

## AMENDED SUMMARY REPORT OF INVESTIGATION

## I. EXECUTIVE SUMMARY

Date of Incident:	July 14, 2018
Time of Incident:	5:31 pm
Location of Incident:	2020 E. 71 <sup>st</sup> Street
Date of COPA Notification:	July 14, 2018
Time of COPA Notification:	6:23 pm

On July 14, 2018, at approximately 5:31 pm, Officer Megan Fleming, then Probationary Police Officers (PPO) Dillan Halley, Leon Coleman, and Danny Tan,<sup>12</sup> were on a directed foot-patrol mission in the area of 71<sup>st</sup> and Chappel Avenue. Also present in the area were Officer Quincy Jones who was on foot patrol and officers, Sergeant Jeffrey Aldrich and PO James Aimers, who were inside their marked police SUVs. PO Aimers was parked near the northeast corner of South 71<sup>st</sup> Street and Chappel Avenue.<sup>3</sup> Sergeant Aldrich was parked near the northeast corner of South 71<sup>st</sup> Street and Clyde Avenue.<sup>4</sup> While on foot patrol, as Officer Fleming, PPO Halley, and PPO Tan saw [REDACTED] walk past them they observed the outline of a handgun visible on his right hip under his shirt and part of a handgun holster visible below his shirt.

Officer Fleming, PPO Halley and PPO Tan alerted Officer Quincy Jones, who was standing near 2020 E. 71<sup>st</sup> Street and attempted to stop Mr. [REDACTED] as he passed. Initially, Mr. [REDACTED] continued to walk past Officer Jones down 71st Street but stopped a moment later as Officer Jones addressed him. Officer Jones motioned toward Mr. [REDACTED] right hip and explained that he wanted to know why Mr. [REDACTED] had a firearm. As Officer Jones questioned him about the gun, Mr. [REDACTED] pulled his wallet from his back pocket with his right hand and began to go through the wallet using both of his hands. Despite Mr. [REDACTED] cooperation with Officer Jones, Officer Fleming and PPO Tan, who were now standing with Mr. [REDACTED] and Officer Jones, attempted to grab Mr. [REDACTED] right arm to gain physical control of him. However, Mr. [REDACTED] pulled away from them, spun around, and moved into the street. As he moved into the street, Mr. [REDACTED] turned toward the officers on the sidewalk and appeared to grip the handle of his holstered firearm with his right hand. PPO Halley then discharged his firearm five times at Mr. [REDACTED] fatally striking him.

A crowd quickly gathered and became increasingly hostile towards the officers on the scene. Lieutenant Davina Ward, who responded to the officer-involved shooting, removed Officer Fleming and PPO Halley from the scene for safety and eventually transported them to Northwestern Memorial Hospital.

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<sup>1</sup> For purposes of the Summary Report, all officers will be referred to by the rank they had at the time of the incident.

<sup>2</sup> COPA notes that there was no Field Training Officer (FTO) specifically assigned to the four Probationary Officers involved in this incident, at the time it occurred. Since 2018, CPD has made significant changes to its FTO program with particular emphasis on ensuring proper supervision of probationary officers by their assigned FTOs.

<sup>3</sup> Chappel Avenue is located at approximately 2026 east at 71<sup>st</sup> Street.

<sup>4</sup> Clyde Avenue is located at approximately 2100 east at 71<sup>st</sup> Street.

Mr. [REDACTED] death lead to significant unrest in the immediate aftermath of the shooting, as well as throughout the summer of 2018. He was a well-regarded business owner of the South Shore community and many Chicagoans demanded answers as to how these events unfolded. Additionally, in accordance with the City's Video Release policy and concurrent public demand, COPA released 26 transparency records including relevant video, audio and other Chicago Police Department (Department) reports.<sup>5</sup> Perhaps however, what has been lost in the public discourse regarding this occurrence was the complex and nuanced interplay between Illinois' Concealed Carry Act and the Fourth Amendment. This reality is one that law enforcement officers must face frequently, and which requires thoughtful and careful analysis. COPA addresses this issue in its Department Recommendation at the conclusion of this report.

Based upon a full and thorough investigation of this matter, COPA concluded that officers lacked sufficient justification to stop Mr. [REDACTED] and make physical contact with him. COPA also found that officers were ineffective in their attempt to detain Mr. [REDACTED] and failed to properly activate their body-worn cameras. Finally, COPA concluded that PPO Halley's use of deadly force was consistent with Chicago Police Department policy.

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<sup>5</sup> Approximately one year after COPA's initial release of materials pursuant to the City's Video Release Policy in August 2018, COPA determined it had possession of two additional video files capturing this incident (CPD in-car camera footage and third-party camera footage). As of September 25, 2019, all materials subject to the Policy were released and remain publicly available at <https://www.chicagocopa.org/case/1090234/>.

**II. INVOLVED PARTIES**

Involved Officer #1:	Dillan Halley; Star #7341; Employee # [REDACTED]; Date of Appointment: August 16, 2017; Rank: Police Officer; Unit of Assignment: 044/003; DOB: [REDACTED] 1995; Gender: Male; Race: White.
Involved Officer #2:	Megan Fleming; Star #14875; Employee # [REDACTED]; Date of Appointment: October 26, 2015; Rank: Police Officer; Unit of Assignment: 003/714; DOB: [REDACTED] 1975; Gender: Female; Race: White.
Involved Officer #3:	Danny Tan; Star #10472; Employee # [REDACTED]; Date of Appointment: May 16, 2017; Rank: Police Officer; Unit of Assignment: 003; DOB: [REDACTED] 1990; Gender: Male; Race: Asian.
Involved Officer #4:	Quincy Jones; Star #9709; Employee # [REDACTED]; Date of Appointment: December 18, 2006; Rank: Police Officer; Unit of Assignment: 003; DOB: [REDACTED] 1978; Gender: Male; Race: Black.
Involved Officer #5:	Leon Coleman; Star #9483; Employee # [REDACTED]; Date of Appointment: August 16, 2017; Rank: Police Officer; Unit of Assignment: 002; DOB: [REDACTED] 1977; Gender: Male; Race: Black.
Involved Officer #6:	James Aimers; Star #18864; Employee # [REDACTED]; Date of Appointment: December 2, 2013; Rank: Field Training Officer; Unit of Assignment: 009; DOB: [REDACTED] 1984; Gender: Male; Race: White.
Involved Officer #7:	Jeffrey Aldrich; Star #1862; Employee # [REDACTED]; Date of Appointment: September 5, 1995; Rank: Sergeant; Unit of Assignment: 003; DOB: [REDACTED] 1970; Gender: Male; Race: White.
Involved Officer #8:	Davina Ward; Star #486; Employee # [REDACTED]; Date of Appointment: August 2, 1999; Rank: Lieutenant; Unit of Assignment: 003; DOB: [REDACTED] 1968; Gender: Female; Race: Black.
Involved Civilian #1	[REDACTED] DOB: [REDACTED] 1981; Gender: Male; Race: Black.

## III. ALLEGATIONS

Officer	Allegation	Findings
<b>Dillan Halley; Star #7341</b>	It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71 <sup>st</sup> Street, Chicago, Illinois that:	
	1. Officer Halley stopped [REDACTED] without justification.	Not Sustained
	2. Officer Halley had unjustified physical contact with [REDACTED]	Unfounded
	3. Officer Halley failed to activate his body-worn camera in a timely manner relative to a law-enforcement activity.	Sustained
<b>Megan Fleming; Star #14875</b>	It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71 <sup>st</sup> Street, Chicago, Illinois that:	
	1. Officer Fleming made physical contact with the person of [REDACTED] without justification.	Sustained
	2. Officer Fleming was ineffective in that she did not request to safely secure [REDACTED] firearm for the duration of the investigatory stop, as outlined in Special Order SO6-05-02.	Sustained
	3. Officer Fleming ineffectively attempted to detain [REDACTED]	Sustained
	4. Officer Fleming discussed the details of an officer involved shooting with another involved Department member, to contrary to General Order G03-02-03.	Sustained
	5. Officer Fleming failed to activate her body-worn camera prior to a law-enforcement related activity.	Sustained
	6. That Officer Fleming stopped [REDACTED] without justification.	Sustained
	7. Officer Fleming failed to activate her body-worn camera in a timely manner in violation of SO03-14.	Sustained

	<p>It is further alleged by the Civilian Office of Police Accountability that on August 14, 2018:</p> <p>8. Officer Fleming made false, misleading, inaccurate, and/or incomplete statements on August 14, 2018, to COPA Investigators that you did not discuss details of the shooting of [REDACTED] with Officer Dillan Halley after the shooting including statements to the effect of, "no, I didn't discuss details. I was comforting him;" and that when asked if, after exiting Lieutenant Ward's squad car, "did you guys discuss the details of the incident?" you responded, "Details, no."</p>	Not Sustained
<b>Danny Tan; Star #10472</b>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71<sup>st</sup> Street, Chicago, Illinois that:</p> <p>1. Officer Tan stopped [REDACTED] without justification.</p>	Sustained
	<p>2. Officer Tan had unjustified physical contact with [REDACTED]</p>	Not Sustained
	<p>3. Officer Tan failed to activate his Body-Worn Camera in a timely manner prior to a law-enforcement activity.</p>	Sustained
<b>Quincy Jones; Star #9709</b>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71<sup>st</sup> Street, Chicago, Illinois that:</p> <p>1. Officer Jones stopped [REDACTED] without justification.</p>	Sustained
	<p>2. Officer Jones had unjustified physical contact with [REDACTED]</p>	Unfounded
	<p>3. Officer Jones failed to activate his body-worn camera in a timely manner prior to a law-enforcement activity.</p>	Sustained
<b>Leon Coleman; Star #9483</b>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71<sup>st</sup> Street, Chicago, Illinois that:</p> <p>1. Officer Coleman stopped [REDACTED] without justification.</p>	Not Sustained

	<p>2. Officer Coleman had unjustified physical contact with [REDACTED]</p> <p>3. Officer Coleman failed to activate his body-worn camera in a timely manner relative to a law-enforcement activity.</p>	<p>Unfounded</p> <p>Sustained</p>
<p><b>James Aimers; Star #18864</b></p>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71st Street, Chicago, Illinois that:</p> <p>1. Officer Aimers stopped [REDACTED] without justification.</p> <p>2. Officer Aimers had unjustified physical contact with [REDACTED]</p> <p>3. Officer Aimers failed to activate his Body-Worn Camera in a timely manner relative to a law-enforcement activity.</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Sustained</p>
<p><b>Sergeant Jeffrey Aldrich; Star #1862</b></p>	<p>It is alleged by the Civilian Office of Police Accountability that:</p> <p>1. Sergeant Aldrich failed to ensure that Officer Halley remained separated from other Department members in accordance to General Order 03-02-03 (V)(D)(5).</p>	<p>Not Sustained</p>
<p><b>Lieutenant Davina Ward; Star #486</b></p>	<p>It is alleged by the Civilian Office of Police Accountability that:</p> <p>1. Lieutenant Ward failed to separate Officers Halley and Fleming, who were involved in an officer-involved shooting.</p> <p>2. Lieutenant Ward failed to ensure that Officers Halley and Fleming did not communicate with each other regarding the officer-involved shooting.</p>	<p>Sustained</p> <p>Sustained</p>

#### APPLICABLE RULES AND LAWS

##### Rules

1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.
2. Rule 14: Prohibits making a false report, written or oral

3. Rule 9: Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

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### General Orders

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1. General Order 03-02-03, Firearm Discharge Incidents – Authorized Use and Post-Discharge Administrative Procedures.

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### Special Orders

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1. SO03-14, Body Worn Cameras.
  2. SO6-05-02, Firearm Concealed Carry Act.
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## IV. INVESTIGATION<sup>6</sup>

### A. Interviews

#### 1) Statements of Department Members

##### a) Statements of Probationary Police Officer Dillan Halley

In a statement to COPA on August 14, 2018, **Probationary Police Officer (PPO) Dillan Halley**<sup>7</sup> said that on the day of this incident he was in full uniform and assigned to work with Officer Megan Fleming.<sup>8</sup> According to PPO Halley, he never had any contact with Mr. [REDACTED] prior to this incident. PPO Halley also explained that he was familiar with the incident location, adding that in daily briefings they had been told that the area had been designated as a Hot Spot.<sup>9</sup> PPO Halley stated that his understanding that an area is designated as a “Hot Spot” due to its high crime rate.

On the day of the incident, Sergeant Aldrich radioed Officer Fleming and PPO Halley instructing them to conduct a foot patrol in the area of 7100 S. Jeffrey Boulevard.<sup>10</sup> PPO Halley and Officer Fleming proceeded to the designated location and met PPO Tan, PPO Coleman, and Officer Jones. PPO Halley stated that it was the first time he had done a foot patrol.

PPO Halley stated that he and the other officers who were to conduct the foot patrol were standing near the northwest corner of 71<sup>st</sup> Street and Chappel when Mr. [REDACTED] walked past them.<sup>11</sup> PPO Halley said that he noticed the outline of a gun beneath Mr. [REDACTED] clothing near the right side of his

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

<sup>7</sup> Attachments 76, 77. This interview was conducted with PPO Halley as an involved officer, but was not facing any allegations of misconduct at the time of the interview.

<sup>8</sup> Officer Fleming was not a Field Training Officer (FTO). There was no FTO assigned to this group of PPOs.

<sup>9</sup> A “Hot Spot” is an area designated by the Department as high crime locality. See statement of Officer Megan Fleming below.

<sup>10</sup> Jeffrey Boulevard is located at approximately 2000 east at 71<sup>st</sup> Street.

<sup>11</sup> Chappel Avenue is located at approximately 2026 east at 71<sup>st</sup> Street. See fn 1 above.

waist. Officer Jones and PPO Coleman stood at the corner of 71<sup>st</sup> and Chappel as Mr. [REDACTED] approached. PPO Halley pointed to Mr. [REDACTED] right side to alert Officer Jones that Mr. [REDACTED] was armed.<sup>12</sup> Officer Fleming, PPOs Halley and Tan walked about 10-15 feet behind Mr. [REDACTED] after Mr. [REDACTED] passed them at the corner. PPO Halley did not assume that Mr. [REDACTED] was carrying the firearm illegally. PPO Halley heard an officer speak to Mr. [REDACTED] but he did not know who spoke or what was said. He stated that while he heard no one say anything about Mr. [REDACTED] or the gun, he noticed the other officers focused their attention on the weapon underneath his clothing. Officer Jones was facing Mr. [REDACTED] and pointed to Mr. [REDACTED] right side. Mr. [REDACTED] took a step backward and just looked at Officer Jones.<sup>13</sup> PPO Halley did not hear the content of their discussion.

As PPO Halley continued to walk toward Mr. [REDACTED] he saw Officer Fleming try to control Mr. [REDACTED] hand by grabbing his right wrist. PPO Halley then described what he perceived as an attack by Mr. [REDACTED] on Officer Fleming in which Mr. [REDACTED] spun around and pushed Officer Fleming away from him. According to PPO Halley, Mr. [REDACTED] then backed into an unoccupied police vehicle parked along the curb and began to move into the street between that vehicle and another parked car, placing his right hand on his firearm.<sup>14</sup>

PPO Halley stated that he could clearly see the holstered handgun on the right side of Mr. [REDACTED] waist. He explained that Mr. [REDACTED] grabbed the gun with his right hand and appeared to pull it upwards, as if he were pulling the weapon from its holster. When he saw Mr. [REDACTED] reach for his weapon, PPO Halley unholstered his own firearm.<sup>15</sup> Mr. [REDACTED] then turned and faced PPO Halley, who, believing that Mr. [REDACTED] had pulled the handgun from its holster, "because of how high he had his weapon coming up,"<sup>16</sup> discharged his firearm five times in rapid succession at Mr. [REDACTED]

PPO Halley said that Mr. [REDACTED] was not moving away from him when he fired his weapon, stating:

I was watching him. Then he stops, and he turned around and faced me and pulled his weapon out. At this point, I believe his weapon was out of the holster making a motion towards myself and my other partners, so that is when I discharge the weapon.<sup>17</sup>

He said he ceased fire when Mr. [REDACTED] fell to the pavement and PPO Halley determined he was no longer a threat. PPO Halley stated that he was about 15 feet from Mr. [REDACTED] when he fired at him.<sup>18</sup>

PPO Halley said that he radioed dispatch to report the shooting immediately after Mr. [REDACTED] fell to the pavement. As a crowd gathered, several people pointed PPO Halley out and began to yell at him. Concerned for their safety, Lieutenant Davina Ward transported Officer Fleming and PPO Halley from the scene to Northwestern Memorial Hospital where they remained for several hours before going to

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<sup>12</sup> Attachment 77; Page 31, Lines 12-15.

<sup>13</sup> Attachment 77; Page 34, Lines 14-16.

<sup>14</sup> Attachment 77; Page 42, Lines 8-9.

<sup>15</sup> Attachment 77; Page 44, Lines 12-17.

<sup>16</sup> Attachment 77; Page 46, Lines 3-5.

<sup>17</sup> Attachment 77; Page 60, Lines 12-17.

<sup>18</sup> Attachment 77; Page 46, Line 24.



Area South Police Headquarters. PPO Halley stated that he never returned to the incident location and that he never participated in a walk-through of the incident.

PPO Halley recalled Academy training he received on interacting with someone carrying a concealed weapon. PPO Halley said that at the Academy he was taught that an individual carrying a concealed weapon must advise officers of that fact and should not reach for the weapon. The individual must also show officers credentials indicating that s/he is permitted to carry the concealed weapon.

In a **second statement to COPA investigators on April 3, 2020**, PPO Halley reaffirmed that his earlier statement given to COPA investigators was true and accurate and that he did not want to change anything in or add anything to his previous statement.<sup>19,20</sup> He said that he and the other officers stopped Mr. [REDACTED] after seeing a holstered handgun on his right hip. PPO Halley said that Officer Jones stopped and spoke to Mr. [REDACTED] while pointing to the gun on Mr. [REDACTED] hip. PPO Halley indicated that he did not speak with Mr. [REDACTED] and denied having made any physical contact with Mr. [REDACTED]

In his second statement, PPO Halley also stated that he activated his body-worn camera (BWC) when it was safe for him to do so, explaining that it was when he no longer perceived a threat to his life or the lives of the other officers. PPO Halley estimated that approximately 30 seconds elapsed from the moment he saw the gun on Mr. [REDACTED] hip until the moment he stopped firing his weapon.

#### **b) Statements of Officer Megan Fleming**

In her August 14, 2018 statement to COPA investigators, **Officer Megan Fleming** said that on the day of this incident she was assigned to work Beat 332 with PPO Halley.<sup>21</sup> Officer Fleming and PPO Halley were in full uniform as they conducted a foot-patrol mission near 71<sup>st</sup> Street and Jeffrey Boulevard with PPO Tan, PPO Coleman, Officer Jones, and PO Aimers. Officer Fleming was familiar with the area as a high-crime location, explaining its designation as a Hot Spot. Officer Fleming said that she had previously encountered people with guns during a traffic stop in the area.

Officer Fleming and PPO Halley were standing on the north sidewalk of 71<sup>st</sup> Street, on the corner of Chappell Avenue when she first observed Mr. [REDACTED] as he walked west on the sidewalk directly in front of her. He was wearing baggy jeans and a fitted t-shirt, and she immediately saw the outline of a handgun underneath his shirt on the right side of his waist, with the butt, grip, and holster clearly discernable under his t-shirt.

Officer Fleming attempted to direct Officer Jones' attention, who was ahead of them on 71<sup>st</sup> Street, to Mr. [REDACTED] and the handgun by mouthing the word "gun" and pointing at the right side of Mr. [REDACTED] waist.<sup>22,23</sup> Mr. [REDACTED] was walking toward Officer Jones, who was approximately two storefronts to the west of their location. Officer Fleming did not recall having any conversation with any other officers at that time, nor did she converse with Mr. [REDACTED]

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<sup>19</sup> Halley made his first statement to COPA investigators on August 14, 2018

<sup>20</sup> Attachments 131, 134. COPA conducted a second interview of PPO Halley to serve and address Allegations 1-3.

<sup>21</sup> Attachments 51, 80, 185, 186. Officer Fleming had been served with Allegations 1-5 prior to the interview.

<sup>22</sup> Statement of Officer Fleming; P. 18, L. 19.

<sup>23</sup> Attachment 80; Page 18, Lines 16-19.

Officer Fleming, and PPOs Coleman, Halley and Tan followed Mr. [REDACTED] as he approached Officer Jones' location. Officer Jones stepped in front of Mr. [REDACTED] and spoke to him as Officer Fleming positioned herself to Mr. [REDACTED] right. She did not hear what Officer Jones said but explained that Officer Jones used a very authoritative voice while giving commands to Mr. [REDACTED] who became evasive, angling the right side of his body away from Officer Jones. As Mr. [REDACTED] moved his body in a clockwise direction, Officer Fleming grabbed his right wrist with her right hand. She explained that she grabbed Mr. [REDACTED] right wrist area to prevent him from grasping the handgun holstered on the right side of his waist, as she said it appeared to her that his hand was moving towards the weapon. Officer Fleming stated:

For the safety of myself, the officers, and everyone around us. I went to detain his right arm because to me it appeared, as an officer, that he's going to -- and he was going -- moving towards-- his hand towards his weapon at that point.<sup>24</sup>

She further stated that she did not see Mr. [REDACTED] produce any kind of identification.

Officer Fleming added that she did not pull her firearm from its holster because she wanted to control Mr. [REDACTED] hand. When she took hold of Mr. [REDACTED] hand just above his right wrist, he pushed her arm away with his left hand, freeing him from her grip. Officer Fleming said that when she took hold of Mr. [REDACTED] wrist area, he "proceeded to attack me. He took his left hand and he scratched me from my elbow down to my wrist. At that point, then, it was very sweaty. He ended up getting away from me."<sup>25</sup>

As Officer Fleming described the encounter, Mr. [REDACTED] then spun around and moved between two parked vehicles into the street. Officer Fleming said that Mr. [REDACTED] had his hand on his handgun as he moved into the street. As she explained: "He's got his hand on the -- well, right here by the butt of his gun on the -- on the handle. And he's pulling in an upward motion."<sup>26</sup> According to Officer Fleming, Mr. [REDACTED] then moved towards the middle of the street, turning back toward the officers. Officer Fleming then heard approximately four gunshots and immediately took cover. She stated that at the time she did not know who was shooting but feared Mr. [REDACTED] was shooting at them.

