person should be pursued in the first place, a member should consider the following: 1) What is the nature of the offense? 2) Has identity been established? 3) Where is the person running to?<sup>85</sup> Since foot pursuits are rapidly evolving in nature, a member must “continuously assess the circumstances of the pursuit and determine the appropriate response to effectively apprehend the subject and safely conclude the pursuit.”<sup>86</sup> A member must discontinue a foot pursuit if the risk to anyone outweighs the need to apprehend the person

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<sup>81</sup> Foot Pursuits Training Bulletin p. 1 Members “will consider ... safety” of all “in relation to ...the duty to enforce the law and apprehend the subject.” *Id.* at p.5.

<sup>82</sup> Foot Pursuits Training Bulletin p. 3. (bold in original). Noting the use of force on a fleeing person must be “objectively reasonable, necessary and proportional” and deadly force may not be used unless the person poses an imminent threat of death or great bodily harm. *Id.* at p. 5.

<sup>83</sup> Once engaged in a foot pursuit, the member shall “continuously assess the circumstances” using the balancing test. Foot Pursuits Training Bulletin p. 3.

<sup>84</sup> Foot Pursuits Training Bulletin p. 2.

<sup>85</sup> Foot Pursuits Training Bulletin p. 3. Recognizing the member’s “need to make a quick decision....”

<sup>86</sup> Foot Pursuits Training Bulletin p. 3.

fleeing.<sup>87</sup> Alternative responses include obtaining backup, establishing a perimeter or requesting specialized units to assist.<sup>88</sup>

If members believe a person presents a flight risk, they “should consider waiting for backup before stopping a vehicle, or before approaching a subject who is on foot” and before getting occupants out of a stopped vehicle.<sup>89</sup> Members should also consider that “the best course of action may be to contain the subject, rather than attempting to overtake and immediately apprehend them,” especially, for example, if the person is armed or enters a building.<sup>90</sup>

Once a member engages in a foot pursuit the member must “immediately notify” OEMC by broadcasting: the location and direction, the description of the person fleeing, the reason for the pursuit, and if the member is in plain clothes.<sup>91</sup> Members must coordinate with responding members to establish a perimeter and request outside support if appropriate, and to make reasonable efforts to update their location and direction.<sup>92</sup> OEMC must again be notified if the person being pursued is apprehended and once the member discontinues the pursuit.<sup>93</sup> “Running with a firearm in hand is to be avoided.”<sup>94</sup>

The Department emphasizes that partners should stay together during a foot pursuit and makes this a responsibility of each partner. Members should not separate from their partner unless there are “exigent circumstances.”<sup>95</sup> One partner should be the “primary” or “lead” officer focusing on the person fleeing and any threats, while the other partner should be the “secondary” or “support” officer responsible for “radio communications, including updating the direction of travel, and requesting assist units.”<sup>96</sup>

#### **e. Member Responsibility to Perform Duties Competently**

Rule 10 of the Department’s Rules of Conduct prohibits inattention to duty.<sup>97</sup> Rule 11 of the Department’s Rules of Conduct prohibit incompetency or inefficiency in the performance of a member’s duties.<sup>98</sup>

The Department’s Standards of Conduct provide:

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<sup>87</sup> Foot pursuits must also be discontinued if ordered by a supervisor. Foot Pursuits Training Bulletin p. 3. If there is an injury, members should weigh the importance of apprehending the person fleeing with assisting someone who is injured, noting “the foremost regard for the preservation of human life and the safety of all persons involved.” If the person fleeing discards evidence, particularly items that pose a serious risk to the public, members should weigh the need to recover the item with the need to apprehend the person. Foot Pursuits Training Bulletin p. 4.

<sup>88</sup> Foot Pursuits Training Bulletin p. 3.

<sup>89</sup> Foot Pursuits Training Bulletin p. 3. Noting to be aware of signs, such as body language and movements.

<sup>90</sup> Foot Pursuits Training Bulletin p. 5.

<sup>91</sup> Foot Pursuits Training Bulletin p. 4. The BWC or ICC video must be activated at the beginning of the incident.

<sup>92</sup> Foot Pursuits Training Bulletin p. 4. Supervisors have specific duties during foot pursuits as well. *Id.* at p. 5.

<sup>93</sup> Foot Pursuits Training Bulletin p. 4.

<sup>94</sup> Foot Pursuits Training Bulletin p. 4.

<sup>95</sup> Foot Pursuits Training Bulletin p. 1. “‘Separation’ is any situation in which one officer is unable to immediately render aid or otherwise assist the other officer in the apprehension of the subject.”

<sup>96</sup> Foot Pursuits Training Bulletin p. 1.

<sup>97</sup> Rules and Regulations of the Chicago Police Department, Art. V.

<sup>98</sup> Rules and Regulations of the Chicago Police Department, Art. V.

[T]he responsibility for the proper performance of a member's duty, whether he be on or off duty, lies primarily with the member himself. A member carries with him, at all times, the responsibility for the safety of the community. He discharges that responsibility by the faithful and dedicated performance of his assigned duty and an immediate and intelligent response to emergency. Anything less violates the trust placed in him by the community, and nothing less qualifies as professional conduct.<sup>99</sup>

#### **f. Department Policy Regarding Body Worn Cameras**

To increase transparency and improve the quality and reliability of investigations, Department policy mandates all law-enforcement-related encounters be electronically recorded on the officers' body worn camera ("BWC").<sup>100</sup> The recording of law-enforcement-related encounters is mandatory.<sup>101</sup> Law-enforcement-related encounters include, but are not limited to, foot and vehicle pursuits, use of force incidents, investigatory stops, high risk situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene.<sup>102</sup> Officers must activate their BWCs at the beginning of an incident and record the entire incident.<sup>103</sup> If there are circumstances preventing the activation of the BWC at the beginning of an incident, the officer "will activate the BWC as soon as practical."<sup>104</sup>

#### **g. 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 allegation by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that the allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that a proposition is proved.<sup>105</sup> For example, 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.