Officer Fleming stated that after the shooting stopped, she drew her weapon and stood up. She saw Mr. [REDACTED] laying in the middle of the street and numerous civilians approaching them from all directions. As the crowd grew, the civilians became angrier and more hostile toward the officers. People in the crowd were screaming at the officers and the scene became very loud and chaotic. Officer Fleming stated that she had no conversation with any of the civilians other than to tell people to stay back and not to enter the crime scene.

Officer Fleming activated her BWC when the incident was nearly over. She explained the delay in activating her camera, saying "when the incident took place, I was more concerned for the safety of myself, my partner, and every civilian out there."<sup>27</sup>

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<sup>24</sup> Attachment 80; P. 22, Lines 17-22.

<sup>25</sup> *Id*; P. 21, L. 23-24 to P. 22, Lines 1-2.

<sup>26</sup> *Id*; P. 47, L. 17-19.

<sup>27</sup> *Id*; P. 11, L. 18-20.

Officer Fleming said that she first saw Mr. [REDACTED] firearm when Officer Jones was talking to him. She termed Officer Jones' action an investigatory stop, "to make sure that he has all the credentials."<sup>28</sup> She said that she did not consider whether the gun was legal or whether Mr. [REDACTED] had a legal right to carry it. Her priority was to ensure everyone was safe. After the officers accomplished that and the scene was safe, they would have a conversation with Mr. [REDACTED] about whether he was authorized to carry the firearm. Officer Fleming said that she was trained to ask people if they have a concealed carry permit and where the permit is, then to secure the firearm to safely detain the person and establish whether they have proper credentials. Officer Fleming estimated that she had made between 10 and 15 investigatory stops involving concealed carry licensees, between 10 and 12 of which occurred during foot patrols. She acknowledged that she normally gives verbal direction to a potential concealed carry licensee but did not do so in this case. Officer Fleming repeatedly referred to Officer Jones as being the "verbal officer" to explain why she did not feel obligated to provide verbal direction to Mr. [REDACTED] but also acknowledged that she did not know what, if anything, Officer Jones said to Mr. [REDACTED] and that she made assumptions about this.

Officer Fleming said that her BWC captured her describing to another officer something like "he scratched me, he attacked me." She did not recall discussing anything else about the incident with any other member at the scene.<sup>29</sup> Officer Fleming initially said that she did not recall discussing details of the incident - other than describing her victimization and her attempt to comfort PPO Halley. When COPA investigators played footage from her body worn camera, Officer Fleming indicated that it was the first time she had seen the video in its entirety.

Turning her attention to approximately 1:30 of PPO Halley's video, which captures Officer Fleming's interaction with Officer Halley after the shooting, COPA investigators asked Officer Fleming the following question and she gave the following answer:

Q: Did you discuss details in that conversation?

A: Details? It was a very high stress – no, I didn't discuss details. I was comforting him.<sup>30</sup>

She then described Lieutenant Davina Ward taking PPO Halley and her from the scene because the crowd was hostile toward them. She stated that they departed in an effort to de-escalate the situation. COPA investigators then directed Officer Fleming's attention to PPO Halley's BWC at the 6:50 minute mark<sup>31</sup> - just after she and PPO Halley exited Lieutenant Ward's squad car. Officer Fleming began by saying that she now recalled her conversation with PPO Halley. COPA investigators asked Officer Fleming the following questions and she gave the following answers:

Q: Did you guys discuss the details of the incident?

A: Details, no.

Q: Okay. What do you believe that conversation –

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<sup>28</sup> *Id.* p. 44, L 2-7.

<sup>29</sup> *Id.* P. 29, L. 4-15.

<sup>30</sup> *Id.* p. 63, L. 8-11.

<sup>31</sup> See Atts. 7 & 29; Summarized in detail on page 21 of this Summary Report of Investigation.

A: It was to comfort him and to comfort me.<sup>32</sup>

In explaining the content of the video, Officer Fleming later said “. . . with the details of being discussed that we - when we just saw the video, I did not discuss the details. I was trying to comfort my partner, and he was trying to comfort me, because I was a victim and he saved my life.”<sup>33</sup> Officer Fleming was scratched on her right arm by Mr. [REDACTED] as he used his left hand to shove her away from him.<sup>34</sup> She refused medical attention.

Officer Fleming activated her BWC after the shooting ended, explaining that the incident unfolded so fast and as she was concerned with everyone’s safety first, she was unable to activate it sooner. She indicated a belief that the BWC directive only requires their activation of the camera when it is safe to do so and that she did not think it was safe to activate it any sooner in this situation.

In a **second statement to COPA investigators on June 10, 2020, Officer Fleming** reaffirmed that her earlier statement to COPA investigators was true and accurate and that she did not want to change anything or add to her previous statement.<sup>35</sup>

When questioned specifically regarding the conduct indicated in Allegation #6 - that she stopped Mr. [REDACTED] without justification, Officer Fleming said that the officers stopped him because she saw him with a weapon.<sup>36</sup> She stated that she had to stop him because she’s a police officer and he had a weapon. She and the other officers intended to conduct an investigatory stop of Mr. [REDACTED] to determine why he had a firearm and to ensure that he was legally authorized to carry the firearm. When asked directly if she stopped him without justification as alleged, Officer Fleming responded: “We had to do our job...we’re police officers. We’re put there to keep the citizens safe. You see a man with a gun, you have to investigate.”<sup>37</sup>

When asked about the conduct indicated in Allegation #7 - that she failed to activate her BWC in a timely manner in violation of SO03-14, Officer Fleming explained that she could not recall when she activated her BWC but added that she activated it when she believed it was safe to do so.<sup>38</sup>

When asked about the conduct indicated in Allegation #8 - that she made false, misleading, inaccurate, and/or incomplete statements to COPA investigators, Officer Fleming again expressed her belief that she and PPO Halley did not discuss details of the shooting. In her first COPA interview, she said that she had not discussed details of the shooting because she understood the question to be an inquiry into whether she and PPO Halley spoke about specific details of the incident - *i.e.*, why they encountered Mr. [REDACTED] what the officers had done, what Mr. [REDACTED] had done, etc. She said the conversations

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<sup>32</sup> Att. 80. p. 65, L 24-p. 66 L 5.

<sup>33</sup> *Id.* p. 70, L 16-20.

<sup>34</sup> Att. 80. p 21, L 23-p. 22 L 8. Evidence Technician photos were taken of Officer Fleming’s injury. See Attachment 60.

<sup>35</sup> Attachments 138, 140. COPA investigators conducted the second interview to address Allegations 6-8.

<sup>36</sup> See Section VII, Legal Analysis below in which COPA analyzes Officer Fleming’s stop of Mr. [REDACTED] without justification.

<sup>37</sup> Att. 140. P. 40 L.21-p.22 L 1.

<sup>38</sup> See Section VII, Legal Analysis below in which COPA analyzes Officer Fleming’s failure to activate her Body-Worn Camera in a timely manner in violation SO03-14.

with PPO Halley were only an attempt to comfort him, which she did not consider as discussion of specific details of the incident. Officer Fleming explained that the incident was extremely shocking and traumatic, and that PPO Halley was visibly upset - shaking and crying, and she thought he might vomit. She added that she and PPO Halley did not attempt to put together a story of what happened, and she did not try to influence PPO Halley's account of the incident.

Officer Fleming added that she only spoke of specific details of the incident when she responded to Lieutenant Ward's questions when they left the scene in her vehicle. She told Lieutenant Ward that she and the other officers attempted to conduct an investigatory stop after Mr. [REDACTED] walked past them with a gun. Officer Fleming did not recall PPO Halley taking part in this conversation. She said that later, she and PPO Halley were taken to Northwestern Memorial Hospital by ambulance but could not recall whether Lieutenant Ward accompanied them. Officer Fleming recalls that while she and PPO Halley were in the ambulance, she tried to calm him down.

### c) Statements of Probationary Police Officer Danny Tan

In his **statement to COPA on August 3, 2018**, PPO Tan said that on the day of the incident he was assigned to work with PO James Aimers.<sup>39</sup> Approximately 30 minutes prior to the incident they were directed to conduct a foot-patrol along 71<sup>st</sup> Street. Together they met with Officer Fleming, Officer Jones, PPO Coleman, and PPO Halley to conduct the foot-patrol as a group. PO Aimers remained in their police vehicle parked at the corner of 71<sup>st</sup> and Jeffrey Boulevard with its emergency equipment activated while the other officers walked along the sidewalk on the north side of 71<sup>st</sup> Street.

The officers were standing on the sidewalk on the north side of 71<sup>st</sup> Street when Mr. [REDACTED] walked west past them. As Mr. [REDACTED] passed them, PPO Tan saw a holstered handgun on the right side of Mr. [REDACTED] waist. PPO Tan whispered to Officer Fleming that Mr. [REDACTED] had a gun. Officer Fleming nodded and pointed to Mr. [REDACTED] right side, indicating that she was aware he had a weapon. Mr. [REDACTED] continued to walk toward Officer Jones, who was standing two or three storefronts to the west of them on 71<sup>st</sup> Street. To alert Officer Jones that Mr. [REDACTED] had a firearm, PPO Tan nodded his head while simultaneously pointing to his own firearm and to Mr. [REDACTED]. Officer Jones then stepped in front of Mr. [REDACTED] and engaged him in conversation as PPO Tan and the other officers surrounded Mr. [REDACTED].

PPO Tan could not recall exactly what was said, but believes that Officer Jones asked Mr. [REDACTED] "why you have a gun?" to which he replied "why you stopping me?"<sup>40</sup> PPO Tan said that Officer Jones then asked Mr. [REDACTED] for identification and he pulled his wallet from his back pocket. PPO Tan said that as Mr. [REDACTED] surrounded by the officers, pulled out his wallet he was flailing his arms.<sup>41</sup> PPO Tan said that as Officer Jones told Mr. [REDACTED] that it appeared that he had a handgun and pointed to Mr. [REDACTED] right side, Mr. [REDACTED] stepped back and angled the right side of his body away from Officer Jones.

PPO Tan said that he saw Officer Fleming trying to control Mr. [REDACTED] arm as Mr. [REDACTED] continued to move in an evasive manner, so he too tried to grab it. According to PPO Tan, Mr. [REDACTED] then flailed his arm again and appeared to reach for the gun on the right side of his waist. PPO Tan indicated that he took hold of Mr. [REDACTED] arm because the officers intended to take the gun from

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<sup>39</sup> Attachments 30, 47, 82.

<sup>40</sup> Tan Statement, p. 17, L 17-21.

<sup>41</sup> *Id.*, p. 20, L 7-8.

Mr. [REDACTED] to investigate further.<sup>42</sup> PPO Tan said that he and Officer Fleming grabbed Mr. [REDACTED] right arm to prevent him from gripping the handgun holstered on his right hip. As they did so, Mr. [REDACTED] flailed his arms, spun around and broke free from them, running toward the street while grabbing the gun on his hip. PPO Tan said that he saw Officer Jones pull his firearm from its holster, and that he then also unholstered his own firearm. Mr. [REDACTED] ran between parked cars and out into the street, at which time PPO Tan heard 4 to 6 gunshots and immediately took cover behind a parked vehicle. When the gunshots stopped, PPO Tan rose and saw Mr. [REDACTED] laying in the street. PO Aimers handcuffed Mr. [REDACTED] while Officer Jones secured Mr. [REDACTED] handgun. PPO Tan stated that he did not see who was shooting at the time of the incident.

In a **second statement to COPA investigators on March 12, 2020**, PPO Tan indicated that he had reviewed his prior statement and reaffirmed that his earlier statement to COPA investigators was true and accurate.<sup>43,44</sup> He then said that on the day of the incident he saw Mr. [REDACTED] with a holster on his right hip and the handle of a gun. PPO Tan also stated that Mr. [REDACTED] was stopped so that PPO Tan and the other officers could investigate why he was armed. PPO Tan further stated that Mr. [REDACTED] was not compliant because when Officer Jones pointed to Mr. [REDACTED] weapon, he backed away and pulled out his wallet. PPO Tan said that he grabbed [REDACTED] arm to secure the weapon in order to complete the investigation and because Mr. [REDACTED] was trying to walk away from the officers. As Officer Jones spoke with Mr. [REDACTED] PPO Tan saw Officer Fleming take Mr. [REDACTED] right arm; believing that Mr. [REDACTED] was about to draw his handgun from its holster, PPO Tan grabbed Mr. [REDACTED] with his left hand near Mr. [REDACTED] right bicep. As he did so, Mr. [REDACTED] flailed his arms, spun his body around, and broke free of the officers' grips. PPO Tan stated that he did not have any other physical contact with Mr. [REDACTED]. He further stated that he found it suspicious that Mr. [REDACTED] turned his body away from Officer Jones while retrieving his wallet because a normal person carrying a concealed weapon would immediately advise the officers.

PPO Tan also said that he activated his BWC after the shooting; he did not activate it sooner because he was focused on Mr. [REDACTED] and his gun. PPO Tan indicated that he was concerned for the safety of everyone in the area and that he activated his camera when he thought it was safe to do so.

#### **d) Statements of Police Officer Quincy Jones**

In his **statement to COPA on July 25, 2018**, Officer Quincy Jones said that on the day of the incident he and his partner, PPO Leon Coleman were both in full uniform.<sup>45</sup> They were part of a group of officers directed to conduct a foot-patrol on 71<sup>st</sup> Street. Officer Jones stated that he dropped PPO Coleman at 7100 S. Paxton Avenue and that Coleman and several other PPOs were instructed to walk from 7100 S. Paxton to 7100 S. Jeffrey Avenue.<sup>46</sup> Officer Jones further stated that as the other officers conducted the foot-patrol, he parked his police vehicle in front of the Jeffrey Submarine Restaurant and went inside the restaurant to conduct a "premises check."<sup>47</sup>

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<sup>42</sup> *Id.* p. 47, L 23-24.

<sup>43</sup> PPO Tan completed his probationary training period prior to his second statement to COPA investigators.

<sup>44</sup> Attachments 113, 127. COPA conducted a second interview to serve and address Allegations 1-3.

<sup>45</sup> Attachments 26-28, 84.

<sup>46</sup> Paxton Avenue is located at approximately 2200 east at 71<sup>st</sup> Street.

<sup>47</sup> The Jeffrey Submarine Restaurant is located at 2020 E. 71<sup>st</sup> Street.

Officer Jones was standing outside the restaurant talking with the restaurant's security guard when he heard Officer Fleming and PPO Tan, who were near the intersection of 7100 S. Chappel Avenue (approximately 2026 E. 71<sup>st</sup> Street), calling his name while simultaneously pointing at Mr. [REDACTED] who was walking toward him.<sup>48</sup> Initially, Officer Jones increased the volume on his police radio because he thought he missed a radio transmission, but he did not hear any relevant radio transmissions. Officer Jones stepped toward Mr. [REDACTED] to stop him but got out of his way because initially he did not know why the other Officers were directing his attention to Mr. [REDACTED]. Officer Jones stated that as Mr. [REDACTED] walked past him, he saw a bulge under the right side of Mr. [REDACTED] shirt and a black holster on his right hip. Officer Jones stated further that he pulled his firearm from its holster and kept it in a low-ready position because he saw that Mr. [REDACTED] had a gun. He said, "come here" to Mr. [REDACTED] but was ignored.<sup>49</sup> Officer Jones then said, "Sir, I need you to come here."<sup>50</sup> Mr. [REDACTED] then stopped and asked, "What's -- what's going on?" Officer Jones said "I see you have that gun on your side. I need to know why you have it."<sup>51</sup> Officer Jones then reached out with his left hand to indicate to Mr. [REDACTED] that he knew he had a gun on his hip. Mr. [REDACTED] leaned back as if he did not want Officer Jones to touch him and again asked, "What's going on? What's the problem now?"<sup>52</sup> Officer Jones replied, "Well, you have that gun. You see -- that's why you see all these officers around. We need to know why you have that gun on you."<sup>53</sup> Without saying anything further, Mr. [REDACTED] began to retrieve his wallet, though Officer Jones had not asked him whether he was authorized to carry a concealed weapon.

As Mr. [REDACTED] attempted to produce his wallet, Officer Fleming grabbed his right arm. Officer Jones indicated that Mr. [REDACTED] immediately slapped Officer Fleming's hand away. Officer Fleming and PPO Tan then grabbed Mr. [REDACTED] to gain control of him, but he pulled away from them, spun around, and moved into the street where PO Aimers, traveling west on 71<sup>st</sup> Street, arrived in his police vehicle and cut Mr. [REDACTED] off. Officer Jones said that he saw Mr. [REDACTED] grabbing at his side as if he was grabbing for the holstered firearm and began backing up, moving east on 71<sup>st</sup> Street. Officer Jones said that Mr. [REDACTED] then began to turn around with his back to Officer Jones when he heard several gunshots. Officer Jones stated that at the moment of the shooting he did not know who was firing.

When the shooting stopped, Officer Jones ran around a parked vehicle and into the street where he saw Mr. [REDACTED] lying in the street. He removed Mr. [REDACTED] handgun from the holster on his hip and held onto it. He also directed the other officers to keep the civilians away from the immediate area.

Officer Jones said that his purpose in stopping Mr. [REDACTED] was to determine if he possessed a concealed-carry permit. Officer Jones said that he received training regarding concealed carry requirements during roll call. The training consisted of legal requirements for identification and an officer's authority to demand that subjects turn the firearm over during investigations. Additionally, Officer Jones advised that he was taught to use "verbal judo" to de-escalate a confrontation when approaching someone with a concealed firearm. Officer Jones, who still had his firearm in the low

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<sup>48</sup> NKA [REDACTED]

<sup>49</sup> Statement of Officer Quincy Jones; P. 18, L. 2.

<sup>50</sup> *Id*; P. 18, L. 7-8.

<sup>51</sup> *Id*; P. 18, L. 16-17.

<sup>52</sup> *Id*; P. 18, L. 23-24.

<sup>53</sup> *Id*; Page 18, Lines. 24 – Page 19, Line 3.

ready position at the time of the shooting, said that he did not fire his weapon because he did not have an unobstructed view of Mr. [REDACTED]

In a second statement to COPA on March 12, 2020, Officer Jones indicated that he had reviewed his prior statement to COPA investigators and reaffirmed that the earlier statement was a true and accurate account of this incident.<sup>54</sup> Officer Jones further indicated that he did not wish to make any additions or corrections to the first statement. He restated that when he first stepped in front of Mr. [REDACTED] he neither said anything to nor try to stop him. He indicated that he was unsure if Mr. [REDACTED] even acknowledged or looked at him at the time. After Mr. [REDACTED] walked past him, Officer Jones gave Mr. [REDACTED] a verbal direction to “come here” but Mr. [REDACTED] did not acknowledge that he heard Officer Jones and kept walking. Officer Jones stated that he then unholstered his own firearm and told Mr. [REDACTED] again to stop and he complied.

Officer Jones said that Mr. [REDACTED] was not cooperative during the stop. When Officer Jones asked Mr. [REDACTED] why he had a gun, he pulled out his wallet. Officer Jones stated that he believes Mr. [REDACTED] was attempting to hand the wallet to him. Officer Jones denied having any physical contact with Mr. [REDACTED] adding that he never attempted to grab him. Officer Jones further stated that due to the rapidity of events, his concern for his own safety and that of others in the vicinity, and Mr. [REDACTED] uncooperative behavior, he did not have an opportunity to activate his BWC until after the shooting stopped.

When asked to address Allegation 1, (that he stopped Mr. [REDACTED] without justification), Officer Jones stated that his purpose in stopping Mr. [REDACTED] was to “see that he - that he actually have [sic] a concealed carry, and a FOID card because it wasn’t - his weapon wasn’t concealed. It was, like, we clearly see it when he walked past.” He said that it was a “red flag” because Mr. [REDACTED] didn’t stop when directed to do so and normally when an officer pulls someone over there is more of a dialogue about the concealed firearm, but Mr. [REDACTED] just pulled out his wallet. Officer Jones additionally indicated that when he pointed at Mr. [REDACTED] weapon it was to let him know that he was aware of the weapon, Mr. [REDACTED] pulled back as if he did not want Officer Jones to touch the gun.

#### e) Statements of Probationary Police Officer Leon Coleman

In a statement to COPA on August 3, 2018, PPO Leon Coleman indicated that on the day of the incident he was on-duty, in full uniform, and assigned to work Beat 333 with Officer Quincy Jones.<sup>55,56</sup> He and Officer Jones were directed to conduct a foot-patrol on 71<sup>st</sup> Street, from Paxton Avenue (2200 East) west to Jeffrey Avenue (2000 East). PPO Coleman said that as he stood on the sidewalk with his back facing the storefronts on 71<sup>st</sup> Street, Officer Jones stood in front of another store to PPO Coleman’s west speaking to a security officer. The remaining officers were east of PPO Coleman’s location when Mr. [REDACTED] walked past him. PPO Coleman said that he did not pay a lot of attention to Mr. [REDACTED] as he walked past, but the officers following Mr. [REDACTED] did draw his attention. PPO Coleman said he was about 20-30 feet away from Officer Jones when he saw him turn around and walk toward Mr. [REDACTED] PPO Coleman said that he then saw Officer Jones put his hand on his firearm as if he intended to pull it from its holster, but he did not see whether Officer Jones actually withdrew the firearm from its holster. PPO Coleman then looked at Mr. [REDACTED] and saw a firearm

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<sup>54</sup> Attachments 117, 128. COPA conducted the second interview to serve and address Allegations 1-3.