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<sup>99</sup> Rules and Regulations of the Chicago Police Department, Art. I.B.18.

<sup>100</sup> S03-14(II)(A).

<sup>101</sup> S03-14(III)(1).

<sup>102</sup> S03-14(III)(2).

<sup>103</sup> S03-14(III)(2).

<sup>104</sup> S03-14(III)(2).

<sup>105</sup> 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.").

**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.<sup>106</sup> Clear and convincing evidence is evidence that shows “that it is highly probable that a proposition is true.”<sup>107</sup>

## VII. CREDIBILITY ASSESSMENT

The credibility of an individual relies primarily on two factors: 1) the individual’s truthfulness; and 2) the reliability of the individual’s account. The first factor addresses the honesty of the 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.

“Credibility involves more than demeanor. It apprehends the over-all evaluation of testimony in the light of its rationality or internal consistency and the manner in which it hangs together with other evidence.”<sup>108</sup> “[I]n the deadly force context, [the finder of fact] cannot simply accept what may be a self-serving account by the police officer.”<sup>109</sup> Because the witness most likely to contradict the officers’ testimony is deceased, COPA must “examine all the evidence to determine whether the officer’s story is consistent with other known facts.”<sup>110</sup>

COPA generally found Officers Stillman and Gallegos credible during their statements. Any discrepancies between each officer’s statement and the available evidence is addressed below. Despite those inconsistencies, COPA does not dispute the truthfulness or reliability of each officer’s account.

However, COPA has a duty to ensure that the officers’ counsel do nothing to disrupt or interfere with the interview to reduce the risk of inserting issues about honesty and reliability of an officers’ recall/statement/answers.<sup>111</sup> Officers Stillman and Gallegos were each represented by the same attorney during their interviews with COPA.<sup>112</sup> The officers’ collective bargaining agreement allowed them to confer with their attorney when answering questions during the interviews.<sup>113</sup> However, COPA notes that Officer Stillman’s attorney repeatedly appeared to try to prompt Officer Stillman during his interview. For example, when asked by a COPA investigator as to why he pursued [REDACTED] the statement proceeded as follows:

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<sup>106</sup> See, e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>107</sup> See *id.* at ¶ 28.

<sup>108</sup> *Gov’t of Virgin Islands v. Gereau*, 523 F.2d 140, 146 n.2 (3d Cir. 1975) (internal citations omitted).

<sup>109</sup> *Cruz v. City of Anaheim*, 765 F.3d 1076, 1079 (9th Cir. 2014).

<sup>110</sup> *Maravilla v. United States*, 60 F.3d 1230, 1233-34 (7th Cir. 1995); *King v. Hendricks Cty. Comm’rs*, 954 F.3d 981, (7th Cir. 2020) (“To ensure fairness to the deceased plaintiff whose representative alleges an impermissible use of deadly force, given the impossibility of victim testimony to rebut the officers’ account, we scrutinize all the evidence to determine whether the officers’ story is consistent with other known facts.”).

<sup>111</sup> See Agreement between the City of Chicago Department of Police and the Fraternal Order of Police Chicago Lodge No. 7 (hereinafter, the “Collective Bargaining Agreement”), at §6.1(J).

<sup>112</sup> A representative of the Fraternal Order of Police was also present for each interview.

<sup>113</sup> Collective Bargaining Agreement, §6.1(J).



Officer Stillman: Because of all the things I cited. I had reasonable articulable suspicion for the stop. He's fleeing from me. There's a ShotSpotter in the area. It's 2:30 in the morning. There's nobody else out. It's a high crime area.

[Officer's attorney]: Commands.

Officer Stillman: The verbal commands that he disobeyed from the beginning all the way through. He's just not listening.

When asked about whether Officer Stillman believed his use of force was proportional, the interview proceeded as follows:

Officer Stillman: Because he didn't listen to any commands. He had a gun. He was turning in my direction. He acquired me.

[Officer's attorney]: No cover.

Officer Stillman: And he's turning in my direction.

[Officer's attorney]: No cover.

Officer Stillman: I've got no cover or concealment. I'm in the middle of an alley. There's not - - there's nothing else I could do.<sup>114</sup>

There are several other instances of this behavior throughout Officer Stillman's interview.<sup>115</sup> Despite his attorney's interference, COPA cannot conclude that Officer Stillman was not truthful in his statement.

## VIII. ANALYSIS OF ALLEGATIONS

### a. COPA does not have a sufficient basis to find that Officers Stillman and Gallegos detained or seized [REDACTED] without justification.

COPA cannot find that the officers lacked reasonable suspicion to detain or seize [REDACTED]. The totality of the circumstances the officers relied upon in initiating the stop were:

- a ShotSpotter notification of shots fired at the corner of Sawyer and 24th;<sup>116</sup>
- a call to OEMC of 8 shots fired in that area;
- the officer's stated understanding that the area was a "high gang area;"<sup>117</sup>
- [REDACTED] and [REDACTED] proximity to the reported shots fired in time and place (approximately ¾ of a block away);
- the officers arrived within a minute of the notification;
- the officers did not see other people on the street in the area;
- the time of day (2:30 a.m.);

<sup>114</sup> Stillman Transcript, p. 94, lines 7-19.

<sup>115</sup> See, e.g., Officer Stillman Transcript p. 46, lines 11-16; p. 81, lines 16-24, p.82, line 1; p. 130, lines 2-10; p. 101, lines 7-10.

<sup>116</sup> Att. 19.

<sup>117</sup> E.g., Stillman Transcript, pp. 44, 74.

- [REDACTED] and [REDACTED] huddled together as [REDACTED] appeared to pass an object to [REDACTED] and
- [REDACTED] and [REDACTED] moved from the officers after seeing them.

Certain of these cited factors are problematic upon further review. First, courts have not unquestionably concluded that a ShotSpotter alert, without the presence of additional factors, will give rise to reasonable suspicion.<sup>118</sup> Courts analogize ShotSpotter alerts to an anonymous tip, which, unless corroborated by specific facts, do not give rise to reasonable suspicion.<sup>119</sup> The OEMC call in this case provided no details in addition to the ShotSpotter report. Officer Stillman could not recall the details of the OEMC call but believed it relayed “normal information” regarding number of rounds and location.<sup>120</sup> Officer Gallegos also could not recall the details of the OEMC notification but believed it was just that shots had been fired. The OEMC information therefore did nothing to further corroborate the ShotSpotter notification in this case.

Second, Officer Stillman stated that he patrolled the area and knew it to be a “high gang area”<sup>121</sup> or “violence box.” He provided no information as to how or why he knew that beyond his personal experience. Oddly, however, he could not recall whether he had conducted any arrests, street stops, or contacts with civilians in the area.<sup>122</sup> He did recall a prior incident possibly involving a firearm.<sup>123</sup> Officer Gallegos similarly stated that she “actively patrolled the area” but could not recall making any arrests or stops in the area.<sup>124</sup> Neither officer articulated how this area was more prone to/known for gangs or violence compared to neighboring areas. Bare assertions

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<sup>118</sup> Compare *Rickmon*, 952 F.3d at 880 (finding reasonable suspicion based on a ShotSpotter and 911 calls where officers responded five minutes later and the subject’s car was only one fleeing the area); and *United States v. Jones*, 2021 U.S. Lexis 17756 (D.C. Cir. June 15, 2021) (finding reasonable suspicion based on ShotSpotter and multiple 911 calls where officers arrived a minute and a half later, the subject was only person on the street, and he was walking quickly away from the scene); with *D.L.*, 2017 IL App (1st) 171764 (finding no reasonable suspicion where officers arrived about a minute after multiple 911 calls of shots fired and saw subject two blocks from area walking quickly away, then fleeing when officers approached); and *United States v. Carter*, 2020 U.S. Dist. Lexis 121181 (Dist. D.C. July 10, 2020) (finding no reasonable suspicion where officers responded to a ShotSpotter and stopped three men they believed were only ones on the street because the men all complied with the officers and the officers could not be certain the men were only ones on the street).

<sup>119</sup> COPA notes this analogy may be even more appropriate given recent reports questioning the reliability and utility of ShotSpotter technology in detecting gun crimes. See City of Chicago Office of Inspector General, *The Chicago Police Department’s Use of ShotSpotter Technology*, August 2021 (noting that “a large percentage of ShotSpotter alerts cannot be connected to any verifiable shooting incident.”); MacArthur Justice Center, *ShotSpotter Generated Over 40,000 Dead-End Police Deployments in Chicago in 21 Months, According to New Study*, May 3, 2021 (noting “ShotSpotter has not released any scientifically-valid study to substantiate” its claim of 97% accuracy.). Cases that have analyzed whether a ShotSpotter notification may be a relevant factor in developing reasonable suspicion have largely assumed, without discussion, that ShotSpotter is a reliable source of information regarding shots fired in a particular area. See, e.g., *United States v. Jones*, No. 20-3034, 2021 U.S. App. LEXIS 17756, at \*10 (D.D.C. June 15, 2021); *People v. S.R. (In the Interest of S.R.)*, No. 1-20-0941, 2018 Ill. App. Unpub. LEXIS 1092, at \*32 (June 29, 2021).

<sup>120</sup> Stillman Transcript, p. 42, lines 21-24; p. 48, lines 10-15.

<sup>121</sup> Officer Stillman used the exact term “high gang area” several times during his statement but never explained how or why he knew the area to be a high gang area or what that meant to him.

<sup>122</sup> Stillman Transcript, p. 36, lines 22-24.

<sup>123</sup> Stillman Transcript, p. 37, lines 1-9.

<sup>124</sup> Gallegos Transcript, p. 8, lines 8-11.

of “experience” are not sufficient.<sup>125</sup> Furthermore, “[a] mere suspicion of illegal activity at a particular place is not enough to transfer that suspicion to anyone who leaves that property.”<sup>126</sup>

Third, Officers Stillman and Gallegos each referenced [REDACTED] and [REDACTED] “huddling” together but never stated (a) why this behavior was suspicious or (b) what was otherwise concerning about this behavior. Officer Stillman also saw them pass an object between them but did not see the object.<sup>127</sup> He did not explain why or how this behavior raised any suspicion.

Fourth, Officer Stillman found it suspicious that [REDACTED] and [REDACTED] turned away from him immediately when they saw him.<sup>128</sup> However, Officer Stillman was driving an unmarked car and had purposely kept his lights off, including his headlights, so as not to alert them. Officer Stillman also could not recall when, or if, he announced his office.<sup>129</sup> COPA cannot therefore determine whether [REDACTED] or [REDACTED] were aware the officers were present before they first turned away.<sup>130</sup>