<sup>55</sup> Attachments 31, 49, 83, 184

<sup>56</sup> Officer Coleman completed his probationary training period prior to his second statement to COPA investigators.



holster under his shirt on the right side of his body. He said that he then thought “oh, now I understand what’s going on. He has a gun.” “So that’s when I realize, okay, they [sic] trying to stop him because he has a gun.”<sup>57</sup>

PPO Coleman explained that Mr. ██████ appeared to show Officer Jones his identification, which was inside a wallet on the right side of his body. He added:

So, when I saw that, my guard dropped a little bit. I’m like, okay, he’s being compliant. He’s trying to show us some identification or something. So - but, after that, I believe I seen [sic] Fleming try to grab him like, they tried to take control of him so they can - I guess to secure the weapon or just to make sure we were safe so we can investigate further.<sup>58</sup>

PPO Coleman stated that he heard no conversation between Mr. ██████ and the other officers. He indicated that Officer Fleming tried to take Mr. ██████ right arm, at which time he pulled away, ran into the street and turned around. PPO Coleman said that he believed Officer Fleming went to take his right arm as a precautionary measure, to prevent him from grabbing the gun on his right hip. He further stated that as Mr. ██████ turned around, “I saw his hand go on his gun trying to pull it out. . . I was thinking he’s going to pull it out.”<sup>59,60</sup> PPO Coleman said he then heard gunshots, but did not know who was shooting. When he heard the shots, PPO Coleman immediately took cover behind a police vehicle parked along the curb.

He further stated that when the shooting stopped, he got up and saw Mr. ██████ laying in the street. Officer Jones was holding Mr. ██████ weapon while PO Aimers handcuffed him. PPO Coleman stated that he also saw at least one ammunition magazine laying on the street near Mr. ██████. As numerous citizens approached, the officers ordered them to stay back. Some of them were angry and claimed that Mr. ██████ was unarmed.

In a **second statement to COPA on April 3, 2020, PPO Leon Coleman** reaffirmed the accuracy of his earlier statement to COPA investigators and indicated that he did not want to change anything in or add anything to that prior statement.<sup>61</sup> In his second statement to COPA investigators, PPO Coleman again indicated that on the day of the incident he and the other involved officers stopped Mr. ██████ because he was in possession of a handgun. He explained that as Mr. ██████ walked past him, he saw a handgun holster sticking out from the bottom of his shirt on his right hip. PPO Coleman estimated that he was 15 to 20 feet from Mr. ██████ when he first saw the holster on Mr. ██████ hip, which led him to believe that Mr. ██████ had a gun as he could see something in the holster. He again stated that the purpose of stopping Mr. ██████ was to investigate why he had a handgun.

He said that Officer Jones initially stopped Mr. ██████ as the other officers were following him (██████) and that he was about 20 feet to the east of Mr. ██████ and Officer Jones when Mr. ██████ was stopped and that is when he saw Officer Fleming grab Mr. ██████ right arm. PPO Coleman believed that she was trying to prevent Mr. ██████ from retrieving his weapon. He did not

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<sup>57</sup> Statement of PO Coleman; Att. 83; Page 15, Lines 1-3.

<sup>58</sup> *Id.*; Page 18, Lines 10-18.

<sup>59</sup> *Id.*; Page 18, Lines 21-22.

<sup>60</sup> *Id.*; Page 59, Line 6.

<sup>61</sup> Attachments 129, 133. COPA conducted the second interview to serve and address Allegations 1-3.

recall seeing any other officer make physical contact with Mr. [REDACTED] and stated that he was never personally close enough to have physical contact with Mr. [REDACTED]. He said he saw Mr. [REDACTED] became combative, pulling away from Officer Fleming and flailing his arms and that he believed Mr. [REDACTED] may have struck Officer Fleming. PPO Coleman further stated that after freeing himself from Officer Fleming, Mr. [REDACTED] ran into the street and spun around facing the officers on the sidewalk while grasping the handle of his holstered handgun. PPO Coleman then heard gunshots.

PPO Coleman said that did not activate his body-worn camera until after the gunfire stopped and he felt it was safe to do so. As he explained “. . . everything happened so quickly. It happened in a matter of seconds, you know?”<sup>62</sup> He indicated that given the rapidity of events, his first concern was his safety and the safety of the other officers and nearby civilians. He therefore activated his BWC only after determining that the scene was safe.

#### **f) Statements of Police Officer James Aimers**

In a **statement to COPA on August 3, 2018, PO James Aimers** said that on the day of the incident he was assigned to Beat 331 with PPO Danny Tan when they were directed to conduct a foot-patrol along 71<sup>st</sup> Street, between Paxton Avenue and Jeffrey Boulevard.<sup>63</sup> PO Aimers remained in their vehicle parked at 71<sup>st</sup> and Chappel with the vehicle’s emergency equipment activated as PPO Tan joined other officers for the foot-patrol. He stated that the officers were near 2020 E. 71<sup>st</sup> Street, west of his location, when he saw Mr. [REDACTED] walking east on the sidewalk of 71<sup>st</sup> Street towards them. PO Aimers said that as Mr. [REDACTED] walked past the officers on the sidewalk, he saw a bulge under Mr. [REDACTED] shirt. PO Aimers said he also saw other officers point to Mr. [REDACTED] right side and that he saw the outline of a handgun under Mr. [REDACTED] shirt.

PO Aimers drove west on 71<sup>st</sup> Street intending to meet up with the other officers. He saw Officer Fleming grab Mr. [REDACTED] right arm and described him pulling away and flailing his arms as he began to run from the officers. Mr. [REDACTED] ran into the street as PO Aimers drove west past him. As he stopped the vehicle, he heard 4-5 gunshots. PO Aimers said that he did not know who was shooting, but as he exited the vehicle, he saw Mr. [REDACTED] lying on the street behind it. Officer Jones recovered Mr. [REDACTED] handgun and PO Aimers handcuffed him. PO Aimers indicated that he also saw an ammunition magazine on the street near Mr. [REDACTED]

In a **second statement to COPA on April 3, 2020, PO James Aimers** reaffirmed the truth and accuracy of his August 3, 2018 statement to COPA investigators and indicated that he did not want to change anything in or add anything to that prior statement.<sup>64</sup> In addressing the timing of his activation of his body worn camera, PO Aimers stated that he did so when he felt it was safe. He explained that he was in his vehicle, on the northeast corner of 71<sup>st</sup> and Chappel, not with the other officers on foot-patrol when they stopped Mr. [REDACTED]. He stated that from where he was parked, he could see the bulge of a handgun on Mr. [REDACTED] right hip. PO Aimers stated that he then drove west on 71<sup>st</sup> Street, crossing Chappel toward the officers and Mr. [REDACTED] and that as he drove towards them, he saw Mr. [REDACTED] pull away from the officers. He was still driving westbound on 71<sup>st</sup> Street when he heard the gunshots though he did not know who was firing. PO Aimers then stopped and exited his vehicle. He saw Officer Jones retrieve Mr. [REDACTED] handgun and he handcuffed Mr. [REDACTED]. PO Aimers then

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<sup>62</sup> Statement of PPO Coleman; Page 22, Lines 17-19.

<sup>63</sup> Attachments 32, 33, 48, 81, 183.

<sup>64</sup> Attachments 130, 132. COPA conducted the second interview to serve and address Allegations 1-3.

activated his BWC, explaining that after exiting his vehicle and assessing the situation he felt it was safe to do so. He indicated that he did not activate his body-worn camera sooner because he was driving a vehicle faced with regular pedestrian and vehicular traffic in a stressful situation.

**g) Statements of Sergeant Jeffrey Aldrich**

In a **statement to COPA on July 30, 2018, Sergeant Jeffrey Aldrich**<sup>65</sup> stated that on the day of the incident he was working in full uniform, assigned a marked police vehicle with a non-functional in-car camera, and was instructed to direct several Probationary Police Officers to conduct a foot-patrol on 71<sup>st</sup> Street, between Jeffrey Avenue (2000 East) and Paxton Avenue (2200 East). He explained that it was the second time the involved PPOs performed a foot-patrol mission and that he monitored them from inside his vehicle parked at 71<sup>st</sup> and Clyde Avenue.<sup>66</sup> Sergeant Aldrich indicated that PO Aimers also monitored the PPOs on foot patrol from his vehicle parked at 71<sup>st</sup> and Jeffrey with the emergency equipment activated and Officer Fleming conducted the foot patrol with the officers.

Sergeant Aldrich stated that from his location at 71<sup>st</sup> and Clyde he saw PO Aimers' drive from where he was parked. He stated that from his position he could not see the officers patrolling on the sidewalk due to cars parked along the curb and he assumed that PO Aimers must have seen something that prompted him to leave his parking spot. Sergeant Aldrich guessed that someone was fighting with the officers and he began to drive toward the corner of 71<sup>st</sup> and Jeffrey.

Sergeant Aldrich stated that he was in his vehicle 150 - 200 feet away when he saw Mr. [REDACTED] run into the street from the north sidewalk. He said that he saw Mr. [REDACTED] reaching for the right side of his waist with his right hand as he ran into the street, but that he was too far away to see whether Mr. [REDACTED] had anything in his hands, adding that based on his experience as a police officer, Mr. [REDACTED] actions indicated that he might have a weapon in the waistband of his pants.

Sergeant Aldrich said that he then heard four to five gunshots and saw Mr. [REDACTED] spin around and fall to the pavement. He parked and exited his vehicle, approaching Mr. [REDACTED] who lay on his left side in the street. He saw a gunshot wound to the back of Mr. [REDACTED] head. PO Aimers handcuffed Mr. [REDACTED] and Officer Jones recovered a firearm from Mr. [REDACTED] person. Sergeant Aldrich also indicated that he saw extra ammunition magazines, one on Mr. [REDACTED] belt and one laying on the street near his body as well as a handgun holster on the right side of Mr. [REDACTED] waist. He added that PPO Halley told him that he (Halley) shot Mr. [REDACTED] after he pulled a gun on him. Sergeant Aldrich further stated that as a crowd began to gather, he instructed the officers to secure and keep the people from entering the crime scene and that he notified dispatch of an officer-involved shooting and requested additional police units to respond.

In a **second statement to COPA on June 18, 2020, Sergeant Aldrich** reaffirmed the truth and accuracy of his July 30, 2018 statement to COPA investigators and indicated that he did not want to change anything in or add anything to that prior statement.<sup>67</sup> When asked if he failed to ensure PPO Halley remained separated from the other officers, Sergeant Aldrich replied "Immediately? Yes."<sup>68</sup> He explained that when he first arrived at the shooting scene PPO Halley informed him that he (Halley)

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<sup>65</sup> Attachment 29, 85.

<sup>66</sup> Clyde Avenue is located at approximately 2100 east at 71<sup>st</sup> Street.

<sup>67</sup> Attachments 139, 141.

<sup>68</sup> Statement of Sgt. Aldrich, Attachment 141; Pages 8, Line 6.

was the shooter. Sergeant Aldrich then radioed dispatchers notifying them of an officer-involved shooting and requesting additional officers and paramedics. He felt that he and the other officers might be in danger from the hostile crowd of 30-50 people. Sergeant Aldrich, the only police supervisor on the scene, next attempted to protect the crime scene from the hostile crowd who moved toward Mr. [REDACTED] body in the street. He retrieved yellow crime scene tape from his vehicle to create a perimeter. Sergeant Aldrich recalled that Lieutenant Ward arrived shortly after the incident and immediately removed PPO Halley and Officer Fleming from the scene. He said that he did not believe he would have been able to separate PPO Halley from the other officers before Lieutenant Ward removed Halley from the scene, saying, "I was trying to maintain the safety of my officers. I had very few officers and we were outnumbered immediately. I had to use the resources I did have to not only protect the evidence, maintain the crime scene, and protect the officers I had by staying in a close group."<sup>69</sup>

#### **h) Statement of Lieutenant Davina Ward**

In a statement to COPA on March 18, 2019, Lieutenant Davina Ward indicated that she drove to the incident after receiving notification of an officer-involved shooting.<sup>70</sup> Lieutenant Ward said that upon her arrival, she began looking for sergeants already there to ensure the scene was protected when PPO Halley and Officer Fleming ran up to her. She described their demeanor as hysterical. Lieutenant Ward stated that she saw a crowd of people approaching from different directions. Some in the crowd were screaming and yelling at the officers. She said that several people in the crowd repeatedly pointed at Officer Fleming, identifying her as the shooter. Officer Fleming told Lieutenant Ward that she was afraid the crowd was coming for her. Lieutenant Ward heard radioed requests for more police units to respond to the scene because of the hostile crowd. She stated that out of concern for their safety, she, PPO Halley and Officer Fleming ran to her police vehicle and got into it. Lieutenant Ward further stated that the crowd was hostile and described people jumping on squad cars and throwing bottles at officers. She added that there were insufficient personnel on the scene to ensure officer safety and that she attempted to radio Commander Gloria Hanna but was unsuccessful. As she thought they were in danger from the increasingly violent crowd and given the officers' emotional condition, Lieutenant Ward drove Officer Fleming and PPO Halley from the scene.

Lieutenant Ward drove to 75<sup>th</sup> and Euclid Avenue where she parked her vehicle and called Commander Hanna on her cell phone.<sup>71</sup> Lieutenant Ward described the situation to Commander Hanna and told her that she did not want to give their location by radio due to safety concerns, adding that people listen to police radio traffic on scanners. She said that while she was talking with Commander Hanna, she was also trying to calm PPO Halley and Officer Fleming, who were becoming increasingly upset. She then heard Commander Hanna announce their location over radio and relocated to 75<sup>th</sup> and Stony Island called Zone 7 from her cell phone and requested an ambulance for PPO Halley and Officer Fleming, instructing the call-taker to avoid providing their location over the radio.<sup>72</sup>

Lieutenant Ward told COPA investigators that the only conversation she recalled hearing between PPO Halley and Officer Fleming was Fleming telling Halley that he saved her life and that if it were not for him her children would not have a mom. She indicated that PPO Halley repeatedly asked whether Mr.

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<sup>69</sup> *Id.*; Page 24, Lines. 21-24 and Page 25 Lines 1-3.

<sup>70</sup> Attachment 69, 92.

<sup>71</sup> Euclid Avenue is located at approximately 1934 east at 75<sup>th</sup> Street.

<sup>72</sup> Stony Island Avenue is located at approximately 1600 east at 75<sup>th</sup> Street

██████████ was dead. Lieutenant Ward also stated that she was unable to separate PPO Halley and Officer Fleming because of the chaos on scene, the large, hostile crowd and insufficiency of officers, but instructed both officers not to discuss the incident and to turn off their body-worn cameras. She indicated that she did not want to put the officers in separate vehicles because one of them would have been left alone as there were not enough supervisors on scene.

An ambulance arrived and transported PPO Halley and Officer Fleming to Northwestern Memorial Hospital as Lieutenant Ward followed in her police vehicle.<sup>73</sup> PPO Halley and Officer Fleming were separated from each other once they arrived at the hospital.

## **2) Statements of Civilian Witnesses**

### **a) Statement of Darren Coleman**

In a **statement to COPA on July 14, 2018**, ██████████ stated that he had been employed at the Jeffrey Submarine Restaurant as security for the past four months.<sup>74,75</sup> Mr. ██████████ said that on the day of the incident he was standing on the sidewalk in front of the shop speaking with several Chicago Police officers when he saw Mr. ██████████ walk towards them and heard one officer say to another that something was bulging from underneath Mr. ██████████ t-shirt. Mr. ██████████ indicated that he saw an object on the right side of Mr. ██████████ waist but did not know what it was. One of the officers asked Mr. ██████████ “Are you security?” but Mr. ██████████ did not respond, and instead began to walk a little faster. Mr. ██████████ said that an officer reached for Mr. ██████████ right arm, but Mr. ██████████ yanked his arm away from the officer and spun around and as he did so reach for the object on his waist. Mr. ██████████ said he immediately heard approximately five gunshots in quick succession but did not see who was shooting as he ran into the shop.

### **b) Statement of Ms. ██████████**

In a **telephone conversation on June 19, 2019** ██████████ confirmed that she witnessed the officer-involved shooting of Mr. ██████████<sup>76</sup> However, Ms. ██████████ declined to provide an interview or cooperate in any way with COPA investigators and provided no further information related to the investigation.

### **c) Other Civilian Witnesses**

COPA’s repeated attempts to contact and interview possible witnesses ██████████ and ██████████ in furtherance of this investigation were unsuccessful.<sup>77</sup>

## **B. Digital Evidence**

### **1) Office of Emergency Management and Communications**

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<sup>73</sup> Northwestern Memorial Hospital’s Emergency Department is located as 251 E. Huron Street in Chicago, between approximately 11 and 13 miles from 75<sup>th</sup> and Stony Island Avenue depending on the route taken.

<sup>74</sup> Attachment 10, 91.

<sup>75</sup> 2020 E. 71<sup>st</sup> Street. *See fn* 40 above.

<sup>76</sup> Attachment 79.

<sup>77</sup> Attachments 4, Case Log.

The **Office of Emergency Management and Communication's (OEMC) PCAD Event Queries** indicate that at 5:31 pm, Beat 331 notified dispatchers of the police-involved shooting.<sup>78,79</sup>

**OEMC's Radio Transmissions** began with an unidentified male officer, citing an emergency at 71<sup>st</sup> and Clyde, requested an ambulance and explained that shots were fired.<sup>80</sup> Numerous officers, including Beats 390 and 300 notified OEMC dispatchers that they were responding to the incident.<sup>81,82</sup> Officers on the scene requested additional police units for crowd control. OEMC dispatchers were also notified that a weapon had been recovered. OEMC also received multiple requests to stop Metra trains.

Approximately three minutes and 20 seconds after it received the initial notification, Lieutenant Ward informed OEMC dispatchers that she had the involved officers in her vehicle. She repeatedly tried to contact Commander Hanna by radio. Approximately four minutes into the OEMC recording, Commander Hanna responded to Lieutenant Ward who advised Commander Hanna that she and PPO Halley and Officer Fleming were at [REDACTED]. Commander Hanna then instructed Lieutenant Ward to call her on her cell phone.

Additional radio transmissions pertained to crowd and traffic controls and creation of a perimeter around the incident scene. Additionally, at 17:53 dispatch advised officers to turn off body worn cameras.<sup>83</sup>

OEMC communications include a single 911 call from an unidentified female civilian stating that she heard approximately six gunshots on 71<sup>st</sup> Street near the Walgreen's.<sup>84</sup> The remaining telephone calls to 911 were from civilians complaining that the gates preventing people from driving across the Metra train tracks on 71<sup>st</sup> Street had been lowered for an extended period of time.

## 2) Officers' Body-Worn Camera Video

COPA investigators reviewed video and audio material captured by the body-worn cameras of multiple officers at the incident scene. For context, it is important to understand some basic fundamentals of body-worn camera evidence. CPD body-worn cameras are constantly recording. However, in order for those recordings to be saved, an officer must activate or "tap" their body worn camera. CPD Special Order 03-14 proscribes when an officer must activate their camera as well as when they are permitted to de-activate, or end, their recording. Each time an officer activates their camera, video and audio is captured and saved from the moment of activation until the officer deactivates their camera. Additionally, there is a "buffer" period that goes back 30 seconds<sup>85</sup> prior to the moment of activation and captures the events that occurred just prior to activation. However, the "buffer" period only

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<sup>78</sup> PPOs Aimers and Tan were assigned to Beat 331.

<sup>79</sup> Attachments 19-24.

<sup>80</sup> Attachments 142-157.

<sup>81</sup> Lt. Davina Ward was assigned to Beat 390.

<sup>82</sup> Commander Gloria Hanna.

<sup>83</sup> In an officer involved death investigation, CPD Special Order S03-14 allows officers to deactivate their body worn cameras once the "scene is secure." The timing of this instruction during this incident conformed with Department policy.

<sup>84</sup> The store is located at 7109 S. Jeffrey Blvd - the southeast corner of the intersection of 71<sup>st</sup> and Jeffrey.

<sup>85</sup> CPD has increased their "buffer" period to two minutes. However, it was still 30 seconds during this incident.

captures the video without accompanying audio recordings. This is why the first 30 seconds of the body worn camera videos in this case are silent, i.e., that portion of the video was captured in the “buffer.” Additionally, each officer in this case activated their body worn camera at a slightly different time, which is why some videos capture more of the events than others.

#### a) Probationary Police Officer Coleman’s Body-Worn Camera

**PPO Coleman** activated his BWC after the shooting, approximately ten seconds after he stood up after the shooting and began recording video at 5:30:32 pm as Mr. [REDACTED] with a wallet in his hand, speaks with Officer Jones.<sup>86</sup> Officer Jones is seen standing on the north sidewalk on 71<sup>st</sup> Street with his back to the storefronts. Mr. [REDACTED] is facing Officer Jones and positioned between him and the street. In PPO Coleman’s video are Officer Fleming and PPOs Tan and Halley standing to Mr. [REDACTED] right. PPO Coleman remains further away, east of the group. Officer Fleming and PPO Tan move behind Mr. [REDACTED] as PPO Halley moves to his right side. *See Figures 1-2, below.* Officer Fleming is seen reaching out with both hands, appearing to grab Mr. [REDACTED] right arm apparently causing Mr. [REDACTED] to pull away, spin around, and move toward the street. Officer Fleming continues to hold onto the front of Mr. [REDACTED] shirt with her right hand as he raises his right hand and appears to slap or strike Fleming’s right arm to free himself from her grip. Mr. [REDACTED] then turns and runs further into the street. The video then shows PO Aimers arriving in his marked vehicle and stopping in front of Mr. [REDACTED] blocking his path further south into the street. The group of officers remain on sidewalk on the north side of 71<sup>st</sup> Street as PPO Halley is seen raising and pointing his firearm with a two-handed grip toward Mr. [REDACTED] PPO Coleman appears to be standing east of the other officers, near the passenger side of a CPD Vehicle parked on 71st Street.<sup>87</sup>

As Mr. [REDACTED] moves toward the middle of the street, he pivots, avoiding PO Aimers’ vehicle that blocks his path, and turns to his right in a clockwise direction, exposing the right side of his body to the officers on the north sidewalk. Mr. [REDACTED] has his right hand on the handle of his holstered handgun as he steps backward and pivots to face the officers. PPO Coleman then drops down and appears to take cover behind the parked police vehicle, face-down on the sidewalk near the rear passenger door of the parked vehicle. Approximately nine seconds later PPO Coleman stands and moves toward the rear of the parked police vehicle. Mr. [REDACTED] lays on his left side near the middle of the street, Officer Jones standing over him. For the next several minutes he and other officers attempted to protect the scene, holding back a growing crowd of civilians as unidentified people in the crowd yell and swear at the officers.

15:17 into the recording as PPO Coleman stands on the sidewalk speaking with PPO Tan, Coleman says to Tan, “he didn’t even have to pull a gun. Why pull a gun? You know, that’s stupid. That’s suicide.” PPO Tan replied, “Honestly, the way he carried it, I thought he had concealed carry. But then we still got to stop him.” PPO Coleman also said, “When he was trying to get away, he was going for the gun. To pull it out. That’s stupid. What else are we gonna think?” PPO Tan replied, “If he had just ran....” To which PPO Coleman replied, “Right. We couldn’t do nothing then.”

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<sup>86</sup> Attachments 7 & 25.

<sup>87</sup> The marked vehicle is Chicago Police SUV, # [REDACTED], assigned to PPOs Jones and Coleman.

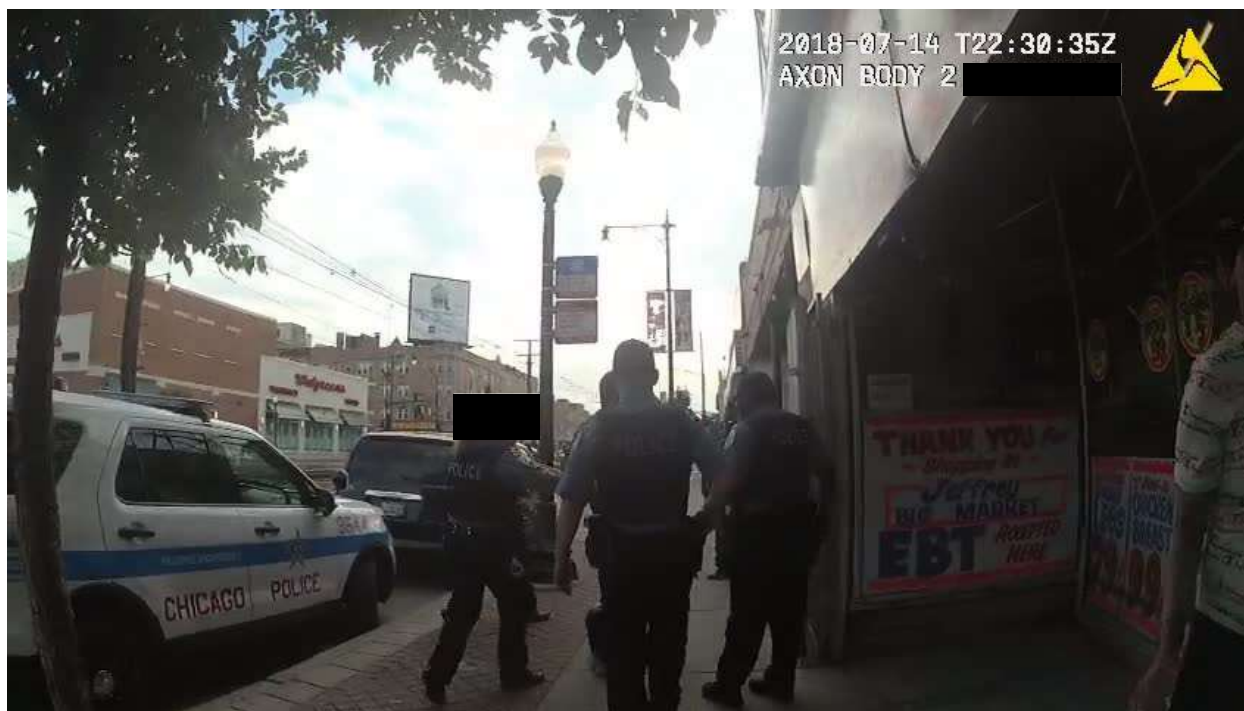


Figure 1

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Figure 2

#### b) PPO Halley's Body-Worn Camera

**PPO Halley's BWC was activated after the shooting and began recording at 5:30:18 pm.** Initial footage shows Halley following Officer Fleming and PPO Tan past PPO Coleman who is standing in front of a storefront.<sup>88,89</sup> The video shows Officer Jones standing on 71<sup>st</sup> Street, just east of the intersection with Jeffery Ave., as Mr. [REDACTED] walked west, toward Officer Jones, with Officer Fleming and PPO Tan walking behind Mr. [REDACTED]. A second or two later, Mr. [REDACTED] stops and turns, apparently in response to Officer Jones and waits for Officer Jones to catch up to him. Officer Fleming, PPO Tan, and PPO Halley are then shown walking up and positioning themselves around Mr. [REDACTED] who stands facing Officer Jones. PPO Tan is shown taking a position behind and to the left of Mr. [REDACTED] as Officer Fleming takes a position behind Mr. [REDACTED] and to his right. PPO Halley appears to be further away and more to Mr. [REDACTED] right as Officer Jones stands with his back to the storefront facing 71<sup>st</sup> Street. As Officer Fleming and PPO Tan begin to encircle Mr. [REDACTED] he removes his wallet from his back, right pocket, still facing Officer Jones as he begins to take something out of the wallet. At that moment, approximately 19 seconds into the video, seemingly as soon as Officer Fleming catches up to Mr. [REDACTED] she uses both of her hands in an attempt to grasp Mr. [REDACTED] right forearm. Mr. [REDACTED] pivots and turns his body in a clockwise direction while pulling his right arm down and away from Officer Fleming. As Mr. [REDACTED] spins around, PPO Tan also appears to try and seize him. While PPO Halley reaches out, he does not appear to touch Mr. [REDACTED]. Mr. [REDACTED] then pulls away from the officers and moves towards 71<sup>st</sup> Street. As he moves, his shirt raises up, exposing a holstered gun with two ammunition magazines on his left side. Mr.

<sup>88</sup> Attachments 7 & 25.

<sup>89</sup> CPD body worn camera is timestamped in the upper right corner in "zulu time" (CDT + 5).

██████ continues to turn as he moves further into the street, exposing the semi-automatic handgun holstered on his right side. 23 seconds into the video Mr. ██████ turns toward the street with his right hand near the holstered gun. A second later, Mr. ██████ appears to have his right hand on the handle of his holstered firearm as he runs south into 71<sup>st</sup> Street, passing between the front of a marked Chicago Police SUV parked along the north curb and the back of a parked minivan with his back to the sidewalk and PPO Halley who appears to be holding his firearm in a two-handed grip pointed at Mr. ██████. As PPO Aimer's marked SUV pulls in front of Mr. ██████ blocking his path of flight, Mr. ██████ pivots again and turns clockwise and begins to run backwards (east) in the street with his right side to PPO Halley. Mr. ██████ holds his holstered firearm with his right hand.

25 seconds into the recording Mr. ██████ appears to pull the firearm upward with his right hand while moving his left hand across the front of his body toward his right side. Mr. ██████ also moves his head, appearing to look down at his right hip. Mr. ██████ is shown pivoting to his right and facing PPO Halley, while backing slightly into the street. *See Figures 3-7, below.* At this point, PPO Halley discharges his firearm at Mr. ██████.<sup>90</sup> PPO Halley is standing near the front passenger headlight of the marked police vehicle parked along the north curb of 71<sup>st</sup> Street as Mr. ██████ is seen standing on the driver's side of the same vehicle. As PPO Halley discharges his firearm, Mr. ██████ spins and falls to the pavement, where he remains. Halley activated his body worn camera immediately after he ceased firing his weapon and radioed notification of the shooting.<sup>91</sup>

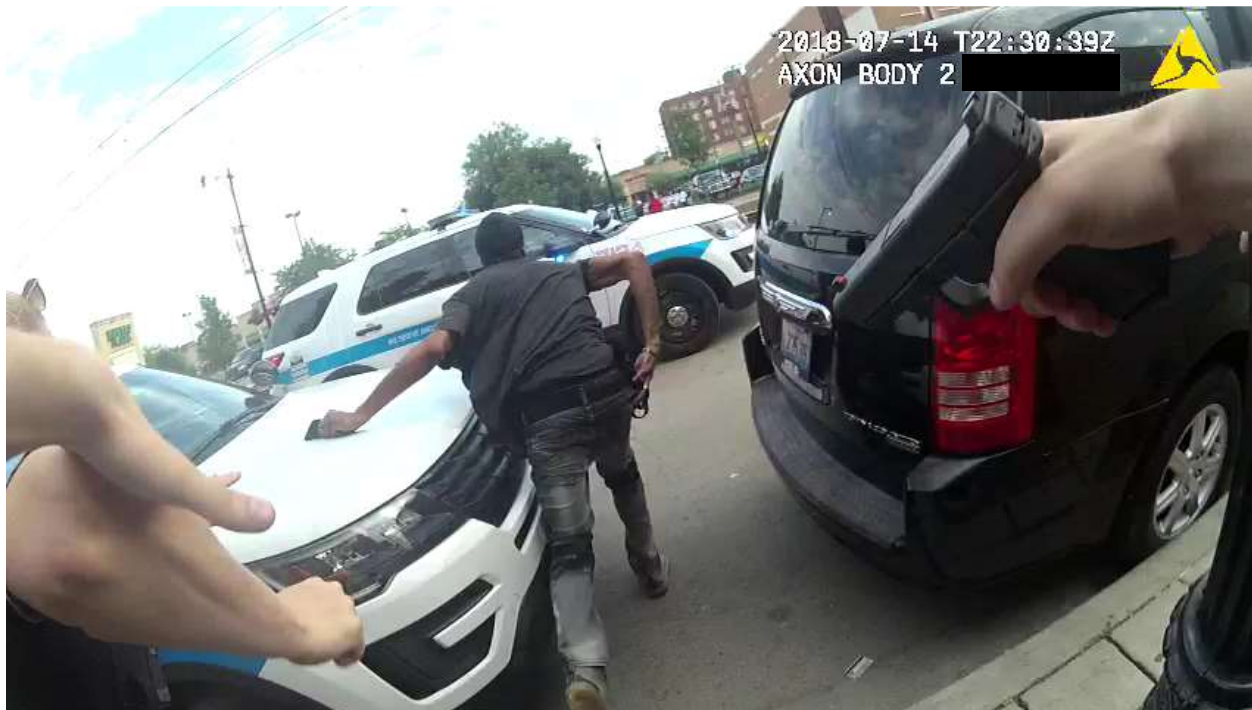


Figure 3

<sup>90</sup> There is no audible gunshot, however, the firearm and PPO Halley's arms are seen responding to the recoil from the shots fired.

<sup>91</sup> His BWC was activated at 0:28 into the recording, at which point audio begins to be recorded.

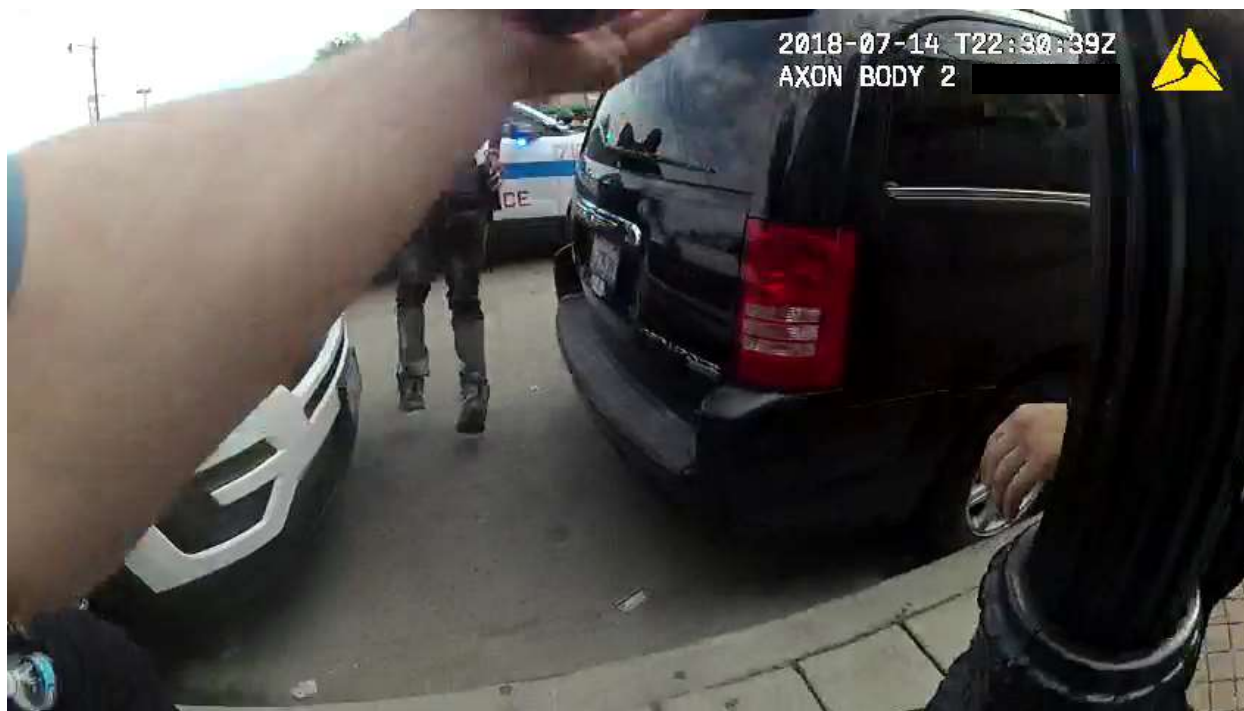


Figure 4

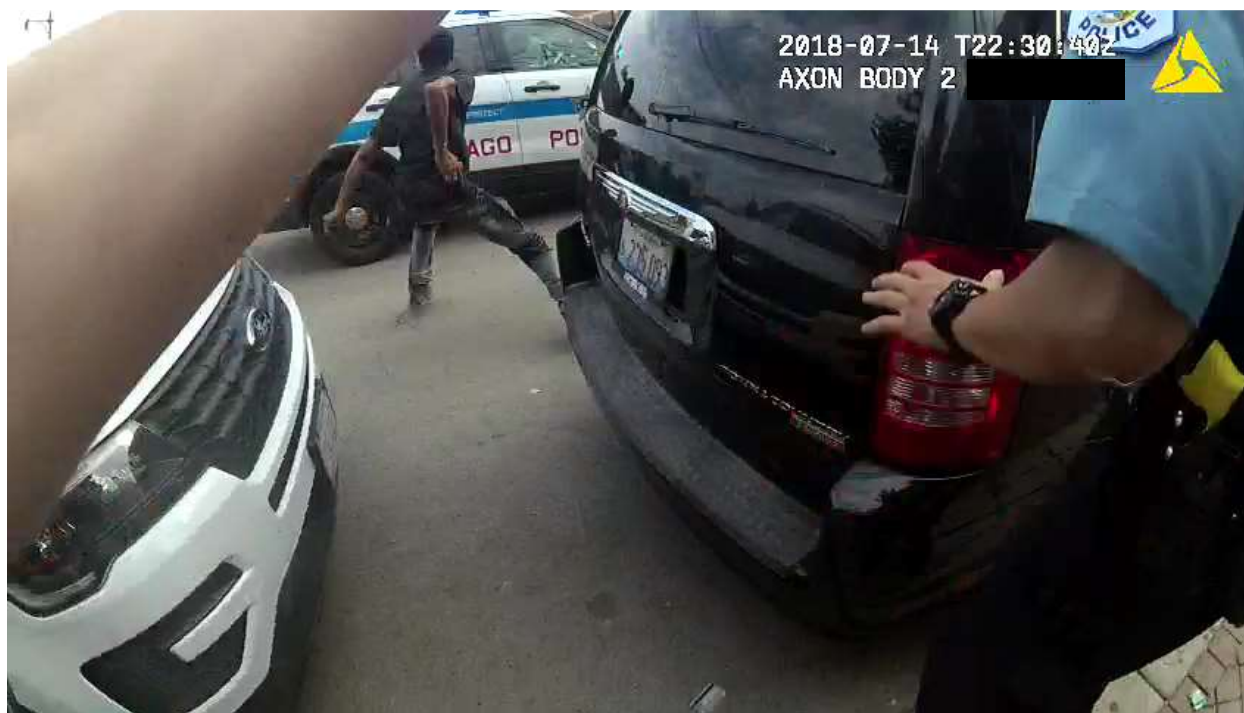


Figure 5





Figure 6

Fifty-eight seconds into the recording PPO Halley informs Sergeant Aldrich that he is the shooter. Sergeant Aldrich asks him whether he was the only shooter and PPO Halley confirms that he was, adding that Mr. [REDACTED] “pulled a gun on me.” Officer Fleming informs Sergeant Aldrich that she grabbed Mr. [REDACTED]

1:19 into the recording Officer Fleming approaches PPO Halley, who is standing on the sidewalk and repeatedly asks if he is OK. Fleming repeatedly tells Halley, “You’re good.” PPO Halley appears to pace back and forth on the sidewalk as Officer Fleming attempts to calm him. PPO Halley asks if they got the gun and Officer Fleming affirms. Officer Fleming repeatedly tells PPO Halley to “breathe in through your nose.” PPO Halley asks “why did he have to pull a gun out on us” to which Officer Fleming responds “breathe in through your nose, out through your mouth. I feel like I wasn’t there for you. I was trying to grab him.” An unknown Black male wearing a white T-shirt and red pants walks east past Officer Fleming and PPO Halley saying words to the effect of “that shit crazy. I’m glad you alright.”<sup>92</sup>

- PPO Halley: “I had to. He was gonna shoot us”
- Officer Fleming: “I know. He was gonna shoot us, he was about to kill us;”<sup>93</sup>
- PPO Halley: “He pulled a gun on us.”
- Officer Fleming: “I know he did.”<sup>94</sup>

<sup>92</sup> Neither COPA nor CPD were ever able to identify this individual.

<sup>93</sup> Halley 1:51.

<sup>94</sup> Halley 1:58.

PPO Halley continues to pace while repeating “I had to.” Officer Fleming tells PPO Halley “You’re ok.” Another unidentified Black man wearing a green, red, white, and purple zip-up jacket walks east past the officers telling Halley “you’re going down, Boo” or words to that effect.<sup>95</sup>

A crowd of civilians continues to grow as more officers arrived on the scene. The audio records unidentified people yelling as officers tell them to stay back. PPO Halley moves into the street, continuing to pace while off camera, an unidentified female says to an unknown third party “shut up. Shut the fuck up.” Officer Fleming then approaches PPO Halley in the street, and he tells her he needs to get into a car. As the crowd continues to grow and become more aggressive an unknown Black man wearing blue shorts and a red shirt stands on the sidewalk pointing toward Officer Fleming and PPO Halley although the audio fails to record what is said.

At 3:27 into the recording PPO Halley tells Officer Fleming he needs to leave the scene. Officer Fleming and PPO Halley approach Lieutenant Ward and PPO Halley tells her that he is “a target.” Lieutenant Ward and Officer Fleming and PPO Halley then run to Ward’s vehicle, which is parked at the southeast corner of 71<sup>st</sup> and Chappel. PPO Halley sat in the front passenger seat and Lieutenant Ward took the driver’s seat, and Officer Fleming sat in back. Lieutenant Ward tells PPO Halley that she “can’t take you completely away, but I gotta take you away from here.” PPO Halley becomes increasingly upset upon entering Lieutenant Ward’s vehicle:

- PPO Halley: “He pointed a gun at us...you see him Fleming?”
- Officer Fleming: “yes”<sup>96</sup>
- Officer Fleming: “You did the right thing; he pulled a fucking gun on us.”

Lieutenant Ward then radios her Commander to advise that she took PPO Halley from the scene and asks if she should relocate him to the Area. Lieutenant Ward also attempts to console Halley as she drives.

At 5:51 into the recording Lieutenant Ward parks her vehicle near 75<sup>th</sup> and Euclid and attempts to console PPO Halley, who continues to cry. PPO Halley exits the vehicle and stands near the passenger side as Officer Fleming approaches and hugs him, repeatedly attempting to reassure him. As PPO Halley sobs, Officer Fleming continues:

- Officer Fleming: “...Dude he had a fucking gun. He was gonna kill us. I thought I was gonna die.”<sup>97</sup> “You’re okay. I’m here. I’m not leaving you. You’re okay.”<sup>98</sup>
- Officer Fleming (whispering): “I thought I was gonna die, I thought I was not going home to my kids.”<sup>99</sup>
- Officer Fleming showed him her arm and said “I’m fucking pissed. Look at this. I should’ve fucking had him. I fuckin’ should have had him.”<sup>100</sup>

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<sup>95</sup> Neither COPA nor CPD were ever able to identify this individual.

<sup>96</sup> Halley 4:21.

<sup>97</sup> Halley 6:56.

<sup>98</sup> Halley 7:13

<sup>99</sup> Halley 7:22.

<sup>100</sup> Halley 7:23.

- Officer Fleming showed her arm again and said “Dude look at this, this is him scratching, trying, he was pulling ...”<sup>101</sup>
- Officer Fleming: “You saved everyone. You saved my fucking life.”<sup>102</sup>

At 8:21 into the recording Officer Fleming is speaking. While her statement is distorted by the sounds of the police radio, sirens, and Lieutenant Ward talking on her cell phone, the sentence ends with “as soon as Jones asked him if he had concealed carry.”

Lieutenant Ward and Officer Fleming and PPO Halley then get back into the Lieutenant’s vehicle as she continues to try to contact her Commander. As Lieutenant Ward begins to drive PPO Halley says words to the effect of “I couldn’t let him shoot around...” before he stops speaking. Lieutenant Ward asks, “he just walked up you?” to which Officer Fleming replies, “he walked right past us. Me, Tan, Dillan. I said, ‘he’s got a gun’ and then Jones...we tried to stop him. Jones (inaudible) concealed carry. That’s when he scratched the shit out of me. That’s when I had him up and I didn’t fucking get him.” PPO Halley did not respond to Lieutenant Ward’s question as he continued to sob and breathe heavily.

#### **b) Officer Fleming’s Body-Worn Camera**

**Officer Fleming’s BWC** was also activated after the shooting occurred, and later than when PPOs Halley and Coleman activated their BWC<sup>103</sup> Officer Fleming’s BWC video begins after the shooting with her standing in the middle of the street with several other officers and with several police vehicles nearby. Mr. [REDACTED] is laying on his left side in the middle of the street and numerous civilians are seen standing on the sidewalk on the north side of the street. The audio begins with Officer Fleming yelling at several unidentified people to stay off the train tracks that separate the eastbound and westbound lanes of 71<sup>st</sup> Street. As she stands in the street Officer Fleming speaks to several unidentified uniformed and plainclothes officers telling them that Mr. [REDACTED] pulled a gun on them and scratched her arm. Officer Fleming extends her right arm to show the scratch. An unidentified Black, uniformed male officer replies that he saw Mr. [REDACTED] pull back from her.