Although these factors are insufficient to support reasonable suspicion, other cited factors<sup>106</sup> could reasonably give rise to suspicion that [REDACTED] and [REDACTED] had committed or were committing a crime. First, the officers were on scene soon after the alert/shots—Officer Stillman first saw [REDACTED] and [REDACTED] about a minute and ten seconds after the ShotSpotter report was given over OEMC, and the officers turned into the alley about a minute and a half after the report.<sup>131</sup> Second, [REDACTED] and [REDACTED] were less than a block from where the shots fired had been reported, a distance they could have traveled in that time.<sup>132</sup> Third, [REDACTED] and [REDACTED] were also the only two people the officers saw on the street. Officers Stillman and Gallegos drove past the corner of 24th and Sawyer, were able to view those two streets in all directions as well as both directions of the alleys west of Sawyer, and saw no other people, thus strengthening their conclusion that [REDACTED] and [REDACTED] were the only two individuals on the street and could therefore reasonably be stopped

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<sup>125</sup> See, e.g., *United States v. Mora*, 989 F.3d 794, 802 (10th Cir. 2021) (requiring specific facts explaining why, based on an officer’s experience, there was reason to support the officer’s suspicion as to the location of alleged contraband); *United States v. Weaver*, No. 18-1697-cr, 2021 U.S. App. LEXIS 24251, at \*157 (2d Cir. Aug. 16, 2021) (rejecting majority’s reliance on an officer’s “vague and anecdotal testimony” that the area was a “high crime neighborhood.”).

<sup>126</sup> *United States v. Bohman*, 683 F.3d 861, 864 (7th Cir. 2012); see also *Ybarra v. Illinois*, 444 U.S. 85, 91, 100 S. Ct. 338, 62 L. Ed. 2d 238 (1979) (“[A] person’s mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person.”).

<sup>127</sup> See *People v. Moore*, 286 Ill.App.3d 649, 653 (3d Dist. 1997) (holding that the observation of subjects passing an unknown object was not a basis for reasonable suspicion).

<sup>128</sup> Officer Stillman stated that he believed both [REDACTED] and [REDACTED] looked at him. Stillman Transcript p. 66, lines 10-12.

<sup>129</sup> Stillman Transcript, p. 121, lines 20-23. He believed he announced his office “at some point.” *Id.*

<sup>130</sup> Cf. *Martino v. County of Camden*, Civil No. 04-5300 (JBS), 2005 U.S. Dist. LEXIS 15622, at \*33 (D.N.J. July 26, 2005) (“Police officials, without identifying themselves in any way, should reasonably expect people to flee . . . .”); *United States v. Carter*, Crim. Action No. 99-50 MMS, 1999 U.S. Dist. LEXIS 171185, at \*7, n.18 (D. Del. Oct. 22, 1999) (“Were the car not recognizable as a police car, it would be objectively suspicious for an individual confronted by an unknown vehicle rolling slowly toward him late at night with its lights out to stop and quickly turn around to look for an escape route.”).

<sup>131</sup> See *Rickmon*, 952 F.3d at 880 (responding five minutes after the ShotSpotter notification was close enough in time for reasonable suspicion); and *Jones*, 2021 U.S. Lexis 17756 (a minute and a half after ShotSpotter).

<sup>132</sup> This differentiates the case from *D.L.*, where the individuals were a full two blocks from the spot where shots had been reported fired, only about a minute later.

for further investigation.<sup>133</sup> Finally, it was 2:30 am in the morning, making it more suspicious that [REDACTED] and [REDACTED] were on the street.<sup>134</sup>

COPA appreciates that the officers were seeking to investigate a possible shooting, which can be a serious crime. For that reason, together with the ambiguity in certain other identified factors, COPA cannot find either officer acted improperly in detaining or seizing [REDACTED] under these facts.<sup>135</sup>

For these reasons, COPA finds Allegation 2 against each of Officer Stillman and Gallegos **Not Sustained**.

**b. There is clear and convincing evidence that Officer Stillman had probable cause to seize [REDACTED]**

COPA finds that by the time Officer Stillman shot [REDACTED] he had probable cause to believe that [REDACTED] had committed a crime, namely, the unlawful possession of a weapon.<sup>136</sup> It is illegal under Illinois law to carry a fully exposed handgun in view of the public.<sup>137</sup> [REDACTED] can be seen holding the firearm in his hand prior to Officer Stillman seizing him in Officer Stillman's BWC video.<sup>138</sup> Officer Stillman was justified in seizing [REDACTED] on that basis.

Because the evidence is clear and convincing that Officer Stillman had probable cause to seize [REDACTED]<sup>139</sup> COPA finds that Allegation 1 against Officer Stillman is **Exonerated**.

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<sup>133</sup> *Contrast Carter*, 2020 U.S. Dist. Lexis 121181 at \*15 (finding that officers could not reasonably say the subjects were the only men on the street because the shooters could have fled south or east without officers being able to see them). While the court in *D.L.* did not explicitly rely on this factor, the officers never drove to the spot of the shots fired, and instead apprehended the individuals two blocks away as the officers initially approached, so they could not be sure the two were the only people on the street. 2017 IL App (1st) 171764 at ¶ 5.

<sup>134</sup> *See Rickmon*, 952 F.3d at 884 (stating in the context of a ShotSpotter alert at 4:45 am, that "the hour reinforces the suspicion" because there would be less people on the street and the subject's presence is less likely to be a coincidence).

<sup>135</sup> As circumstances developed within minutes, the officers gained probable cause to arrest [REDACTED]

<sup>136</sup> For the reasons discussed regarding [REDACTED] detention, COPA cannot conclude the officers lacked reasonable suspicion at the outset of the encounter to detain [REDACTED] related to the original shots fired. However, [REDACTED] did not submit to the officers' commands and instead fled from the officers. He had therefore not yet been detained prior to being shot. For this reason, COPA cannot sustain Allegation 1 against either Officer Stillman or Gallegos.