Officer Fleming then approaches PPO Halley, who is seen pacing back and forth in the street. PPO Halley says that he needs to leave the scene as more people yell and direct profanity at the officers. Officer Fleming and PPO Halley then approach Lieutenant Ward who is seen standing in the street next to Sergeant Aldrich. They tell Lieutenant Ward that they need to leave and PPO Halley explains that he is “a target.” Officers Fleming and Halley then run with Lieutenant Ward to her vehicle at the southeast corner of 71<sup>st</sup> and Chappel. Officer Fleming enters the backseat of Lieutenant Ward’s marked SUV.

1:48 into the recording Officer Fleming repeatedly says, “You’re ok, you’re ok;” and, “You did the right thing. He pulled a fucking gun on us.” Neither Lieutenant Ward nor PPO Halley is audible due to the noise of police sirens, radio traffic and background noise.

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<sup>101</sup> Halley 7:57; unintelligible content follows

<sup>102</sup> Halley 8:05.

<sup>103</sup> Attachments 7 & 25.

2:04 into the recording Officer Fleming says to Lieutenant Ward, “[Lieutenant], he walked past us. He had the gun in the back. We pointed to Jones. When he went to stop him, I had him on the car, and he pulled.” The recording ends at 2:29.

### c) PPO Tan’s Body-Worn Camera

**PPO Tan’s BWC** was also activated after the shooting occurred and later than PPO Halley and PPO Coleman’s activation.<sup>104</sup> At the beginning of the recording PPO Tan appeared to be attempting to keep civilians from approaching the crime scene. For a majority of the recording PPO Tan acted as security for the outer perimeter of west of where the shooting occurred.

At 2:45 into the recording PPO Tan assisted several unidentified uniformed officers with hanging yellow police tape. One of the officers asked PPO Tan what happened, and PPO Tan explained that they saw Mr. [REDACTED] walking with a holstered handgun and stopped him. PPO Tan stated that he thought Mr. [REDACTED] possibly had concealed carry. The officers grabbed Mr. [REDACTED] but he pulled away and reached for his gun.

PPO Tan’s body-worn camera also recorded the conversation he had with PPO Coleman that was previously summarized.

### d) Officer Jones’ Body-Worn Camera

**Officer Jones’ BWC** was also activated after the shooting and later than PPO Halley and PPO Coleman’s activation and began recording video at 5:30:59.<sup>105</sup> As the recording begins, Officer Jones stands in the middle of the street near where Mr. [REDACTED] lay. Officer Jones radios dispatch that a weapon had been recovered. He then repeatedly tells unidentified civilians to stay back and to stay off the railroad tracks that separate the east and westbound lanes of 71<sup>st</sup> Street.

3:58 into the recording Officer Jones informs an unidentified plainclothes police sergeant that he (Officer Jones) has possession of Mr. [REDACTED] firearm, having removed it from the holster. The sergeant instructs Officer Jones to remain in the vicinity, which he does for the duration of the video. Later in the recording, paramedics are seen arriving at the incident scene.

## 3) Police Vehicle In-Car Camera Recording System Video

COPA investigators also reviewed video material captured by police vehicle in-car camera recording systems from multiple police vehicles at the incident scene.

The **In-Car Camera Recording System** from the vehicles assigned to Sergeant Aldrich (CPD Vehicle # [REDACTED]) and PPOs Aimers and Tan (CPD Vehicle # [REDACTED]) were found to be inoperative. They failed to capture any portion of this incident.<sup>106</sup>

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<sup>104</sup> Attachments 7 & 25.

<sup>105</sup> Attachments 7 & 25.

<sup>106</sup> Attachment 6.

**In-Car Camera in CPD Vehicle #** [REDACTED], which was assigned to Officer Jones and PPO Coleman, captured only video.<sup>107</sup> Video shows that the vehicle was parked behind a dark-colored minivan parallel to the curb facing west on 71<sup>st</sup> Street, passengers' side to the sidewalk and driver's side to the street.

The video picks up after Mr. [REDACTED] pulls away from Officer Fleming and PPO Tan and shows him stumbling from the sidewalk into the street, then running between the front of the vehicle and rear of the parked minivan. As Mr. [REDACTED] passes in front of the vehicle, his left hand touches its hood. As he runs further into the street, he turns his body in a clockwise direction. As he turns, the handle of his holstered weapon becomes visible and he appears to touch the weapon with his right hand. Continuing further into the street, Mr. [REDACTED] passes out of camera view.

As Mr. [REDACTED] moves past the vehicle further into the street, Officer Fleming, PPO Halley, and PPO Tan enter the camera's view. PPO Halley stands near the front passenger-side the vehicle. PPO Tan is slightly behind and to PPO Halley's right while Officer Fleming is to PPO Halley's left standing near the vehicle's front, passenger-side quarter panel. PPO Halley is seen holding his firearm in a two-handed grip, his right hand dominant and left hand supporting. Officer Fleming and PPO Tan do not appear to hold anything in their hands. PPO Halley then appears to discharge his firearm five times. The video shows the firearm's recoil and the ejection of discharged cartridge casings as PPO Halley fires his weapon. As PPO Halley fires, PPO Tan takes cover, crouching behind the rear, passenger-side quarter panel of the minivan parked in front of the CPD vehicle recording the incident. Officer Fleming appears to take cover behind the front quarter panel of CPD vehicle.

#### **4) Police Observation Device (POD) Camera Video**

COPA investigators also obtained and reviewed video material captured by Police Observation Device (POD) Camera # [REDACTED] located in a fixed position facing east above the southeast corner of 71<sup>st</sup> Street and Jeffrey Boulevard.<sup>108</sup>

The video shows a marked Chicago Police SUV parked on the northeast corner of 71<sup>st</sup> and Chappel Avenue with its emergency equipment activated.<sup>109</sup> Mr. [REDACTED] is seen walking west on the sidewalk located on the north side of 71<sup>st</sup> Street past several uniformed officers who stand on the northwest corner of 71<sup>st</sup> and Chappel. The officers are seen following Mr. [REDACTED] as he walks west on the sidewalk. *See Figure 7.* Parallel parked vehicles on the north side of 71<sup>st</sup> Street and trees in the parkway then obstruct the camera view of Mr. [REDACTED] and the officers. PO Aimers is seen driving his marked vehicle west on 71<sup>st</sup> Street. Mr. [REDACTED] then runs south into 71<sup>st</sup> Street from between two parked vehicles. PO Aimers drives a short distance past Mr. [REDACTED] who runs around the back of PO Aimer's vehicle. While the actual shooting is not captured by the POD camera, Mr. [REDACTED] is seen falling to the pavement behind PO Aimers' vehicle, remaining motionless on the pavement as several officers approach him. Shortly thereafter, a second marked Police SUV (driven by Sergeant Aldrich) approaches on 71<sup>st</sup> Street from the east.

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<sup>107</sup> Attachment 94. The relevant portion of the video is timestamped as of 5:28:10 pm, which does not appear to match the timestamps of other officers' BWCs.

<sup>108</sup> Attachment 7.

<sup>109</sup> The vehicle driven by PO Aimers.





Figure 7

### 5) Third - Party Camera Video

COPA investigators also reviewed video material captured by devices controlled by third parties, Jeffrey Big Market and Jeffrey Submarine Restaurant. These establishments are adjoined, and both face the incident scene.

#### a) Jeffrey Big Market Exterior Camera Video

COPA investigators obtained and reviewed video material captured by two exterior recording devices controlled by Jeffrey Big Market.<sup>110,111</sup> Video from the first exterior camera at the location shows Mr. [REDACTED] walking west from the intersection of 71<sup>st</sup> and Chappel on the north sidewalk along 71<sup>st</sup> Street.<sup>112</sup> As he walks past three officers on the corner, they begin to follow him. One officer (now known to be Tan) points towards Mr. [REDACTED] and another officer (now known to be Jones) steps towards him as he walks past. As Mr. [REDACTED] continues to walk, Officer Jones follows him. After a few steps, Mr. [REDACTED] turns toward Officer Jones, then looks down at his right hip. Officer Jones appears to engage Mr. [REDACTED] in conversation and points to the right side of Mr. [REDACTED] waist. Officer Fleming, PPO Tan, and PPO Halley are seen approaching as Mr. [REDACTED] reaches to remove his wallet from his back, right pocket. PPO Tan has his firearm drawn while Officer Fleming and PPO Halley have their hands on their holstered weapons. As the officer's reach Mr. [REDACTED] and Officer

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<sup>110</sup> Attachment 93.

<sup>111</sup> The market is located at 2016 E. 71<sup>st</sup> Street near the northeast corner of the intersection of 71<sup>st</sup> and Jeffrey.

<sup>112</sup> Att. 93. Camera Channel 14 was in a fixed position facing in a southeast direction with a view of the adjacent sidewalk and 71<sup>st</sup> Street. Relevant footage begins at 17:29:59 on the video's timestamp, 14:45 of the video titled 20180714171500.

Jones and Mr. [REDACTED] is seen opening up his wallet, Officer Fleming seizes his arm. PPO Coleman is seen walking several feet behind the other officers. Moments later, Mr. [REDACTED] reappears in camera view as he runs into the street and falls to the pavement. Video from this camera does not capture the physical interaction between the officers and Mr. [REDACTED] nor does it capture PPO Halley discharging his firearm. *See Figures 8-10.*

Video recorded by the second exterior camera at this location shows Officer Jones conversing with Mr. [REDACTED] as he turns to his right to face the officer.<sup>113</sup> Officer Jones points to the right side of Mr. [REDACTED] waist as he steps backwards, moves his body in a clockwise direction, and begins to remove his wallet from his pocket. Officer Fleming, PPO Tan, and PPO Halley approach Mr. [REDACTED] PPO Tan takes a position behind Mr. [REDACTED] while Officer Fleming stands close to his right side with PPO Halley further to her right. PPO Tan is seen with his firearm drawn and held facing downward against his chest. PPO Coleman appears positioned further east of these officers, too far to make physical contact with Mr. [REDACTED] As Mr. [REDACTED] turns his body in a clockwise direction Officer Fleming and PPO Tan appear to reach for him, but Mr. [REDACTED] pulls away from them and runs into the street. PO Aimers is seen driving his marked vehicle west on 71<sup>st</sup> Street as Mr. [REDACTED] runs into the street and then collapses behind PO Aimers' vehicle. The camera's view of the Mr. [REDACTED] and the officers is obstructed in a way that does not allow it to capture PPO Halley's discharge of his firearm. *See Figures 11-13.*



Figure 8

<sup>113</sup> Camera 15 was in a fixed position facing in a southwest direction with a view of the adjacent sidewalk and 71st Street. The relevant portion begins at 17:30:21 on the video's timestamp, 15:19 into the video titled 20180714171500.



Figure 9

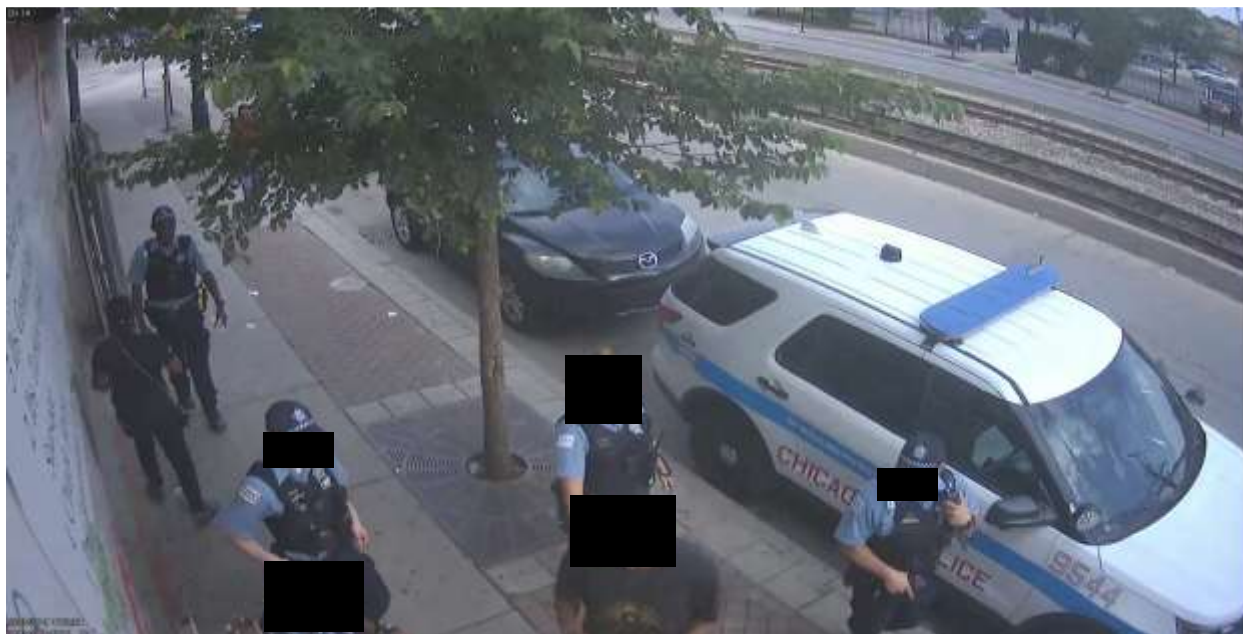


Figure 10





Figure 11



Figure 12



Figure 13

#### b) Jeffrey Submarine Restaurant Exterior Camera Video

COPA investigators obtained and reviewed video material captured by an exterior recording device controlled by Jeffrey Submarine Restaurant.<sup>114,115,116</sup> The relevant portion of the video shows PPO Coleman and Officer Jones standing in the doorway of the shop speaking to a security guard. Officer Fleming, PPO Tan, and PPO Halley appear further east at the corner of 71<sup>st</sup> and Chappel. Mr. [REDACTED] appears, walking west on the north sidewalk of 71<sup>st</sup> Street. He crosses Chappel Avenue past Officer Fleming, PPO Tan, and PPO Halley. As he walks past the officers, they appear immediately alert to him and begin to follow him. PPO Tan points at Mr. [REDACTED] and Officer Fleming appears to speak into her radio. Mr. [REDACTED] continues to walk with the three officers trailing behind. He is shown walking past PPO Coleman who does not seem to react and then Officer Jones who raises his hand to Mr. [REDACTED] apparently intending to stop him. Mr. [REDACTED] walks past Officer Jones and continues westbound down 71<sup>st</sup> Street.<sup>117</sup> Officer Jones follows Mr. [REDACTED] and appears to say something. Shortly thereafter, Mr. [REDACTED] slows and turns to look over his right shoulder and engage with Officer Jones. As he does so, Mr. [REDACTED] looks down to his right hip toward his holstered firearm. He then stops, waits for Officer Jones to catch up to him, and begins to reach into his back pocket with his right hand as if to remove his wallet. Officer Fleming and PPO Tan then stand behind

<sup>114</sup> Attachments 8 & 9.

<sup>115</sup> The restaurant is located at 2020 E. 71<sup>st</sup> Street near the northeast corner of the intersection of 71<sup>st</sup> and Jeffrey.

<sup>116</sup> Camera Channel 1 was an exterior camera in fixed position facing east on 71st Street towards Chappel Avenue. The relevant portion of the video begins at 17:36:37 on the video's timestamp (0:36 mark of video titled Ch1\_20180714173602).

<sup>117</sup> At this point Mr. [REDACTED] appears on a different camera (Channel 2), an exterior camera in a fixed position facing west on 71st Street with a view of the sidewalk and street. The relevant portion of the video begins at 17:36:53 on the video's timestamp (3:26 mark of the video titled Ch2\_20180714173328).

Mr. [REDACTED] with Officer Fleming standing near his right side. He appears to pull an object from the back pocket of his pants while simultaneously drifting backwards towards the street. The officers then engage in a brief struggle with Mr. [REDACTED] and he runs into the street as PO Aimers appears travelling westbound on 71<sup>st</sup> Street in a marked Police SUV. PO Aimers drives past Mr. [REDACTED] who runs behind PO Aimers' SUV where he collapses in the middle of the street. Foliage partially obstructs the video which prevents the camera from recording PPO Halley discharging his firearm. A second camera in the shop's interior captured no incident – related material.

### **C. Documentary Evidence**

#### **1) Shot Spotter Report**

**COPA investigators obtained and reviewed a Shot Spotter Report** documenting the recording of five gunshots in the vicinity of 2024 E 71<sup>st</sup> Street at 5:30 pm on July 14, 2018.<sup>118</sup>

#### **2) Medical Records**

**COPA investigators obtained and reviewed medical records obtained from Northwestern Memorial Hospital (NMH).**<sup>119</sup> The records indicate that PPO Halley arrived in the NHM Emergency Room at 6:30 pm on July 14, 2018 by in a Chicago Fire Department Ambulance and was taken into the hospital for a psychiatric evaluation. PPO Halley informed hospital personnel that he felt fine but was experiencing shortness of breath, which he attributed to his anxiety. He denied using alcohol or drugs.<sup>120</sup> Hospital personnel diagnosed PPO Halley with acute stress reaction and advised the police supervisor that there was no protocol or lab work to be done. PPO Halley displayed no injuries or signs of trauma. PPO Halley was medically cleared and stable for discharge.

**COPA investigators also obtained and reviewed the Chicago Fire Department Ambulance Report.**<sup>121,122</sup> The Report indicates that Ambulance 50 was dispatched to 71<sup>st</sup> and Jeffery on July 14, 2018, at 5:32 pm in response to a shooting. Ambulance 50 arrived on scene at 5:34 pm. Responding paramedics found Mr. [REDACTED] lying on his left side in the middle of 71<sup>st</sup> Street. Upon examining him they noted that he did not have spontaneous respirations. Paramedics could not find a pulse and noted that Mr. [REDACTED] pupils were fixed and dilated. Paramedics further noted that Mr. [REDACTED] had sustained a gunshot wound to the back of his head. Paramedics further noted that the shooting scene became unsafe. They placed Mr. [REDACTED] in the ambulance and transported him to Jackson Park Hospital.

#### **3) Medical Examiner's Report**

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<sup>118</sup> Attachments 14, 15, 158.

<sup>119</sup> Attachment 97.

<sup>120</sup> Sergeant [REDACTED] later administered diagnostic tests at Area Central. Results were negative for tested substances. *See* Page 35 below.

<sup>121</sup> Documents were obtained from NMH as CFD failed to respond to COPA's subpoena for records.

<sup>122</sup> Attachment 40.

**COPA investigators also obtained and reviewed the Medical Examiner's Postmortem Examination Report.**<sup>123</sup> The Report states that an autopsy was performed on Mr. [REDACTED] at 7:45 am on July 15, 2018. The cause of death was listed as multiple gunshot wounds, and the manner of death was classified as Homicide. The Report indicates that X-rays revealed foreign, radiopaque projectiles within the head, torso, and buttocks.

Mr. [REDACTED] sustained several gunshot wounds including a wound to his left shoulder of indeterminate range-of-fire, but without evidence of close-range firing. A deformed projectile was recovered from Mr. [REDACTED] chest cavity. The direction of the wound track is left to right, back to front, and downward.

Mr. [REDACTED] also sustained a gunshot wound to the back of his head of indeterminate range-of-fire, but without evidence of close-range firing. The fired projectile fragmented into two pieces which were recovered from Mr. [REDACTED] head. The direction of the wound track is upward, back to front, and slightly left to right.

Mr. [REDACTED] also sustained a gunshot wound to his chest of indeterminate range-of-fire, but without evidence of close-range firing. A deformed metal projectile was recovered from his torso. The direction of the wound track is front to back and downward.

Mr. [REDACTED] also sustained a gunshot wound to his left buttock/left upper thigh of indeterminate range-of-fire, but without evidence of close-range firing. The projectile fragmented into two pieces, which were recovered from his left thigh. The direction of the wound track for both fragments is left to right and slightly downward.

Mr. [REDACTED] also sustained a gunshot wound to the right forearm of indeterminate range-of-fire with no evidence of close-range firing. The fired projectile fragmented into two pieces and exited the arm. The direction of the wound track is back to front and left to right.

#### **4) Illinois State Police Division of Forensic Services Laboratory Reports**

**COPA investigators also obtained and reviewed an Illinois State Police Division of Forensic Services Laboratory Reports dated August 16, 2018 and November 21, 2018.**

##### **a) ISP Lab Report dated August 16, 2018**<sup>124</sup>

The Report states that the Laboratory test fired PPO Halley's weapon and found to be operable. The weapon examined contained ten unfired cartridges, all of which were Winchester 9mm Luger +P. Five recovered fired cartridge cases were also examined and determined to have been fired from PPO Halley's firearm.

The Laboratory also examined the two fired bullets recovered by the Medical Examiner and determined that they were fired from PPO Halley's weapon. The Laboratory also examined four bullet fragments recovered by the Medical Examiner but was unable to identify or eliminate PPO Halley's firearm as the source weapon.

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<sup>123</sup> Attachment 54.

<sup>124</sup> Attachments 57, 87.

**b) ISP Lab Report dated November 21, 2018<sup>125</sup>**

The Report states that the Laboratory examined Mr. [REDACTED] firearm, which contained a magazine loaded with 17 unfired cartridges. A second magazine loaded with 17 unfired cartridges was also examined as was a third loaded with 11 unfired cartridges. Five unfired cartridges recovered from the street were also examined. A latent impression on one of the magazines loaded with 17 unfired cartridges that was suitable for comparison and found to have been made by Mr. [REDACTED]

**5) Chicago Police Department Reports**

**COPA investigators also obtained and reviewed multiple reports generated by members of the Chicago Police Department** as described below.

**Original Case Incident Report (Death – Officer Involved) (RD# [REDACTED]).<sup>126</sup>** The incident report was generated in conjunction with RD # [REDACTED], the report of an aggravated battery to a police officer with a firearm. RD # [REDACTED] was suspended pending COPA's Investigation.

**Case Supplemental Report (RD # [REDACTED]).<sup>127</sup>** This document was created by Detective Daniel Berg who responded to the scene and interviewed certain involved officers, whose statements were consistent with what they later told COPA investigators.

The Case Supplemental Report also notes that In-Car Video System Technician Officer Ciraulo confirmed that the in-car video system in Vehicle # [REDACTED] (PPO Aimer's vehicle) was inoperative due to a bad front camera, which had been reported under PQUIP # [REDACTED]. Officer Ciraulo also confirmed that the in-car video system in Vehicle # [REDACTED] (Sergeant Aldrich's vehicle) was inoperative due to a software error, which had been reported under PQUIP # [REDACTED]. Officer Ciraulo further confirmed that the in-car video system of Vehicle # [REDACTED] (Officer Jones' and PPO Coleman's vehicle) was operative.

The Report also indicates that Detectives Granat and Murphy, together with COPA Investigator James Lukas, viewed the recordings from the exterior cameras of the Walgreen's located at 7109 S. Jeffrey. It was reported that the cameras did not capture images relative to this investigation.

**Case Supplemental Report (RD # [REDACTED])** was prepared by detectives to document the canvass, they conducted together with other assigned personnel of the immediate vicinity of the incident.<sup>128</sup> During this canvass, detectives interviewed witness [REDACTED]. The canvass produced no additional witnesses or further information related to this investigation.

**PPO Halley also prepared a Tactical Response Report (TRR).<sup>129</sup>** PPO Halley's Report indicates that Mr. [REDACTED] failed to follow verbal direction and pulled away from officers, that PPO Halley considered Mr. [REDACTED] to be an imminent threat of a battery with a weapon, and used force likely to cause death or great bodily harm. PPO Halley's Report further indicates that Mr. [REDACTED] was armed

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<sup>125</sup> Attachment 86, 88.

<sup>126</sup> Attachments 135-137.

<sup>127</sup> Attachment 71.

<sup>128</sup> Attachment 71.

<sup>129</sup> Attachment 17.



with a semi-automatic pistol, which he used in an attempt to attack PPO Halley, who was performing an investigatory stop. PPO Halley's Report further indicates that he used member presence, verbal direction/control techniques, tactical positioning, and additional unit members in defense of himself and other officers, and to overcome the resistance or aggression of Mr. [REDACTED] who was armed with a weapon. PPO Halley states that he discharged his semi-automatic pistol at Mr. [REDACTED] five times, fatally striking him.

In the "Reviewing Supervisor: Comments" Section, Lieutenant Davina Ward wrote that PPO Halley complied with Department orders regarding his use of force.

**Officer Fleming prepared a Tactical Response Report (TRR)** which describes Mr. [REDACTED] failure to follow verbal direction, pulling away, and fleeing.<sup>130</sup> Officer Fleming indicates that Mr. [REDACTED] attacked her without a weapon in that he struck her with his hand/arm/elbow, pushed/shoved/pulled her, and grabbed/held/restrained her. The report states that Mr. [REDACTED] was armed with a semi-automatic pistol and that his actions constituted an imminent threat of a battery with a weapon. Officer Fleming also describes Mr. [REDACTED] actions as likely to cause death or great bodily harm in that he used/attempted to use his weapon to attack her and committed an assault or battery against her as she performed a police function described as the investigatory stop of a man with a gun. Officer Fleming further described Mr. [REDACTED] actions as "struck/Blunt Force (including Attempt).

In the "Reviewing Supervisor: Comments" Section, Lieutenant Davina Ward wrote that Officer Fleming also complied with Department orders regarding her use of force.

**Sergeant Mark O'Connor prepared a Synoptic Report** which indicates that he began a 20-minute observation period of PPO Halley at 9:20 pm on the night of the incident.<sup>131</sup> Sergeant O'Connor collected a urine sample from PPO Halley at 9:25 pm. At 9:46 pm he conducted a Breath Alcohol Concentration Test on PPO Halley. Test results indicate that PPO Halley's Breath Alcohol Concentration (B.A.C.) was .000.

**A Quest Diagnostics Laboratory Report** indicates that the results of PPO Halley's urine test were negative for oxidizing adulterants and all substances on the Urine Substance Abuse Panel.<sup>132,133</sup>

**A Crime Scene Processing Report** records the recovery and sealing of Mr. [REDACTED] firearm inside a plastic evidence bag.<sup>134</sup> The report states that Mr. [REDACTED] was armed with a Ruger American Semi-Automatic Pistol (Serial # [REDACTED]). The Report does not indicate the number of rounds in the weapon's magazine but does note the recovery of one live cartridge from the weapon's chamber. The report notes the recovery of two additional magazines from the street, but Report does not indicate the number of rounds in the magazines. The Report further notes the recovery of four unfired cartridges and five fired cartridge casings from the pavement at the scene.

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<sup>130</sup> Attachment 18.

<sup>131</sup> Attachment 37.

<sup>132</sup> Attachment 38.

<sup>133</sup> Amphetamines, Barbiturates, Benzodiazepines, Cocaine Metabolites, Marijuana Metabolites, Methadone, MDA-Analogues, Opiates, Oxycodones, Phencyclidine, Propoxyphene.

<sup>134</sup> Attachment 62.

A **Crime Scene Processing Report** (# [REDACTED]) states that Lieutenant Davina Ward recovered PPO Halley's firearm, a Glock 19, Generation 4, 9mm semi-automatic (Serial # [REDACTED]) at Northwestern Hospital.<sup>135,136</sup> One unfired cartridge was recovered from the firearm's chamber and 10 unfired cartridges from the weapon's magazine, which has a 15 round capacity.

## **6) Circuit Court of Cook County Records**

**COPA investigators also obtained and reviewed the Docket of Circuit Court of Cook County Case No. [REDACTED]**, which describes the wrongful death suit filed on November 19, 2018 by the Estate of [REDACTED] against the City of Chicago and involved officers.<sup>137</sup> Plaintiff's counsel filed the Estate's Amended Complaint on October 2, 2020 and the litigation remains pending as of the writing of this Report.

## **D. Additional Evidence**

**COPA investigators conducted a canvass in the vicinity of the incident on July 24, 2018.**<sup>138</sup> While canvassing, COPA investigators spoke to [REDACTED] (16 YOA), who said she had witnessed the incident. Ms. [REDACTED] indicated that she saw the incident from a position west of the alley. Ms. [REDACTED] stated that police stopped a man and shot him. Ms. [REDACTED] who could not be questioned further by COPA investigators without the consent of her parents refused to provide her contact information and indicated she did not wish to cooperate further.

The canvass produced no further information relevant to the investigation.

**COPA Investigator prepared a Subject Report regarding response to Northwestern Memorial Hospital on the day of the incident.**<sup>139</sup> The COPA Investigator observed CPD Evidence Technician Seiber photograph Officer Fleming and PPO Halley for injuries. The Investigator noted that Officer Fleming had very minor red fingernail marks on her inner right elbow, which Officer Fleming stated were caused by a "tussle" with Mr. [REDACTED]. No injuries were noted relative to PPO Halley.

The Investigator was also present when Evidence Technician Seiber processed PPO Halley's firearm while at the hospital following its recovery by Lieutenant Ward as indicated in Crime Scene Processing Report (# [REDACTED]) described above. It was noted that PPO Halley was armed with a Glock 19, Generation 4 pistol, one unfired round which was recovered from the chamber of the firearm and 10 unfired rounds recovered from the firearm's magazine. The firearm's capacity was determined to be 16 with a round chambered and a full magazine.

## **V. Legal Standard**

### **A) Fourth Amendment**

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<sup>135</sup> Attachment 63.

<sup>136</sup> An initial inquiry resulted in PPO Halley's firearm as being clear, not registered. Further inquiry determined that this was due to a typographical error. (Attachment 70).

<sup>137</sup> Att. 187.

<sup>138</sup> Attachment 34, 79.

<sup>139</sup> Attachment 11.

The Fourth Amendment, by its plain text, protects the right of the people to be secure in their persons against unreasonable searches and seizures.<sup>140</sup> A limited exception permits a police officer to briefly stop (and therefore necessarily seize) a person for temporary questioning if he has reasonable suspicion the person has committed, or is about to commit, a crime.<sup>141</sup> Thus, a "seizure" occurs when an officer has in some way restrained a citizen's liberty so the person believes he is not free to leave.<sup>142</sup>

## B) Firearm Possession and Illinois Concealed Carry Law

When encountering a subject armed with a firearm, **"a mere possibility of unlawful use of a gun is not sufficient to establish reasonable suspicion. It must be sufficiently probable that the observed conduct suggests unlawful activity."**<sup>143</sup> In accordance with law, the Illinois First District Appellate Court has stated:

We wish to emphasize that under the current legal landscape, police cannot simply assume a person who possesses a firearm outside the home is involved in criminal activity. Likewise, they cannot use a firearm in partial view, such as a semi-exposed gun protruding from the pant pocket of a person on a public street, alone as probable cause to arrest an individual for illegal possession without first identifying whether the individual has a FOID card. We thus caution against an "arrest first, determine licensure later" method of police patrol.<sup>144</sup>

The Illinois Supreme Court ruled in 2013 that an outright ban on handguns is unconstitutional under the Second Amendment.<sup>145</sup> Subsequently, possession of a firearm, even in public, is not necessarily unlawful, and individuals do not commit a crime if they carry a concealed firearm while properly licensed under the Concealed Carry Act, 430 ILCS 66/10.<sup>146</sup> A firearm is concealed within the definition of Illinois law, even if there is some notice of its presence; the requirement is that it be concealed from ordinary observation.<sup>147</sup>

The Concealed Carry Act sets forth the procedure which concealed carry license holders must adhere to during an investigative stop:

If an officer of a law enforcement agency initiates an investigative stop . . . [of a licensee] . . . upon the request of the officer the licensee . . . shall disclose to the officer that he or she is in possession of a concealed firearm under this Act, or present the license upon the request of the officer if he or she is a licensee . . . . The disclosure

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<sup>140</sup> *People v. Horton*, 2019 IL App (1st) 142019-B ¶51.

<sup>141</sup> *People v. Thomas*, 2019 IL App (1st) 170474 ¶16 (citing *Terry v. Oio*, 392 U.S. 1 (1968)).

<sup>142</sup> *Id.*

<sup>143</sup> *United States v. Watson*, 900 F.3d 892, 896 (7th Cir. 2018)(applying Fourth Amendment to Indiana law which allows firearms in public with a proper license); *See also Horton* (finding no probable cause where officer did not articulate any bases for believing the firearm was possessed unlawfully).

<sup>144</sup> *People v. Thomas*, 2019 IL App (1st) 170474 ¶36.

<sup>145</sup> *People v. Aguilar*, 2013 IL 112116 (citing *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010)).

<sup>146</sup> *See, People v. Spain*, 2019 IL App (1st) 163184 ¶ 28, 37 (holding that carrying a firearm in public is not necessarily unlawful and that officers must have cause to believe that the gun is possessed unlawfully).

<sup>147</sup> *People v. Zazzetti*, 6 Ill. 3d. 858, 862 (1st Dist. 1972)

requirement under this subsection (h) is satisfied if the licensee presents his or her license to the officer . . . . Upon the request of the officer, the licensee or non-resident shall also identify the location of the concealed firearm and permit the officer to safely secure the firearm for the duration of the investigative stop.<sup>148</sup>

Department policy sets forth procedure consistent with the Act by instructing officers that **“upon the request of the officer”** licensees must disclose that they are in possession of a concealed firearm either verbally or by presenting a concealed carry license card; identify the location of the concealed firearm; and permit the officer to safely secure the firearm for the duration of the stop.<sup>149</sup>

### C) Use of Force

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable, necessary, and proportional in light of the totality of the circumstances faced by the officer.<sup>150</sup> Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; (3) the subject’s proximity or access to weapons; (4) the severity of the crime at issue; and (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.<sup>151</sup>

The Force Options directive divides subjects into categories based upon the amount of force the subject is using and provides for what types of force officers are permitted to use against those subjects. These categories are (1) cooperative subjects who are compliant without the need for force; (2) passive resisters who fail to comply, via non-movement, with verbal or other direction; (3) active resisters who attempt to create distance between themselves and an officers’ reach with the intent to avoid physical control and/or defeat arrest; and (4) assailants who use or threaten the use of force which is likely to cause physical injury.<sup>152</sup> The directive makes explicit that “police presence alone is the only force option authorized for use with subjects who are fully cooperative.”<sup>153</sup>

Department policy recognizes that Department members must “make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”<sup>154</sup>

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<sup>148</sup> 430 ILCS 66/10 (h).

<sup>149</sup> S06-05-02 (II)(E)(bold in original).

<sup>150</sup> General Order G03-02(III)(B)(1)(effective Oct. 16, 2017 to Feb. 28, 2020).

<sup>151</sup> *Id.*

<sup>152</sup> G03-02-01 (IV).

<sup>153</sup> G03-02-01 (IV)(A)(1)(b).

<sup>154</sup> G03-02(II)(D).

**D) Use of Deadly Force<sup>155</sup>**

The Department's "highest priority is the sanctity of human life."<sup>156</sup> Discharging a firearm is deadly force under Department policy.<sup>157</sup> Department policy dictates that "[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person."<sup>158</sup> Thus, a Department member may use deadly force in only two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.<sup>159</sup>

A threat is imminent when it is objectively reasonable to believe that:

- a. the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm.<sup>160</sup>

**E) Body Worn Cameras.**

Chicago Police Officers' use of Body Worn Cameras is governed by Special Order S03-14. This order requires officers to activate their camera at the beginning of an incident and record the entire incident for all "law-enforcement-related activities," including, but not limited to, investigatory stops, foot pursuits, arrests, seizures of evidence, searches, high-risk situations, and any other instance when enforcing the law.<sup>161</sup> The decision to electronically record an encounter is mandatory and not discretionary, but for several exceptions specified in this order.<sup>162,163</sup>

**F) Post Discharge Responsibilities.**

Following all firearm discharge incidents, officers have certain responsibilities articulated in detail in G03-02-03. The following duties are discussed in further detail later in this report, as they are relevant to pending allegations:

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<sup>155</sup> The Department's Use of Force Policy at the time of the incident prohibited the use of deadly force under circumstances that would be permissible under the United States Constitution's Fourth Amendment and Illinois law. COPA's analysis focuses solely on whether PPO Halley complied with Department General Orders.

<sup>156</sup> *Id.* at (II)(A).

<sup>157</sup> *Id.* at (III)(C)(1).

<sup>158</sup> *Id.* at (III)(C)(3).

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at (III)(C)(2).

<sup>161</sup> S03-14(III)(A)(2) (effective April 30, 2018).

<sup>162</sup> *Id.* at (III)(A)(1).

<sup>163</sup> None of the exceptions are applicable to this incident. *See Id.* at (III)(B) and IV.

- The discharging officer, all other involved officers, and witnesses will refrain from discussing details of the incident with one another;<sup>164</sup>
- Witness members will report to the Street Deputy/designated incident commander and remain on scene until released;<sup>165</sup>
- Responding supervisor will ensure that the involved Department members remain separate from each other and do not communicate with each other regarding the incident until excused;<sup>166</sup> and
- Responding supervisor will assign transportation for the involved members while ensuring they remain separated.

### **G) Rule 14**

Department Rule 14 prohibits officers from “making a false report, written or oral.” Pursuant to the Bill of Rights within the officers’ Collective Bargaining Agreement, officers may not be charged with a Rule 14 violation unless “(1) the officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.”<sup>167</sup>

A “material fact” is a fact that is “crucial . . . to the of an issue at hand.”<sup>168</sup> A false statement is made “willfully” if it is done intentionally.<sup>169</sup>

### **H) Rules 2 and 3**

Rule 2 is applicable to the conduct of all officers and prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department. Rule 3 is primarily applicable to supervisory officers but supports the same standards in failure to promote implementation of policies or goals. In combination, Rules 2 and 3 serve the principal that sworn officers are held to a standard of truthfulness:

Department Rules 2 and 3 require that Chicago police officers provide a complete and accurate accounting of what they observe while on duty. Officers may not offer misleading statements which emphasize certain facts to the exclusion of others. And they are not permitted to pick and choose facts in order to support a pre-determined conclusion. Instead, officers must provide a complete accounting without embellishment, exaggeration, or spin.<sup>170</sup>

### **I) Standard of Proof**

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

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<sup>164</sup> G03-02-03 at (V)(B)(10) and (V)(C)(3) (effective October 16, 2017 - February 28, 2020).

<sup>165</sup> *Id.* at (V)(C)(1).

<sup>166</sup> *Id.* at (V)(D)(5)(a).

<sup>167</sup> Agreement Between Fraternal Order of Police Chicago Lodge No. 7 and the City of Chicago, July 1, 2012-June 30, 2017 Section 6.1M. The agreement remained in effect as of the date of this incident.

<sup>168</sup> Black’s Law Dictionary, (Online, 2<sup>nd</sup> Ed., accessed 11/18/19), *available at thelawdictionary.org/material-fact/*.

<sup>169</sup> Black’s Law Dictionary, (Online, 2<sup>nd</sup> Ed., accessed 11/18/19), *available at thelawdictionary.org/willfully/*.

<sup>170</sup> *In re Franko et. al.*, 16 PB 2909-2912, Findings and Decisions, July 18, 2019, at pp. 5-6.



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

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

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

## VI. Legal Analysis

### A) Mr. [REDACTED] was Detained when He Stopped in Response to Officer Jones’ Commands.

COPA finds that Mr. [REDACTED] was detained, i.e., seized, not free to leave, at the moment he stopped walking and faced Officer Jones.<sup>171</sup> While there are certain police-citizen encounters considered “consensual” that do not implicate the Fourth Amendment,<sup>172</sup> this incident rose to the level of a seizure. Notably, Officer Jones himself says that he detained Mr. [REDACTED] for the purpose of conducting an investigatory stop.

Moreover, if viewed from Mr. [REDACTED] perspective, the objective facts, demonstrate that he was seized.<sup>173</sup> Officer Jones says that he stopped Mr. [REDACTED] by telling him to “come here” and immediately began asking him probing questions related to his firearm. Officer Fleming indicated that Jones was saying these things in a “authoritative voice,” as if issuing Mr. [REDACTED] commands.<sup>174</sup>

<sup>171</sup> Atts. 8 & 9, 17:37:03 of Jeffrey Sub, Ch2\_20180714173328.

<sup>172</sup> *People v. Luedemann*, 222 Ill. 2d 530, 550-53 (2006)(citing *United States v. Mendenhall*, 446 U.S. 544 (1980)(discussing that there is a class of civilian-officer interaction referred to as a “consensual encounter” that does not implicate the Fourth Amendment unless application of *Mendenhall* factors demonstrate that a reasonable person would not feel free to leave.)

<sup>173</sup> *Michigan v. Chestnut*, 486 U.S. 567, 573-74 (1988)(analysis about whether a seizure has occurred is viewed from the perspective of an objectively reasonable person in defendant’s position).

<sup>174</sup> *See, United States v. Mendenhall*, 446 U.S. 544, 554 (1980)(stating that one factor whether individual is seized is “the use of language or tone of voice indicating that compliance with the officer’s request might be compelled);

Further, Officer Jones acknowledged he related to Mr. [REDACTED] the officers were present because they needed to know about the gun.<sup>175</sup> Equally compelling, Officer Jones had his hand on his holstered firearm from the moment Mr. [REDACTED] turned toward him, eventually removing it from his holster to a “low ready” position. PPO Tan also drew his weapon to a ready position as they observed Mr. [REDACTED] retrieved his wallet.<sup>176,177,178</sup>

Based upon the totality of the circumstances, Officer Jones’ commands, the presence of several other Officers, and the display of multiple firearms, the preponderance of the evidence demonstrate that a reasonable person in Mr. [REDACTED] position would not feel free to leave and walk away. Thus, COPA concludes Mr. [REDACTED] was detained for the purpose of conducting an investigatory stop, as defined in case law, when he was stopped by Officer Jones.

#### **B) There Was No Reasonable Articulable Suspicion to Detain Mr. [REDACTED]**

When Officer Jones detained Mr. [REDACTED] he had no reasonable articulable suspicion that Mr. [REDACTED] was carrying the firearm illegally. Each officer stated that the reason to stop Mr. [REDACTED] was merely to determine if he had the right license permitting him to carry the weapon. While officers may seek to determine if a person is in lawful possession of a firearm that inquiry alone lacks legal sufficiency with which to initiate an *investigatory stop*. The investigatory stop upon Mr. [REDACTED] must have been premised upon the officers’ reasonable suspicion that he was possessing the firearm illegally.<sup>179</sup>

However, the preponderance of the evidence demonstrates there existed no basis in this case for such a suspicion, as reflected in the officers’ interviews and video captured at the scene. Officer Jones attempted to characterize Mr. [REDACTED] as uncooperative and stated that his suspicion of Mr. [REDACTED] was raised during their encounter. However, the video evidence and officer statements demonstrate there was nothing objectively suspicious about Mr. [REDACTED] actions with Officer Jones. Officer Fleming offered absolutely no basis for the stop, instead stating “you see a man with a gun, you have to investigate.”<sup>180</sup> PPO Tan stated on body-worn camera immediately following the shooting “honestly, the way we carried it, I thought he had concealed carry. But then we still got to stop him.”<sup>181</sup> Video footage shows that Mr. [REDACTED] did not act evasively upon seeing the officers. On the contrary, he

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*People v. Billingslea*, 292 Ill.App.3d 1026, 1030 (1997)(finding that defendant had been seized when officer said “come here” because it was a show of authority).

<sup>175</sup> See, e.g., *Mendenhall*, 446 U.S. 554 (holding that presence of several officers is factor as to whether individual has been seized.)

<sup>176</sup> Jeffrey Sub 17:36:58.

<sup>177</sup> Jeffrey Sub 17:37:06, Jeffrey Big Market at 17:30:27.

<sup>178</sup> *Mendenhall*, 446 U.S. 554 (holding that “the display of a weapon by an officer” is a factor in finding that individual has been seized).

<sup>179</sup> *Watson*, 900 F.3d at 896 (“a mere possibility of unlawful use of a gun is not sufficient to establish reasonable suspicion.”).

<sup>180</sup> Fleming June 10, 2020 interview, p. 40, line 24 to p. 41, line 1. See, also, Fleming Aug. 14, 2018 interview, p. 37, lines 11-12 (“I don’t make assumptions on if a gun is legal or not legal”).