<sup>137</sup> Under the Illinois Criminal Code it is unlawful to carry or possess a handgun in public except under certain circumstances, including validly carrying or possessing under the Illinois Conceal Carry Act. 720 ILCS 5/24-1(a)(10); The Illinois Concealed Carry Act requires that the firearm be concealed or partially concealed. 430 ILCS 66/10(c)(1); *See also People v. Reed*, 2021 IL App (1st) 181966-U, P23-P24, 2021 Ill. App. Unpub. LEXIS 1429, at \*9-11 ("The observation of a firearm and a defendant's attempt to flee can give rise to probable cause to believe that the defendant lacked a concealed carry license, which is necessary to lawfully carry a concealed or partially concealed firearm."); *Williams*, 266 Ill. App. 3d at 760 (stating the trier of fact could infer that the defendant who ran from police and threw his gun into the garbage did not have a FOID card while fleeing from police).

<sup>138</sup> Officer Stillman's commands, which changed from "show me your hands," to "drop it" at the moment when the gun was first visible, corroborate that he saw the firearm. Att. 23 at 2:00-2:05.

<sup>139</sup> As discussed below, it was not reasonable for Officer Stillman to shoot [REDACTED] under Department policy, but he did have probable cause to seize [REDACTED] under the Fourth Amendment.

Moreover, Officer Gallegos herself made no contact with [REDACTED]. Under circumstances not present here, she could have been held liable had Officer Stillman committed a constitutional violation.<sup>140</sup> For these reasons, Allegation 1 against Officer Gallegos is **Exonerated**.

**c. COPA does not have a sufficient basis to find that Officer Stillman used excessive force in violation of Department policy with respect to [REDACTED]**

COPA is unable to determine what and how much force Officer Stillman used against [REDACTED]. Officer Stillman stated that he merely grabbed [REDACTED] around the waist to quickly feel for a firearm, then [REDACTED] stiffened and went down, as if a decoy, at which point Officer Stillman held onto his arm for long enough to tell Officer Gallegos to grab him.<sup>141</sup> The BWC videos do suggest that Officer Stillman tackled or otherwise threw [REDACTED] to the ground, as both his own video and Officer Gallegos' video show him holding [REDACTED] by the forearms as he moves his own arms in a manner consistent with a tackle. However, Officer Stillman's arm motion is equally consistent with [REDACTED] making himself fall to the ground and Officer Stillman not throwing him, but merely holding [REDACTED] arms as his own momentum continues southbound in the alley in the direction of [REDACTED]. Accordingly, there is insufficient evidence to find that Officer Stillman tackled [REDACTED] and COPA finds Allegation 4 against Officer Stillman is **Not Sustained**.

**d. Officer Stillman violated Department policy when he discharged his weapon at/in the direction of [REDACTED]**

**i. Officer Stillman violated Department policy by failing to use de-escalation techniques before using deadly force.**

Officer Stillman did not use de-escalation techniques to prevent the use of deadly force, as follows:

- Failing to follow "continual communication" guidelines in that he (a) did not request assistance when faced with noncompliance to verbal direction; and (b) failed to provide [REDACTED] with a warning before using force.
- Failing to use time as a tactic to slow the event down. Officer Stillman did not call for or wait for additional units to assist him in apprehending [REDACTED].<sup>142</sup> Further, Department members are also to allow individuals time to voluntarily comply with lawful verbal direction. At the time that the deadly force was used, [REDACTED] was in the process of complying with the verbal demand to show his hands. Video evidence shows that additional officers reported to the scene within two minutes of the use of deadly force.<sup>143</sup>

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<sup>140</sup> See, e.g., *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994) (stating a police officer may be held liable for failure to intervene in a constitutional violation); *Lanigan v. Village of E. Hazel Crest*, 110 F.3d 467, 476 (7th Cir. 1997) (same).

<sup>141</sup> As discussed above, there is insufficient evidence to show that there was not reasonable suspicion to detain and frisk [REDACTED]. Therefore, if all Officer Stillman did was grab [REDACTED] to feel for a firearm, his force was reasonable to complete a lawful act.

<sup>142</sup> Officer Gallegos noted other officers responded within seconds of the shooting, indicating additional assistance was imminent. Gallegos Transcript, p. 51, line 10.

<sup>143</sup> Att. 23.

Had time been used as a tactic, additional officers would have been on scene and a perimeter established to contain [REDACTED]

- Failing to use tactical positioning in that he (a) did not consider or use positioning to isolate [REDACTED] and (b) did not utilize or consider the use of barriers to provide cover. Maintaining adequate distance also creates a reactionary gap that allows members to respond to changes in a person's behavior (and giving the person time to comply).

Officer Stillman violated Department policy by not considering or using these techniques. Indeed, both officers acknowledged they had no plan or discussion on how to approach [REDACTED] and [REDACTED] before they exited the car.<sup>144</sup> Moreover, Officer Stillman claimed that as [REDACTED] was running down the alley, he saw [REDACTED] making actions as if he was readying a firearm to shoot; however, Officer Stillman continued chasing [REDACTED] without any regard for barriers or cover. Rather, Officer Stillman ran past several garbage cans that could have served as cover in the alley.<sup>145</sup> These failures placed them both in harm's way and created Officer Stillman's own exigency. A reasonable officer in the same circumstances would not issue an order then discharge his/her weapon as the individual is complying. Furthermore, evidence shows that additional officers reported to the scene within two minutes of the use of deadly force. Had time been used as a tactic, additional officers would have been on scene and a zone of safety could have been established as [REDACTED] was submitting to authority at the time the deadly force was used.

**ii. [REDACTED] did not present an imminent threat.**

COPA finds that Officer Stillman's use of deadly force was improper because it was not objectively reasonable for Officer Stillman to believe that [REDACTED] actions were likely to cause death or great bodily harm unless action was taken in light of the totality of the circumstances confronting them.

First, COPA recognizes that a person could shoot at an officer during a foot pursuit. But Department policy does not permit members to use deadly force on a fleeing person, even if the person is holding a firearm they have refused to drop. A reasonable officer would recognize that many people flee with firearms with the intention to discard the weapon.<sup>146</sup>

Second, Officer Stillman ordered [REDACTED] to drop his weapon and show his hands. Officer Stillman's body worn camera shows that [REDACTED] was in the act of complying with both orders in the moment that Officer Stillman discharged his weapon. Officer Stillman took issue with the way [REDACTED] complied with his orders and blamed [REDACTED] for not complying properly, stating that [REDACTED] should not have turned in his direction when ordered to show his hands.<sup>147</sup> But Officer Stillman did not directly respond when asked if he had anticipated [REDACTED] turning towards him when ordered to show his hands, indicating he had not considered that [REDACTED] would comply after

<sup>144</sup> Stillman Transcript, p. 47, lines 18-21; 5-10; p. 71; Officer Gallegos Transcript, p. 20-21, lines 23-24, 1-6. In fact, Officer Stillman did not know where his partner was located throughout the incident. Stillman Transcript, p. 71, lines 16-17; p. 82, lines 3-9; p. 102, lines 2-5.

<sup>145</sup> Attachment 23 at 1:58 Mark.

<sup>146</sup> [REDACTED] actions therefore met the definition of an "active resister" under Department policy. See General Order 03-02-01(IV)(B)(2). Department members may not use deadly force on active resisters. See *id.*

<sup>147</sup> Stillman Transcript, p. 128, lines 14-19.

Officer Stillman approached him.<sup>148</sup> Officer Stillman also never ordered ██████ to not turn around.<sup>149</sup> In this case, COPA cannot conclude that it is objectively reasonable for an officer to believe someone is immediately likely to cause death or great bodily harm, or that they pose a threat to the officers, where they are in the act of complying with the officer's commands and the officer fails to consider that act of compliance.

Third, Officer Stillman believed ██████ was readying a firearm to shoot at him and looked in the officer's direction to acquire him as a target.<sup>150</sup> However, Officer Stillman did not explain how ██████ could have looked back at him to acquire him as a target given Officer Stillman's use of a strobe flashlight on his weapon. The purpose of that type of flashlight is, in Officer Stillman's own words, to disorientate.<sup>151</sup> COPA therefore cannot conclude ██████ could have looked in Officer Stillman's direction for the purpose of acquiring him as a target, or that it was reasonable for Officer Stillman to believe that he did.<sup>152</sup> In addition, ██████ actions of looking back after stopping at the fence, coupled with his acts of raising his left hand and discreetly moving his right hand with the firearm, were consistent with him surrendering and hiding the firearm.<sup>153</sup> COPA therefore cannot conclude that ██████ was in fact racking his weapon to make it useable against Officer Stillman.

Fourth, while Officer Stillman said he thought ██████ was going to fire at him, he never claimed ██████ pointed the weapon at him. COPA acknowledges that some courts have stated that an officer need not wait for a gun to be pointed at them to defend themselves; however, these courts were not applying Department policy.<sup>154</sup> Additionally, other courts have recognized that officers may not shoot someone merely because they possess a firearm unless that person, through actions or words, threatens the officers with that firearm.<sup>155</sup> These rulings are consistent with the Department's directive that to be considered an imminent threat, a person's actions must be immediately likely to cause death or great bodily harm to the member or others unless action is taken. Moreover, an officer's perception of a threat must be objectively reasonable and based on the totality of the circumstances. COPA cannot conclude that standard has been met when the evidence shows ██████ was complying when he was shot.<sup>156</sup>

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<sup>148</sup> Stillman Transcript, p. 128, lines 6-19.

<sup>149</sup> Officer Stillman did order ██████ to "stop," but it is not clear that the order was intended to stop ██████ from turning in the officer's direction. See Attachment 23 at 2:04 Mark.

<sup>150</sup> Stillman Transcript, p. 93-94, lines 20-24, 1-3.

<sup>151</sup> Stillman Transcript, p. 109, line 2.

<sup>152</sup> ██████ looks back while fleeing were also equally consistent with someone looking back to see if he was being pursued.

<sup>153</sup> See, e.g., *Wealot v. Brooks*, 865 F.3d 1119 (8th Cir. 2017) (it is not reasonable to shoot a subject where there is evidence an officer should have known the subject discarded their firearm and is attempting to surrender).

<sup>154</sup> See, e.g., *Weinmann v. McClone*, 787 F.3d 444, 450 (7th Cir. 2015).

<sup>155</sup> See, e.g., *Weinmann v. McClone*, 787 F.3d 444, 450 (7th Cir. 2015); *Sledd v. Lindsay*, 102 F.3d 282, 288 (7th Cir. 1996); *Naselroad v. Mabry*, 763 Fed.Appx. 452, 460-61 (6th Cir. 2019); *Smith v. City of Milwaukee*, 2018 U.S. Dist. Lexis 64909 (E.D. Wis. 2018).

<sup>156</sup> To find otherwise would effectively sanction an officer's use of deadly force whenever a fleeing person, including a person believed to be armed, turns or looks in the officer's direction. COPA does not believe such a standard does or should exist.

Under the totality of these circumstances, [REDACTED] conduct did not rise to a level of threat justifying the use of deadly force under Department policy. This is particularly the case where the officer took no steps to reduce the need for use of force as required by that policy.

**iii. Officer Stillman's use of force was not a "last resort."**

For the reasons discussed above, COPA also finds Officer Stillman's use of deadly force was not a last resort. In fact, he took no other steps to minimize the need for the use of force.

**iv. Officer Stillman's use of force was not necessary or proportional.**

Lastly, the amount of force used by Officer Stillman was neither necessary nor proportional. Department members are to use only the force that is proportional to the threat, actions, and level of resistance offered by a subject. Department policy explains that as resistance is lowered, the level of force will be de-escalated immediately, if safety permits and the member remains in control.<sup>157</sup> [REDACTED] stopped and turned, without a weapon in his hand, when Officer Stillman fired.

For the reasons discussed above, COPA finds by a preponderance of the evidence that Officer Stillman's use of deadly force violated Department policy. Thus, Allegation 3 against Officer Stillman is **Sustained**.

**e. Officer Stillman acted inconsistently with his training when engaging in a foot pursuit by separating from his partner and failing to notify OEMC of the pursuit.**

A preponderance of the evidence shows that Officer Stillman acted inconsistently with his training when engaging in a foot pursuit. Department training documents note that no tactic can completely eliminate the possibility of a foot pursuit, but officers should try to use assistance from other units and other tactics. Here, there is no evidence that Officer Stillman considered other tactics despite his articulated suspicion that [REDACTED] and [REDACTED] might be a flight risk.<sup>158</sup> If officers believe a person may present a flight risk, they should consider waiting for backup. Officer Stillman said it appeared [REDACTED] and [REDACTED] saw the unmarked vehicle approach them and turned away. Upon stopping his vehicle close to [REDACTED] and [REDACTED] Officer Stillman stated he told them not to move and to show their hands, but they started moving away. There is no evidence Officer Stillman considered other tactics to eliminate the possibility of a foot pursuit.<sup>159</sup>

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<sup>157</sup> General Order G03-02-01(II)(F)(4).

<sup>158</sup> Officer Stillman turned off the headlights as he approached [REDACTED] and [REDACTED] apparently expecting they would flee and wanting to get closer. Stillman Transcript, p. 119, lines 18-19.

<sup>159</sup> United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, *Investigation of the Chicago Police Department*, January 13, 2017, at p. 5. ("[F]oot pursuits are [] inherently dangerous and present substantial risks to officers and the public. Officers may experience fatigue or an adrenaline rush that compromises their ability to control a suspect they capture, to fire their weapons accurately, and even to make sound judgments. Consequently, officers caught up in the heat of a pursuit 'often exhibit the tendency to rush into what can be described as 'the killing zone,' that is, within a 10-foot radius of the offender. The adrenaline rush also may make it more difficult for the officer to decrease the amount of force used as a threat diminishes.").



Another factor that officers are trained to consider is the number of subjects compared to the number of officers. Here, Officer Stillman engaged in the pursuit even though there were two subjects. Other units appeared to be available to assist and the officers had access to radio communications. Officer Stillman's statement strongly suggests [REDACTED] and [REDACTED] were not immediately aware of the officers' presence and there is nothing indicating they were running from the area when Officer Stillman first saw them. Indeed, he first saw them standing in the alley when he drove past, and they were in that same area when he turned his police vehicle around. When asked if he considered establishing a perimeter, Officer Stillman explained that since [REDACTED] had a firearm and was a danger to society, he believed it was his duty to pursue [REDACTED]. This view ignored his training on foot pursuits, escalated the situation, and put himself and his partner in harm's way. It also ignored an officer's professional duty, which is emphasized throughout the Department's training bulletin, to ensure the safety of all members of the public.

Additionally, Officer Stillman acted inconsistently with his training when he separated from Officer Gallegos. Department policy provides that officers should not separate from their partner absent exigent circumstances, and staying together is the responsibility of both officers. After Officer Stillman checked [REDACTED] waist for weapons, he told his partner to grab [REDACTED]. Officer Stillman stated that he believed [REDACTED] was a decoy. While [REDACTED] was fleeing, there was no evidence of exigent circumstances or that Officer Stillman continued to assess the risks in relation to his duty to enforce the law and apprehend the subject when he separated from his partner.

Finally, a preponderance of the evidence shows that Officer Stillman acted inconsistently with his training regarding notifications to OEMC during foot pursuits. Officer Stillman did not make any notifications about the foot pursuit to OEMC, despite the fact that Officer Stillman appeared to anticipate [REDACTED] and [REDACTED] would flee once police presence was shown. He chose to engage in a foot pursuit despite his training to assess the risks and did not communicate to OEMC, which would have allowed other units to assist.

COPA finds by a preponderance of the evidence that Officer Stillman acted inconsistently with his training on foot pursuits. Thus, Allegation 5 against Officer Stillman is **Sustained**.<sup>160</sup>

**f. Both officers failed to timely activate their body worn cameras.**

Officer Stillman activated his camera after he exited the police vehicle, engaged with [REDACTED] and began pursuing [REDACTED] down the alley, but before he discharged his firearm at [REDACTED]. Officer Stillman stated that he activated his BWC at the first moment he thought it was reasonably safe to do so, and that it was a quick incident from the time they were notified of the ShotSpotter alert. Officer Gallegos activated her camera after Officer Stillman shot [REDACTED] thus after she had

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<sup>160</sup> Cf. *Gafney v. City of Chicago*, 302 Ill. App. 3d. 41, (1998) (finding the city liable for an officer's failure to properly store a firearm and noting that "Officer Raymond Risley, chief of the Department's organized crime division, testified for the defense that officers could not be disciplined for failing to follow what they learned in training unless it involved violation of an articulated rule. He stated that the Department had no rules, general orders, or directives requiring officers to lock up their guns while at home, off duty. However, Chief Risley admitted that the Department did discipline officers for the way they handled guns at home, while off duty, under a Departmental Rule prohibiting 'inattention to duty.'").

detained [REDACTED] She could not remember if she tried to turn it on earlier and said she did not activate it while they were driving, as they were not assigned to the shots fired call and only went to the area to investigate if anyone was shot.<sup>161</sup> However, the moment when Officers Stillman and Gallegos exited their vehicle was already beyond the time when they were required to have activated their BWCs.

Initially, Officer Gallegos' statement that they were not assigned to the ShotSpotter call is incorrect. Officer Stillman radioed OEMC for the dispatcher to put them on the ShotSpotter call.<sup>162</sup> The OEMC Event Query then shows they were dispatched to the call by OEMC.<sup>163</sup> This dispatch triggered the requirement to activate their cameras. Responding to a ShotSpotter call is a law-enforcement-related activity. Moreover, responding to a scene where shots had been fired, knowing they would arrive within 90 seconds of the call, is certainly a "high risk situation," which should have alerted the officers of the need to activate their cameras.

Additionally, Officer Stillman acknowledged that they made the decision to stop [REDACTED] and [REDACTED] when they were driving north on Sawyer, and before they pulled into the alley. It was at this point that Officer Stillman turned off the lights so he would not alert [REDACTED] and [REDACTED] and prompt them to flee. At the very least, this moment triggered the requirement that the officers activate their cameras; they now intended to initiate an investigatory stop and, by their own admissions, they believed the subjects would flee. Each of these scenarios are enforcement activities explicitly referenced in the BWC order.

The officers' failure to comply with the BWC directive challenged COPA's ability to comprehensively collect objective evidence that corroborates their accounts of the incident. COPA has no audio of the initial moments of the encounter when the officers told COPA that they yelled verbal commands. Additionally, there is no audio of any discussions the two officers may have had en route, especially after Officer Stillman stated that he saw the two subjects in the alley, which might have supported Officer Stillman's statement as well as provided context for whatever plans they did or did not make about how to approach the situation.

For these reasons, COPA finds that both officers improperly failed to timely activate their BWC in violation of Special Order 03-14, and Allegation 5 against Officer Stillman and Allegation 3 against Officer Gallegos are **Sustained**.

## **VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

### **a. Officer Eric Stillman**

#### **i. Complimentary and Disciplinary History**

Officer Stillman has received on 2019 Crime Reduction Award, two Attendance Recognition Awards, one Department Commendation, four Emblems of Recognition- Physical

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<sup>161</sup> Gallegos Transcript, p. 39.

<sup>162</sup> Att. 26, Zone 10 Transmission, at 22:10.

<sup>163</sup> Att. 67, p. 1. While the report shows that Beat 1023 was initially dispatched, Officer Stillman and Gallegos, Beat 1065B, were also dispatched to the call.

Fitness, forty-three Honorable Mentions, one Military Service Award, one Special Commendation, one Superintendent's Award of Tactical Excellence, and one Unit Meritorious Performance Award. Officer Stillman has no prior disciplinary history.

## **ii. Recommended Penalty**

COPA's investigation resulted in sustained findings against Officer Stillman for discharging his firearm at or in the direction of [REDACTED] failing to properly activate his body-worn camera, and failing to follow his training with respect to foot pursuits. COPA gives significant weight to the fact that Officer Stillman used force that was not proportional to the actions of [REDACTED]. Officer Stillman commanded [REDACTED] to drop his gun and show his hands, which is what [REDACTED] was in the act of doing as Officer Stillman fired his weapon. Additionally, Officer Stillman initiated the foot pursuit of [REDACTED] which is inherently dangerous and any decision to engage in a foot pursuit must be giving proper consideration and ought to progress within the parameters of an officer's training. Here, COPA finds that Officer Stillman's decision to pursue [REDACTED] was against the weight of his training, and that such a departure from CPD's training was not reasonably justified by Officer Stillman or the circumstances of the encounter. In this instance, the death of [REDACTED] was the conclusion that flowed from Officer Stillman's decision to initiate a foot pursuit, and therefore, led to and is arguably, to some degree, indivisible from the unjustified use of deadly force against [REDACTED]. Accordingly, COPA recommends Separation from the Department.

## **b. Officer Corina Gallegos**

### **i. Complimentary and Disciplinary History**

Officer Gallegos has received on 2019 Crime Reduction Award, one Attendance Recognition Award, two Department Commendations, one Emblem of Recognition-Physical Fitness, forty-five Honorable Mentions, one Joint Operations Award and one Unit Meritorious Performance Award. Officer Gallegos has no disciplinary history.

### **ii. Recommended Penalty**

COPA has determined Officer Gallegos failed to properly activate her body-worn. Failure to comply with the department's policy for body-worn activation has affected COPA's ability to corroborated their statements as well as provide a better context for the decision to stop [REDACTED] and [REDACTED]. Accordingly, COPA recommends 5 days and up to 30 days suspension.

## **IX. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
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Officer Eric Stillman	1. Detaining and/or seizing [REDACTED] without justification;	Exonerated
	2. Detaining and/or seizing [REDACTED] without justification;	Not Sustained
	3. Discharging your firearm at or in the direction of [REDACTED] in violation of General order 03-02;	Sustained
	4. Used excessive force with respect to [REDACTED] in violation in General Order 03-02;	Not Sustained
	5. Acting inconsistently with your training under EBT#18-01, Foot Pursuits Training Bulletin; and	Sustained
	6. Failing to comply with S03-14 by failing to timely activate your body-worn camera.	Sustained
Officer Corina Gallegos	1. Detained and/or seized [REDACTED] without justification;	Exonerated
	2. Detained and/or seized [REDACTED] without justification; and	Not Sustained
	3. Failed to comply with S03-14 by failing to timely activate your body-worn camera.	Sustained

Approved:

[REDACTED]

4-12-2022

\_\_\_\_\_  
 Angela Hearts-Glass  
*Deputy Chief Investigator*

\_\_\_\_\_  
 Date

[REDACTED]

4-12-2022

\_\_\_\_\_  
 Andrea Kersten  
*Chief Administrator*

\_\_\_\_\_  
 Date