<sup>181</sup> Attachments 7 and 25.

walked right past five officers without slowing or breaking his stride as he passed them.<sup>182</sup> Video also shows Mr. [REDACTED] did not speed up or attempt to flee as Officer Jones stopped him.

Officer Jones said he was suspicious of Mr. [REDACTED] because he ignored Jones' order to stop. However, that is not supported by the evidence. Surveillance video shows Officer Jones stepped towards Mr. [REDACTED] as he walked west on 71st Street. However, when interviewed, Officer Jones made clear that he neither addressed nor attempted to stop Mr. [REDACTED] at that time. Officer Jones explained that it was only after Mr. [REDACTED] walked past him, that he tried to stop Mr. [REDACTED]. Video footage does not show Mr. [REDACTED] ignoring Officer Jones; to the contrary, within two seconds of walking past Officer Jones, Mr. [REDACTED] turns to look over his shoulder and slows as if listening to the Officer. When interviewed, Officer Jones said Mr. [REDACTED] responded to him, saying "what's going on?" Mr. [REDACTED] then looks at his hip, perhaps in response to something Officer Jones said and stops walking. The entire interaction between Officer Jones and Mr. [REDACTED] occurred less than ten seconds after Mr. [REDACTED] walked past Officer Jones and approximately five seconds after Officer Jones first addressed him.

Officer Jones also said that he believed Mr. [REDACTED] possessed the firearm illegally because he turned his right hip, with the firearm, away when Jones pointed at it. However, it is clear from video evidence that Mr. [REDACTED] did not turn his hip away, or or take any action to conceal the firearm until after he was detained.<sup>183</sup>

Based upon the totality of the evidence, there is nothing objectively reasonable with which to infer or conclude that Mr. [REDACTED] was carrying the firearm illegally. Mr. [REDACTED] fully aware that he was in possession of a firearm, walked casually passed several of the officers without engaging in any suspicious or evasive behavior. Once Officer Jones had his attention, Mr. [REDACTED] was responsive and immediately took his wallet out as if to show identification. None of the Officers who stopped or surrounded Mr. [REDACTED] - Officers Jones, Fleming, and PPOs Coleman, Halley and Tan, were able to articulate any basis to support a reasonable suspicion that Mr. [REDACTED] was carrying a firearm illegally. On the contrary, the preponderance of the evidence supports the conclusion that the officers conducted an investigatory stop of Mr. Augusts, to determine whether he was legally in possession of his firearm, despite their lack of reasonable suspicion.

COPA acknowledges that Department directives and Illinois state law proscribe the manner in which a law enforcement officer can conduct an investigatory stop of someone with a concealed carry permit. But neither state statute, nor Department directives, nor any controlling caselaw establish that mere possession of a firearm can *predicate* an investigatory stop. COPA further acknowledges that a law enforcement officer is free to ask questions of a civilian during a consensual encounter, as Officer Jones initially began to do with Mr. [REDACTED]. But without reasonable articulable suspicion that a crime has been or is about to be committed, the encounter must remain consensual. In this incident, all

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<sup>182</sup> Contrast *Thomas*, 2019 IL App (1st) 170474 ¶18-20 (finding that defendant's flight with a firearm justified stop because "police presence and potential encounter is what prompted defendant's flight, giving rise to reasonable suspicion").

<sup>183</sup> See, e.g., Jeffery Sub, Ch2\_20180714173328 at 17:36:59. Contrast, *Spain*, 2019 IL App (1st) 163184 (finding that there was cause to believe man possessed firearm illegally when, once he was already justifiably detained due to matching a description of a suspect planning a gang shooting, he tucked his firearm further into his pants to hide it from approaching officers).

the circumstances articulated by Officer Jones, the video evidence, and the other officers, indicates that the encounter with Mr. [REDACTED] was clearly not consensual and he was not free to leave.

At the moment Officer Jones detained him, there was no reasonable articulable suspicion that Mr. [REDACTED] had committed, was committing, or was about to commit a crime. COPA therefore finds that Mr. [REDACTED] was stopped and detained without justification. **Allegation 1**, as to Officer Jones – that he engaged in an unjustified stop is therefore **Sustained**.

Similarly, Officer Fleming and PPO Tan signaled Officer Jones to stop Mr. [REDACTED] and then surrounded him to aid Officer Jones in detaining him during the unjustified investigatory stop. Both Officer Fleming and PPO Tan either attempted to seize or did physically grab Mr. [REDACTED] during the stop. Allegations related to the unjustified stop of Mr. [REDACTED] by Officer Fleming and PPO Tan are supported by a preponderance of the evidence. **Allegation 6 against Officer Fleming and Allegation 1 against PPO Tan are therefore Sustained**.

Because PPO Coleman and PPO Halley were a greater distance from Mr. [REDACTED] than the officers identified above, there is insufficient evidence to either prove or disprove that they participated in an unjustified stop and, therefore, **Allegation 1** against PPO Coleman and PPO Halley is **Not Sustained**.<sup>184</sup>

Video evidence is clear and convincing that PO Aimers was not present with the initial group of officers and did not participate in the unjustified investigatory stop, therefore, **Allegation 1** against him is **Unfounded**.

**C) There is Insufficient Evidence to Justify the Initial Use of Force by Officer Fleming and PPO Tan.**

**1) [REDACTED] was a Cooperative Subject.**

COPA finds that at the time Officer Fleming and PPO Tan grabbed Mr. [REDACTED] by the arm, he was classified as a cooperative subject under the Use of Force directive.<sup>185</sup> The officers all attempted through their statements on scene and their later interviews to portray Mr. [REDACTED] as non-compliant, but that is contradictory to video evidence. At the time Officer Fleming reached for him, he had both hands on his wallet, and appeared to be searching through the wallet to demonstrate compliance with Officer Jones' inquiry. Under the Concealed Carry Act, presenting identification is an acceptable method of providing notice that you are in legal possession of a concealed firearm. The preponderance of the evidence supports the conclusion that Mr. [REDACTED] initially fit the definition of a "cooperative subject," in that he was compliant without the need for force.

Officer Fleming's primary stated reason for reaching for Mr. [REDACTED] arm was her belief that he was reaching for his firearm, which would make him no longer cooperative. But this is not supported by video evidence, as Mr. [REDACTED] had his wallet in both hands when she grabbed him and was not

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<sup>184</sup> The preponderance of the evidence shows that neither PPO Coleman nor PPO Halley directed any verbal instructions to Mr. [REDACTED] nor did they not display the weapons or touch Mr. [REDACTED]. However, their presence, in combination with that of the other officers could be reasonably considered as assistance in effectuating this stop.

<sup>185</sup> Officer Fleming seizing his arm meets the definition of force, which is defined as "any physical contact by a Department member . . . to compel a subject's compliance." G03-02(III)(A).

moving his right hand towards the firearm. Officer Fleming denied seeing him with his wallet out, but also claims she saw his right hand, which is inconsistent. Similarly, PPO Tan provided inconsistent explanations for his contact with Mr. [REDACTED] by alternatively stating that he was reaching for his firearm and/or that he grabbed for Mr. [REDACTED] because he saw Officer Fleming do so.

Thus, because Mr. [REDACTED] was compliant and was a cooperative subject, there is insufficient evidence to justify Officer Fleming's use of force, i.e., grabbing at his arm. Pursuant to Department policy, the only permissible use of force upon a cooperative subject was police presence alone.<sup>186,187,188</sup>

For the above reasons, the preponderance of the evidence establishes that Officer Fleming had insufficient justification to make physical contact with Mr. [REDACTED]. Therefore, Allegation 1 against Officer Fleming is **Sustained**.

However, while the same analysis nearly applies to PPO Tan, his position in comparison to Fleming distinguishes the two. He did not have as clear a sight line to observe that Mr. [REDACTED] had both hands on his wallet and was making arm movement incidental to searching for something in his wallet. Additionally, PPO Tan appears to move slightly after Officer Fleming does. COPA finds there is insufficient evidence to either prove or disprove that PPO Tan's physical contact with Mr. [REDACTED] was unjustified. Therefore, **Allegation 2** against PPO Tan is **Not Sustained**.

The evidence is clear and convincing that Officer Jones, PPO Halley, PO Aimers, and PPO Coleman either were not successful at their attempts to touch Mr. [REDACTED] with their hands or did not make such attempts at all. Therefore, each Allegation 2 against Officer Jones, PPO Halley, PO Aimers, and PPO Coleman are **Unfounded**.

**D) Officer Fleming was Ineffective in Attempting to Detain Mr. [REDACTED] and Secure his Firearm.**

COPA finds that Officer Fleming was ineffective in carrying out the investigatory stop of Mr. [REDACTED]. First, to the extent she believed the investigatory stop was lawful, rather than attempt physical control of Mr. [REDACTED] she should have requested he turn over his weapon so she may secure it as set forth in S06-05-02 and the Concealed Carry Act. The law and Department policy only allow officers to secure the individual's firearm *upon request*. In fact, the requirement that officers request to secure the firearm is in bold print in the directive, making the emphasis clear.<sup>189</sup> Because no officer requested to secure Mr. [REDACTED] firearm, they failed to comply with Department policy.

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<sup>186</sup> G03-02-01 (IV)(A)(1)(b).

<sup>187</sup> While COPA acknowledges that G03-02 also permits use of force to effectuate an arrest, it is unnecessary to undertake a comprehensive analysis here, as COPA previously determined that reasonable articulable suspicion was not present in this case. The higher threshold of probable cause, a necessary component to effectuating a lawful arrest, was therefore certainly not present. Hence, because an arrest would not have been justified at this moment, neither was a use of force to effectuate an arrest.

<sup>188</sup> In their interviews, Officer Fleming and PPO Tan also implied that another potential justification for their use of force was to secure Mr. [REDACTED] firearm in compliance with S06-05-02. See discussion below, which illustrates that Officer Fleming in particular did not follow the explicit guidance of S06-05-02. COPA therefore finds that she and PPO Tan could not credibly use the provisions of S06-05-02 to attempt to justify their initial use of force.

<sup>189</sup> S06-05-02(II)(E)(effective January 1, 2016 – August 15, 2019).

COPA acknowledges that investigatory stops of individuals with firearms can be tense and evolving incidents. However, the detailed guidance provided by Department policy suggests the significance of abiding by this directive as a tool to temper escalation by both involved officers as well as involved civilians. Officer Fleming did not comply with these rules, and instead of making an oral request to hold Mr. [REDACTED] firearm, she grabbed his arm from the side, unannounced. This escalation of the entire encounter ultimately resulted in PPO Halley's use of deadly force.<sup>190</sup> In fact, the evidence reflects that no officer made a request to allow for the safe securing of Mr. [REDACTED] firearm during this stop. The video evidence appears to show a compliant Mr. [REDACTED] searching his wallet to display some sort of identification, possibly in response to Officer Jones<sup>191</sup>, which is only one component of the Directive. Beyond this step, there is no additional evidence to reflect compliance with this Directive.

The evidence suggests that Fleming's unannounced grip on Mr. [REDACTED] arm put a chain of events into motion that escalated everyone's responses. At approximately the same time that Fleming grabbed Mr. [REDACTED] arm, PPO Tan also reached for his arm, and Officer Jones reached for his waistband. Contemporaneously, Officer Jones had his hand on his holstered weapon, while PPO Tan had his firearm drawn from his holster, but not pointed at Mr. [REDACTED]. Therefore, when considering the totality of the circumstances faced by Mr. [REDACTED] it is objectively reasonable that he would be startled by Fleming's physical contact and would back away. Unfortunately, this motion of backing away elevated the level of alarm to the remaining officers on scene and affected the following actions by the officers and Mr. [REDACTED] himself, including the officers' sudden movement towards him. The totality of these circumstances likely contributed to the ultimate outcome.

COPA concludes by failing to comply with this Directive, Officer Fleming impeded the policies and goals of the Department in violation of Rule 2, disobeyed a directive in violation of Rule 6, and was inattentive to duty in violation of Rule 10. Therefore, **Allegation 2** against Officer Fleming is **Sustained**.

Second, even though the officers were not justified in detaining Mr. [REDACTED] once Officer Fleming put this into motion, she had an obligation to detain him in a manner that safely and effectively would not escalate the incident. Instead, she used only one of her hands in an attempt to gain control, which is contrary to her training. Her ineffective approach to gaining control put a risky chain of events in motion, as previously explained. Therefore, Officer Fleming took an action which impeded the Department's efforts to achieve its policy and goals in violation of Rule 2, failed to perform her duty in violation of Rule 5 and was inattentive to duty in violation of Rule 10. **Allegation 3** against Officer Fleming is **Sustained**.

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<sup>190</sup> Officer Fleming not only received training on this Directive, she has experience applying it. She stated that she has had between 10 and 15 investigative stops involving concealed carry licensees, between 10 and 12 of which occurred during foot patrols. (Att. 140, Fleming transcript pp. 39-40) She acknowledged that she normally gives verbal direction to a potential concealed carry licensee, but did not so in this case. (pp 52-54) Officer Fleming repeatedly referred to Officer Jones as being the "verbal officer" to explain why she did not feel obligated to provide verbal direction to Mr. [REDACTED] but also acknowledged that she did not know what, if anything, Officer Jones said to Mr. [REDACTED] and that she made assumptions about this. (pp 59, 67)

<sup>191</sup> There is no corresponding audio with available video evidence reflecting this portion of the encounter. As all of the officers failed to activate their body worn cameras in a timely manner, all CPD-generated video evidence was acquired during the buffer zone of the footage, in which no audio is captured.

**E) The Preponderance of the Evidence demonstrates that PPO Halley Acted Within Department Policy in his Use of Deadly Force.**

COPA finds that when PPO Halley discharged his firearm, it was objectively reasonable for him to believe that Mr. ██████ posed an imminent threat of death or great bodily harm to the officers and bystanders. Under Department policy, a threat is imminent where: (i) the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; (ii) the subject has the means or instruments to cause death or great bodily harm; and (iii) the subject has the opportunity and ability to cause death or great bodily harm.”

First, COPA finds it is objectively reasonable for PPO Halley to believe that Mr. ██████ actions were immediately likely to cause death or great bodily harm. PPO Halley's perspective is depicted in his body worn camera footage. Surveillance camera footage additionally corroborates how Mr. ██████ presented to PPO Halley. After his path of flight was blocked by PO Aimers, Mr. ██████ grabbed the handle of his firearm and made an upward motion as if attempting to unholster it. PPO Halley said he believed that Mr. ██████ had drawn his firearm and that it was this conduct that led him to shoot. While the evidence reflects that Mr. ██████ did not successfully withdraw his firearm from his waistband holster, COPA finds PPO Halley's mistake of fact to be reasonable, based upon the totality of the circumstances.<sup>192</sup> PPO Halley's use of force must be evaluated based on the information available to him when he discharged his firearm, not with the benefit of hindsight.<sup>193</sup> COPA found PPO Halley credible in his explanation of the rapidly evolving events.

Just prior to making the upward pulling motion towards his firearm, ██████ reacted to Officer Fleming's contact with his arm. He strongly pulled away from Officer Fleming's and PPO Tan's grasps, swung at Officer Fleming's arm to break her grip, and moved toward 71st Street, prior to being blocked by PO Aimers' squad car. Thus, even though he was initially cooperative, Mr. ██████ quickly escalated to an “assailant” against Officer Fleming.<sup>194</sup>

Even though Mr. ██████ did not successfully draw his firearm, his actions were such that it was reasonable to believe he was in the act of drawing his firearm. Therefore, the first of three components of the definition of imminent threat has been met by the preponderance of the evidence.

Second, there is overwhelming evidence that that Mr. ██████ possessed a firearm on the right side of his waistband, in fact it was the entire reason officers initially detained him. A loaded firearm as well as additional magazines of ammunition were recovered from Mr. ██████ waistband following the incident. The firearm was in a firearm holster affixed to the right side of Mr. ██████ waistband.<sup>195</sup> The second component of the definition of imminent threat has been met by the preponderance of the evidence.

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<sup>192</sup> This analysis must consider the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff v. Rickard*, 572 U.S. 756, 774-75. COPA recognizes the legitimate safety interests of law enforcement officers and that reasonable errors of perception or other reasonable mistakes are justifiable under the Fourth Amendment and Department policy.

<sup>193</sup> *Id.*; G03-02(III)(2)(D).

<sup>194</sup> 720 ILCS 5/7-7 (“a person is not authorized to use force to resist an arrest ... even if he believes that the arrest is unlawful and the arrest in fact is unlawful.”)

<sup>195</sup> This is supported by video evidence, interviews, and evidence technician photographs.



Third, PPO Halley reasonably believed that Mr. [REDACTED] had the opportunity and ability to cause death or great bodily harm. PPO Halley described that Mr. [REDACTED] turned around and faced him and how he believed that Mr. [REDACTED] weapon was out because of how high of a pulling motion he made with his arm. PPO Halley described this as the moment at which he had to fire his weapon, as Mr. [REDACTED] was only about 10 to 15 feet away from him.<sup>196</sup> PPO Halley proceeded to explain that he stopped firing when he no longer perceived Mr. [REDACTED] as a threat, because he was no longer making the pulling motion with his arm.<sup>197</sup> The third component of the definition of imminent threat has been met by a preponderance of the evidence, thus establishing that it was objectively reasonable for PPO Halley to believe that Mr. [REDACTED] posed an imminent threat of death or great bodily harm to the officers and bystanders. Therefore, PPO Halley acted within Department Policy under G03-02.

For these reasons, it was objectively reasonable for PPO Halley to use deadly force against Mr. [REDACTED] and therefore within Department policy under G03-02.

**F) Failure to Separate and Refrain from Discussing Details.**

**1) The Preponderance of the Evidence neither proves nor disproves that Sergeant Aldrich Failed to Ensure that PPO Halley Remained Separate from Other Officers.**

As the first supervisor on scene, Sergeant Aldrich had multiple emergent responsibilities. Not only was he supposed to separate PPO Halley from the other officers, but he also was responsible for securing the scene and establishing perimeters.<sup>198</sup>

PPO Halley's body worn camera establishes that, as soon as Sergeant Aldrich arrived on scene, PPO Halley checked in with him and informed him that he was the discharging officer. Sergeant Aldrich was then captured on surveillance videos attempting to push PPO Halley away from the other officers.

However, at the same time, a large crowd of civilians was already beginning to form. Sergeant Aldrich went to his vehicle to get police tape to secure the perimeter. Immediately after setting up the perimeter, he began trying to back bystanders away from the scene, which he was doing until the arrival of Lieutenant Ward. The crowd of civilians quickly grew verbally hostile, directing comments at the officers on scene. Many civilians also were physically resistant with the officers' requests to back away from the crime scene. Several civilians disregarded the crime scene tape until they were escorted beyond the tape.

Sergeant Aldrich had conflicting responsibilities at a chaotic scene. Video evidence portrays the scene. It also shows that Sergeant Aldrich did not promptly separate PPO Halley from other involved officers. The issue at hand is whether or not Sergeant Aldrich had sufficient justification to support his failure to ensure PPO Halley's separation. COPA finds that the preponderance of the evidence neither proves nor disproves a sufficient justification, and, therefore, **Allegation 1** against Sergeant Aldrich is **Not Sustained**.

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<sup>196</sup> Att. 77, Page 46-47.

<sup>197</sup> *Id.* at pgs. 47 – 48.

<sup>198</sup> G03-02-03.

**2) Lieutenant Ward Failed to Keep Officer Fleming and PPO Halley Separated and Failed to Keep Them From Discussing the Incident.**

Upon Lieutenant Ward's arrival, COPA finds that it was reasonable for Lieutenant Ward to remove both PPO Halley and Officer Fleming from the scene in the same vehicle. A large crowd of civilians had already gathered, and the scene was rapidly growing more chaotic. PPO Halley and Officer Fleming appeared visibly upset and frantic, as reflected in various officers' body worn camera footage. Even though Lieutenant Ward was primarily required to keep PPO Halley separate from other officers, Lieutenant Ward observed bystanders pointing at and identifying Officer Fleming as a shooting officer. For the safety of both officers, Lieutenant Ward made the decision to remove both of them from the scene. However, there were not enough supervisors present to put the two officers in different vehicles, as she believed the only other present supervisor was Sergeant Aldrich. Sergeant Aldrich was directing the securing of the scene and could not concurrently remove either officer from the scene.

While not an ideal scenario at the outset, COPA does not hold Lieutenant Ward accountable for an initial failure to separate the officers. COPA does, however, find her responsible to failing to fulfill her supervisory responsibilities once she had driven the shooting officer and his partner from the scene. Pursuant to Department policy, Lieutenant Ward was required to ensure that the involved Department members remain separate from each other and do not communicate with each other regarding the incident<sup>199</sup> and to assign transportation for the involved members while ensuring they remain separated.

On the initial drive from the scene, both officers talked about the incident, without prompting from Lieutenant Ward. However, she did not say anything to dissuade them from continuing the conversation.

Additionally, once she stopped her vehicle at a safe location, Lieutenant Ward allowed both officers to get out of the vehicle and took no action to ensure they stay separate. She indicated to Officer Fleming something to the effect of "don't say anything on camera."<sup>200</sup> However, she made no attempt to have Officer Fleming separate from PPO Halley nor to direct Officer Fleming to stop talking about the incident. Instead she allowed Officer Fleming to approach PPO Halley, where they continued to converse for approximately two minutes.

After the Lieutenant and both officers returned to the vehicle, she asked PPO Halley about the incident. When Officer Fleming answered instead, and provided further detail of the incident, Lieutenant Ward made no attempt to interrupt, redirect, or stop her from talking.<sup>201</sup>

Therefore, the preponderance of the evidence demonstrates that Lieutenant Ward violated G02-03-02 and Rule 6, failed to promote the Department's efforts to implement its policy or accomplish its goals in violation of Rule 3, and was inattentive to duty in violation of Rule 10. Therefore, **Allegations 1 and 2** against Lieutenant Ward are **Sustained**.

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<sup>199</sup> G03-02-03 (V)(D)(5)(a).

<sup>200</sup> Atts. 7 & 29, Halley BWC at 6:50.

<sup>201</sup> COPA finds that Officer Fleming did the overwhelming majority of unprompted speaking both inside and outside of the vehicle. However, these supervisory responsibilities intentionally exist to engage a supervisor in taking charge and providing guidance to less experienced officers who have just encountered a traumatic event. That responsibility comes with accountability for failure to take any action to fulfill these obligations.

### 3) Officer Fleming Discussed the Details of the Case in Violation of G03-02-03.

COPA finds that Officer Fleming discussed the details of the incident with PPO Halley in the aftermath of the shooting. Officer Fleming was prohibited from doing so, pursuant to G03-02-03. Officer Fleming claimed that she did not discuss details and was merely “comforting” PPO Halley, but her discussion goes well beyond what would be construed as words of concern/comfort for PPO Halley’s wellbeing.

On PPO Halley’s body worn camera, Officer Fleming is heard saying the following while still on 71st Street:

- Officer Fleming: “he was gonna shoot us, he was about to kill us;”<sup>202</sup>
- PPO Halley: “He pulled a gun on us.”
- Officer Fleming: “I know he did.”<sup>203</sup>

Once in Lieutenant Ward’s vehicle, she continued to discuss the details with PPO Halley, as captured on all officers’ body worn cameras, saying the following:

- PPO Halley: “He pointed a gun at us...you see him Fleming?”
- Officer Fleming: “yes”<sup>204</sup>
- Officer Fleming: “You did the right thing; he pulled a fucking gun on us.”<sup>205</sup>
- Officer Fleming: “We went to stop him. I had him on the car. He pulled.”<sup>206</sup>
- Lt. Ward: “You did what you had to do. . . . You are OK.”
- Officer Fleming: “He had a gun.”<sup>207</sup>

At one point, PPO Halley then asked Lieutenant Ward for permission to get out. After he got out, Officer Fleming got out as well, at which point Lieutenant Ward admonished Officer Fleming to not say anything on camera.<sup>208</sup> Nonetheless, Officer Fleming approached PPO Halley and immediately said the following:

- Officer Fleming: “Dude he had a fucking gun. He was gonna kill us. I thought I was gonna die.”<sup>209</sup>

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<sup>202</sup> Halley 1:51.

<sup>203</sup> Halley 1:58.

<sup>204</sup> Halley 4:21.

<sup>205</sup> Fleming at 1:53.

<sup>206</sup> Fleming BWC at 2:12.

<sup>207</sup> Halley 6:06.

<sup>208</sup> Halley 6:50.

<sup>209</sup> Halley 6:56.

- Officer Fleming (whispering): “I thought I was gonna die, I thought I was not going home to my kids.”<sup>210</sup>
- Officer Fleming showed him her arm and said, “look at this.”<sup>211</sup>
- Officer Fleming showed her arm again and said “Dude look at this, this is him scratching, trying, he was pulling ...”<sup>212</sup>
- Officer Fleming: “You saved everyone. You saved my fucking life.”<sup>213</sup>

At various points, Officer Fleming describes Mr. [REDACTED] as having “attacked” her, injuring her arm. It is notable that PPO Halley used this same terminology when he was interviewed by COPA investigators on August 18, 2018, because no other officers describe the interaction between Officer Fleming and Mr. [REDACTED] in this way. This is one illustration of the reason for the prohibition against involved officers discussing incident details. PPO Halley’s recollection of the incident may have been influenced by Officer Fleming’s statements to him in the aftermath of the incident. While Officer Fleming also offered words of comfort and concern, the overwhelming majority of her statements described details of the incident. The preponderance of the evidence demonstrates that Officer Fleming violated G03-02-03 and Rule 6, impeded Department efforts to achieve its policy and goals in violation of Rule 2 and was inattentive to duty in violation of Rule 10. While COPA acknowledges that this was an extremely traumatic incident for everyone involved, that did not negate Officer Fleming’s duties to refrain from discussing the incident. Additionally, there is absolutely no evidence to suggest that Officer Fleming or PPO Halley were attempting to collude in any way. However, the rule exists not just to prevent collusion, but also to prevent an officer’s memory from being impacted by another officer’s account of the incident, which is likely what happened here. Therefore, **Allegation 4** against Officer Fleming is **Sustained**.

**G) The Preponderance of the Evidence Neither Proves nor Disproves that Officer Fleming Willfully Made a Materially False Statement to COPA.**

Department Rule 14 prohibits officers from “making a false report, written or oral.” To sustain such an allegation, a preponderance of the evidence must demonstrate that “(1) the officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.”<sup>214</sup> While the preponderance of the evidence shows that Officer Fleming did make a false statement of material fact, it does not establish that she did not do so willfully.

First, Officer Fleming’s statement that she did not discuss details was false. As noted above, she made several detailed statements to PPO Halley communicating her perceptions and beliefs regarding both Mr. [REDACTED] and PPO Halley’s actions. Most, if not all such statements were based upon her subjective beliefs.

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<sup>210</sup> Halley 7:22.

<sup>211</sup> Halley 7:24.

<sup>212</sup> Halley 7:57; unintelligible content follows.

<sup>213</sup> Halley 8:05.

<sup>214</sup> Agreement Between Fraternal Order of Police Chicago Lodge No. 7 and the City of Chicago, July 1, 2012-June 30, 2017 Section 6.1M. This agreement was still in effect on the date of this incident, as a new contract was not yet in effect.

Second, these false statements were material. Department directives have an explicit prohibition against witness officers discussing the details of a shooting with the shooting officer. Such a prohibition is part of a group of post-discharge responsibilities which are implemented to ensure the integrity of the investigation. When Officer Fleming made these false statements during her COPA interview, she was responding to the allegation that she violated a directive by discussing these very details. Thus, the question of whether she discussed details and the content of those details was not just crucial to the outcome of the issue at hand; it was the issue at hand. Thus, her interview answers about whether she discussed details were material.

However, COPA finds that the preponderance of the evidence does not establish that Officer Fleming made the false statements willfully. A statement must be intentionally false to be considered a willfully false statement. Her false statements instead appear to result from her misinterpretation of the definition of the word “details.” Before viewing the video with COPA as part of her interview on August 14, 2018, Officer Fleming did not deny that she spoke with PPO Halley but described the content of her words as “comforting him.” After viewing the video and being confronted with her exact words, she maintained that this was comforting PPO Halley, not discussing details. Officer Fleming’s interviews were consistent on this issue.

Thus, it is feasible that Officer Fleming said these things to PPO Halley in an attempt to comfort him and that her belief that they were not “details” was genuine. Therefore, while COPA finds that she did discuss material details, the preponderance of the evidence does not establish that she intentionally made a false statement when she denied doing so. Therefore, the preponderance of the evidence also neither proves nor disproves that Officer Fleming made knowing and materially false statements.<sup>215</sup>

**Allegation 8** against Officer Fleming is **Not Sustained**.

#### **H) The Accused Officers Failed to Timely Activate their Body Worn Cameras.**

Department policy sets forth the duty that officers activate their body worn cameras at the beginning of law-enforcement-related incidents.<sup>216</sup> COPA finds that the beginning of the law-enforcement-related activity is when the officers began following Mr. [REDACTED] and they were required to activate their cameras at this time. The preponderance of the evidence reflects that no officers activated their body worn cameras until after PPO Halley fired shots. Notably, PPO Halley was then the first officer to activate his camera.

Officer Fleming, PPO Halley, and PPO Tan had the longest opportunity to activate their body worn cameras. They were the first officers to begin walking behind Mr. [REDACTED]. Approximately thirty seconds passed from when they first saw his gun until he slapped at Officer Fleming. During this time, there is no apparent reason that impeded their abilities to activate their respective cameras. All officers explained that they were intending to engage in an investigatory stop with Mr. [REDACTED] and indicated that this was a high - risk situation. As such, all five officers on foot patrol should have activated their body worn cameras prior to stopping Mr. [REDACTED].

PO Aimers also had ample time to activate his camera even though he was driving. He said that he knew from the moment Mr. [REDACTED] passed him that he had a weapon and could tell that the officers were attempting to stop him. He claims that he was too focused on driving, but his driving a short

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<sup>215</sup> COPA finds that the evidence is not clear and convincing regarding Officer Fleming’s intention, and, therefore, cannot reach the finding of Unfounded for this allegation.

<sup>216</sup> S03-14.

distance should not have interfered with his ability to use one hand to activate his camera. Additionally, this encounter had not yet become alarming when he began driving towards the officers.

The delay in body worn camera activation challenged COPA's ability to comprehensively collect evidence. COPA has no audio that captures PPO Halley's firearm discharge or the dialogue with Mr. [REDACTED] prior to the shooting. This is one of the few types of objective evidence that may easily have addressed questions regarding the content and tone of the encounter leading up to Mr. [REDACTED] fatal shooting. Thus, **Allegation 3** against Officer Jones, and PPOs Tan, Halley, Coleman, and Aimers and Allegations 5 and 7 against Officer Fleming are **Sustained**.

## VII. CONCLUSION

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

Officer	Allegation	Findings
<b>Dillan Halley; Star #7341</b>	It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71 <sup>st</sup> Street, Chicago, Illinois that:	
	1. Officer Halley stopped [REDACTED] without justification.	Not Sustained
	2. Officer Halley had unjustified physical contact with [REDACTED]	Unfounded
	3. Officer Halley failed to activate his body-worn camera in a timely manner relative to a law-enforcement activity.	Sustained
<b>Megan Fleming; Star #14875</b>	It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71 <sup>st</sup> Street, Chicago, Illinois that:	
	1. Officer Fleming made physical contact with the person of [REDACTED] without justification.	Sustained
	2. Officer Fleming was ineffective in that she did not request to safely secure [REDACTED] firearm for the duration of the investigatory stop, as outlined in Special Order SO6-05-02.	Sustained
	3. Officer Fleming ineffectively attempted to detain [REDACTED]	Sustained
	4. Officer Fleming discussed the details of an officer involved shooting with another involved Department member, to contrary to General Order G03-02-03.	Sustained

	<p>It is further alleged by the Civilian Office of Police Accountability that on August 14, 2018:</p> <p>5. Officer Fleming failed to activate her body-worn camera prior to a law-enforcement related activity.</p> <p>6. Officer Fleming stopped [REDACTED] without justification.</p> <p>7. Officer Fleming failed to activate her body-worn camera in a timely manner in violation of SO03-14.</p> <p>8. That Officer Fleming made false, misleading, inaccurate, and/or incomplete statements on August 14, 2018, to COPA Investigators that you did not discuss details of the shooting of [REDACTED] with Officer Dillan Halley after the shooting including statements to the effect of, "no, I didn't discuss details. I was comforting him;" and that when asked if, after exiting Lieutenant Ward's squad car, "did you guys discuss the details of the incident?" you responded, "Details, no."</p>	<p>Sustained</p> <p>Sustained</p> <p>Sustained</p> <p>Not Sustained</p>
<p><b>Danny Tan; Star #10472</b></p>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71<sup>st</sup> Street, Chicago, Illinois that:</p> <p>1. Officer Tan stopped [REDACTED] without justification.</p> <p>2. Officer Tan had unjustified physical contact with [REDACTED]</p> <p>3. Officer Tan failed to activate his Body-Worn Camera in a timely manner prior to a law-enforcement activity.</p>	<p>Sustained</p> <p>Not Sustained</p> <p>Sustained</p>
<p><b>Quincy Jones; Star #9709</b></p>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71<sup>st</sup> Street, Chicago, Illinois:</p> <p>1. That Officer Jones stopped [REDACTED] without justification.</p> <p>2. Officer Jones had unjustified physical contact with [REDACTED]</p> <p>3. Officer Jones failed to activate his body-worn camera in a timely manner prior to a law-enforcement activity.</p>	<p>Sustained</p> <p>Unfounded</p> <p>Sustained</p>

<b>Leon Coleman; Star #9483</b>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71st Street, Chicago, Illinois that:</p> <p>1. Officer Coleman stopped [REDACTED] without justification.</p> <p>2. Officer Coleman had unjustified physical contact with [REDACTED]</p> <p>3. Officer Coleman failed to activate his body-worn camera in a timely manner relative to a law-enforcement activity.</p>	<p>Not Sustained</p> <p>Unfounded</p> <p>Sustained</p>
<b>James Aimers; Star #18864</b>	<p>It is alleged by the Civilian Office of Police Accountability that on July 14, 2018, at or about 5:31 pm, at or near 2020 E. 71st Street, Chicago, Illinois that:</p> <p>1. Officer Aimers stopped [REDACTED] without justification.</p> <p>2. Officer Aimers had unjustified physical contact with [REDACTED]</p> <p>3. Officer Aimers failed to activate his Body-Worn Camera in a timely manner relative to a law-enforcement activity.</p>	<p>Unfounded</p> <p>Unfounded</p> <p>Sustained</p>
<b>Sergeant Jeffrey Aldrich; Star #1862</b>	<p>It is alleged by the Civilian Office of Police Accountability:</p> <p>1. That Sergeant Aldrich failed to ensure that Officer Halley remained separated from other Department members in accordance to General Order 03-02-03 (V)(D)(5).</p>	<p>Not Sustained</p>
<b>Lieutenant Davina Ward; Star #486</b>	<p>It is alleged by the Civilian Office of Police Accountability:</p> <p>1. That Lieutenant Ward failed to separate Officers Halley and Fleming, who were involved in an officer-involved shooting.</p> <p>2. That Lieutenant Ward failed to ensure that Officers Halley and Fleming did not communicate with each other regarding the officer-involved shooting.</p>	<p>Sustained</p> <p>Sustained</p>



**VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS****a. Officer Dillan Halley, #7341****i. Complimentary and Disciplinary History**

Officer Halley has received one Attendance Recognition Award, forty-eight Honorable Mentions, three Department Commendations, one Police Officer of the Month Award, one 2019 Crime Reduction Award, and two Unit Meritorious Performance Awards. His disciplinary history includes two Reprimands resulting from SPARs in 2020: Absent/Leaving Duty Assignment and Preventable Accident.

**ii. Recommended Penalty**

Officer Halley was a Probationary Police Officer at the time of this incident. He had relatively little experience and was relying on his more experienced fellow officers to provide appropriate guidance and instruction. That said, Officer Halley was still ultimately responsible for his own actions, particularly his failure to timely activate his body-worn camera. COPA recommends a 2-day suspension and retraining on concealed carry investigatory stops.

**b. Officer Megan Fleming, #14875****i. Complimentary and Disciplinary History**

Officer Fleming has received one Problem Solving Award, One Traffic Stop of the Month Award, forty-eight Honorable Mentions, one Department Commendation, one 2019 Crime Reduction Award, one Complimentary Letter, and two Unit Meritorious Performance Awards. She has no prior disciplinary history.

**ii. Recommended Penalty**

Officer Fleming was not a Probationary Officer at the time of this incident. However, COPA notes that her date of appointment to the Department was 2015, and therefore she only had a few years of experience when this incident occurred. Along with her fellow officers, Officer Fleming participated in the unjustified stop of Mr. [REDACTED]. During that stop, Officer Fleming's decision to make physical contact with Mr. [REDACTED] without justification, put into motion the escalation of events that ultimately led to Mr. [REDACTED] fatal shooting. Additionally, Officer Fleming's comments to Officer Halley, while only intended to be comforting in light of an extremely traumatic event, may have impacted his independent recollection of the incident. Furthermore, Officer Fleming did not timely activate her body-worn camera. Accordingly, COPA recommends a 60-day suspension and retraining on concealed carry investigatory stops.

**c. Officer Danny Tan, #10472****i. Complimentary and Disciplinary History**

Officer Tan has received one Problem Solving Award, one Emblem of Recognition-Physical Fitness, one Department Commendation, nine honorable Mentions, one 2019 Crime Reduction Award, one Complimentary Letter, one Life Saving Award, one Joint Operations Award, and one Unit Meritorious Performance Award. His disciplinary history includes a Reprimand from a 2019 SPAR: Preventable Accident.

**ii. Recommended Penalty**

Officer Tan was a Probationary Police Officer at the time of this incident. He had relatively little experience and was relying on his more experienced fellow officers to provide appropriate guidance and instruction. That said, Officer Tan was still ultimately responsible for his own actions, particularly his participation in stopping [REDACTED] without justification and also his failure to timely activate

his body-worn camera. COPA recommends a 5-day suspension and retraining on concealed carry investigatory stops.

**d. Officer Quincy Jones, #9709**

**i. Complimentary and Disciplinary History**

Officer Jones has received three Attendance Recognition Awards, nine Emblems of Recognition-Physical Fitness, two Department Commendations, twenty-three Honorable Mentions, four Complimentary Letters, one 2019 Crime Reduction Award, one Life Saving Award, one NATO Summit Service Award, one 2009 Crime Reduction Award, and one Unit Meritorious Performance Award. He has no prior disciplinary history.

**ii. Recommended Penalty**

Officer Jones had significantly more experience than his fellow officers involved in this incident. Officer Jones also initiated the stop of [REDACTED] and was communicating with him about his weapon. COPA recognizes that Officer Jones' questioning of Mr. [REDACTED] in and of itself was justified. However, the totality of his actions and those of the other officers escalated the encounter into an improper detention without justification. Additionally, Officer Jones made multiple statements in his COPA interviews that indicate he was intentionally detaining Mr. [REDACTED]. This demonstrates his fundamental misunderstanding of the law regarding this issue. Officer Jones also failed to timely activate his body-worn camera. Accordingly, COPA recommends a 10-day suspension and retraining on concealed carry investigatory stops.

**e. Officer Leon Coleman, #9438**

**i. Complimentary and Disciplinary History**

Officer Coleman has received one Emblem of Recognition-Physical Fitness, one Attendance Recognition Award, one Department Commendation, three Honorable Mentions, and one 2019 Crime Reduction Award. He has no prior disciplinary history.

**ii. Recommended Penalty**

Officer Coleman was a Probationary Police Officer at the time of this incident. He had relatively little experience and was relying on his more experienced fellow officers to provide appropriate guidance and instruction. That said, Officer Coleman was still ultimately responsible for his own actions, particularly his failure to timely activate his body-worn camera. COPA recommends a 2-day suspension.

**f. Officer James Aimers, #18864**

**i. Complimentary and Disciplinary History**

Officer Aimers has received two Attendance Recognition Awards, one Honorable Mentions, one Complimentary Letter, one 2019 Crime Reduction Award, and one Unit Meritorious Performance Award. He has no prior disciplinary history.

**ii. Recommended Penalty**

Officer Aimers was a Probationary Police Officer at the time of this incident. He had relatively little experience and was relying on his more experienced fellow officers to provide appropriate guidance and instruction. That said, Officer Aimers was still ultimately responsible for his own

actions, particularly his failure to timely activate his body-worn camera. COPA recommends a 2-day suspension.

**g. Lieutenant Davina Ward, #486**

**i. Complimentary and Disciplinary History**

Lieutenant Ward has received seven Emblems of Recognition-Physical Fitness, four Attendance Recognition Awards, one Presidential Election Deployment Award 2008, one Field Training Serve Award, one 2004 Crime Reduction Ribbon, five Department Commendations, sixty-six Honorable Mentions, one 2019 Crime Reduction Award, eleven Complimentary Letters, one NATO Summit Service Award, one Honorable Mention Ribbon Award, one 2009 Crime Reduction Award, and one Unit Meritorious Performance Award. She has no prior disciplinary history.

**ii. Recommended Penalty**

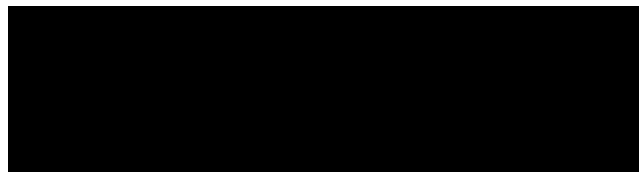
Lieutenant Ward was the highest ranking Department member on scene in the immediate aftermath of the fatal shooting and she bore significant responsibility for the adherence to Department directives, specifically ensuring that the involved officers were separated and did not discuss the incident. While COPA found it reasonable that Lieutenant Ward initially transported both PPO Halley and Officer Fleming from the scene together, it was not reasonable for her to allow them to exit her vehicle and remain together once they had arrived at a safe location. Furthermore, Lieutenant Ward allowed Officer Fleming and PPO Halley to discuss the incident both inside her vehicle and after they exited the car. At one point, Lieutenant Ward even questioned them about what had occurred while they were still together. Lieutenant Ward was not present for the shooting, did not suffer the same traumatic experience that the involved officers did, and therefore did not have the same mitigation that Officer Fleming did for these conversations. Accordingly, COPA recommends a 30-day suspension.

**IX. Recommendations for the Department**

COPA acknowledges the perilous nature inherent to all law enforcement encounters with armed civilians. However, it cannot be overstated that in this particular encounter, officers clearly demonstrated a lack of clarity regarding how to engage Mr. [REDACTED] who they observed to be carrying a concealed firearm. Furthermore, their lack of understanding led to an escalation of the encounter which may well have impacted the ultimate, tragic outcome. COPA urges the Department to enhance its training relative to concealed carry stops and also to revise directive S06-05-02 Firearm Concealed Carry Act to clearly state that mere possession of a concealed firearm cannot predicate the reasonable articulable suspicion necessary to conduct an investigatory stop. Once a lawful investigatory stop is being conducted, officers must utilize the guidance of that directive and instruct the civilian to surrender his/her firearm during their questioning. Department training should more directly emphasize the importance of utilizing de-escalation principles during these encounters. In this incident, the unnecessary use of physical force both increased the danger for everyone involved and failed to conform to existing Department directives.

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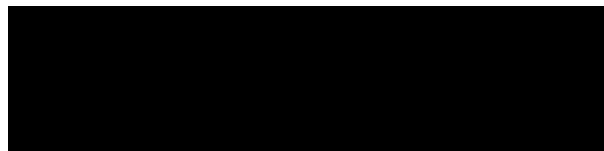
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Angela Hearts-Glass  
*Deputy Chief Investigator*

3-29-2021

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Date




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Andrea Kersten  
*Chief Investigating Officer*

3-29-2021

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Date



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Sydney R. Roberts  
*Chief Administrator*

3-29-2021

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Date

**Appendix A**

## Assigned Investigative Staff

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<b>Squad#:</b>	8
<b>Major Case Specialist:</b>	Brian Killen
<b>Supervising Investigator:</b>	Sherry Daun
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass