

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	August 16, 2021
Time of Incident:	5:17 A.M.
Location of Incident:	3939 N. Lamon Avenue
Date of COPA Notification:	August 16, 2021
Time of COPA Notification:	7:01 A.M.

On August 16, 2021, at approximately 5:17 A.M., off-duty Officer Juan Blanco arrived home, [REDACTED], after work and was in his personal vehicle when he observed a silver Chevrolet Sonic occupied by three male Hispanics. The men drove past Officer Blanco and did not say anything to him. Officer Blanco drove away from his home so the men would not see where he lived. Officer Blanco drove around the surrounding area and stopped in a shopping mall parking lot near 3939 N. Lamon Avenue. Upon arrival, Officer Blanco pulled into a parking spot and turned off his lights to divert attention away from his vehicle.

Officer Blanco remained parked when the silver Chevrolet Sonic arrived on Lamon Avenue, and the occupants noticed Officer Blanco. Officer Blanco proceeded to attempt to drive out of the parking lot to leave the area, at which time two of the occupants exited the Chevrolet Sonic, and one of the men appeared to be holding a gun with a green laser sight attached. Officer Blanco ducked when he observed the laser on him. One of the individuals from the vehicle fired at Officer Blanco, striking his car (a GMC Yukon). Officer Blanco fired back at the shooter six times, at which time the men fled the scene. Responding officers never located the alleged shooter or the other occupants. During its investigation of this incident, COPA did not find evidence to support allegations of excessive force related to Officer Blanco’s firearm discharge.

II. INVOLVED PARTIES

Involved Officer #1:	BLANCO IV, Juan / Star #14950 / Employee # [REDACTED] / DOA: October 29, 2018 / Police Officer / 014 District / DOB: [REDACTED] 1997 / Male / Hispanic
Involved Individual #1:	Unidentified / Male / Hispanic
Involved Individual #2:	Unidentified / Male / Hispanic
Involved Individual #3:	Unidentified / Male / Hispanic

III. ALLEGATIONS

COPA is notified whenever a CPD member discharges his or her firearm in a manner that could potentially strike another individual.¹ Pursuant to section 2-78-120 of the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) has a duty to investigate all incidents in which a Chicago Police Department member discharges their firearm. During its investigation of this incident, COPA did not find evidence to support allegations of excessive force related to Officer Blanco's firearm discharge.

IV. APPLICABLE RULES AND LAWS

General Orders²

1. G03-02 – De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021).
2. G03-02-01 – Response to Resistance and Force Options (effective April 15, 2021).
3. G03-02-03 – Firearms Discharge Incidents – Authorized Use and Post-Discharge Administrative Procedures (effective April 15, 2021).

V. INVESTIGATION³

a. Interviews

On August 26, 2021, **COPA interviewed Officer Juan Blanco.**⁴ Officer Blanco stated that on August 16, 2021, at or about 5:17 A.M., he arrived home⁵ from work and parked his vehicle near his house. As Officer Blanco parked his vehicle he observed a gray sedan through his side-view mirror. The gray sedan drove toward him from the north end of LeClaire with the lights off. The vehicle's occupants activated the gray sedan's high beam lights as the car drew closer to Officer Blanco. As the gray sedan slowly pulled up next to Officer Blanco's car, he could see that it was occupied by three Hispanic males. As the gray sedan stopped next to Officer Blanco's car, the Hispanic males stared at him briefly and then drove off. Officer Blanco indicated that the Hispanic males did not say anything when they stopped next to him.

Officer Blanco did not feel comfortable entering his home at the time for fear that the Hispanic males were trying to harm his vehicle. According to Officer Blanco, he drove away from his home with the hope that the Hispanic males would leave the area and he could avoid a

¹ See MUNICIPAL CODE OF CHICAGO § 2-78-120(c) (2016).

² Department general and special orders, also known as directives, "are official documents establishing, defining, and communicating Department-wide policy, procedures, or programs issued in the name of the Superintendent of Police." Department Directives System, General Order G01-03; *see also* Chicago Police Department Directives System, *available at* <http://directives.chicagopolice.org/#directive> (last accessed September 28, 2022).

³ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

⁴ Attachments 13, 30

⁵ [REDACTED]

confrontation. As Officer Blanco was driving away, he observed the gray sedan stop near an alley near Byron St. and Dakin St. and saw the passenger exit the vehicle. Officer Blanco believed that the Hispanic males were trying to shoot him. Officer Blanco took evasive action and drove the wrong way down a one-way street on LeClaire. Officer Blanco drove around the area to avoid the Hispanic males.

Officer Blanco drove to the parking lot at Binny's liquor store located at 3939 N. Lamon Avenue. Officer Blanco parked in a parking space and turned off his lights. Less than a minute later, the gray sedan drove past Officer Blanco heading northbound on Lamon. Officer Blanco began driving out of the parking lot when the grey sedan stopped and reversed toward him. The front-seat passenger and the rear driver's side passenger exited the car. The backseat passenger began directing gang signs⁶ at Officer Blanco, and the front-seat passenger pointed a gun at Officer Blanco. Officer Blanco further explained that the front seat passenger's weapon had a laser light. The front seat passenger pointed the laser at Officer Blanco, flashing him in the eyes with it. Officer Blanco ducked down to avoid being shot. Officer Blanco retrieved his gun and discharged his weapon⁷ approximately six times at the individuals. The Hispanic males fled the area, Officer Blanco exited his car and called OEMC on his phone. Officer Blanco said he placed his weapon in the middle console before exiting his vehicle. The evidence technicians inventoried the gun when they arrived.

b. Digital Evidence

The **Evidence Technician photographs (ET)**⁸ captured several photographs of the scene, which include: pictures of the damage to Officer Blanco's vehicle (GMC Yukon Denali) caused by gunfire, yellow markers identifying expended shelling casings and fired bullets, and a bullet hole to the home of [REDACTED]. The ET photographs also depicted Officer Blanco's weapon and gunshot damage to the side of an apartment building.

The **Binny's Liquor Store camera – Channel 13**,⁹ depicts at the 5:14:40¹⁰ mark an SUV (Officer Blanco) entering the east end of a parking lot, now known to be 3939 N. Lamon Avenue, and driving west. At the same time, another vehicle passes by on Lamon headed north. The SUV briefly parks in a parking space and then goes eastbound through the lot toward Lamon Avenue. At the 5:15:01 mark, the SUV stops before the lot's exit. At the 5:15:30 mark, Officer Blanco exits the SUV, walks to the vehicle's rear, and then returns to the front driver's side door. At the 5:19:07 mark, the responding officers arrive on the scene.

Channel 26's camera view (Binny's Liquor) depicted an SUV (Driven by Officer Blanco) entering the parking lot at the 5:14:41 mark, which is known to be from the east end, briefly driving into a parking space, and then going eastbound, out of the view of the camera.

⁶ Att 13, 17:17 mark

⁷ Att 13, file 'ch01_20210816052000' 18:24 mark

⁸ Att 19

⁹ Att 23

¹⁰ Att 23, file 'ch 13 clip'

The **video footage from a building on 5 [REDACTED]**¹¹ depicts a camera angle near Officer Blanco's home, pointed toward the intersection of Irving Park Road and LeClair. At the 2:38 mark, the video shows the Chevy Sonic driving into the area, briefly stopping at a stop sign, and driving across Irving Park Road. Officer Blanco briefly stops at the stop sign and follows behind the Chevy Sonic across Irving Park Road. Officer Blanco and the Chevy Sonic drive out the view of the camera.

The video footage from a building on [REDACTED] depicts a camera angle in the vicinity of Officer Blanco's home. At the 2:22 mark,¹² the video shows Officer Blanco driving into the area and parking his car on the right side of the street. During that time, a car (the Chevy Sonic) drove past Officer Blanco and out of view of the camera. Officer Blanco then exited the parking space and followed behind the Chevy Sonic and out of the camera's view.

The **OEMC audio and OEMC event query**¹³ indicated Officer Blanco called OEMC at 5:17:01 a.m.¹⁴ and stated that he was in a Binny's parking lot near Irving Park and Lamont Avenue. Officer Blanco indicated that three male/Hispanics in a Chevy Sonic flashed gang signs at him, shot at him, and "take [sic] off."¹⁵ Officer Blanco informed the operator that he had returned fire. Officer Blanco reported that the offender had a laser light pointed at him when the offenders fired their weapons at Officer Blanco. Several people called "911" and reported hearing several gunshots around 3939 N. Lamont Avenue. Additionally, there was a call from a resident at [REDACTED] about a bullet entering through one of their windows.

The **In-Car Cameras, Body Worn Cameras, and POD videos**¹⁶ did not capture the officer-involved shooting.

The **videos from [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. [REDACTED]**¹⁷ did not capture the officer-involved shooting.

c. Physical Evidence

The **Illinois State Police Laboratory Report (Firearms/Toolmarks)**¹⁸ indicated that Officer Blanco's Smith and Wesson, model M&P, 9mm, was tested, fired, and was deemed operable. The report further showed that the fired cartridge cases found on the scene, labeled 5, 6, 7, 8-1, 8-2, 8-3 on the report, were associated with Officer Blanco's firearm. The additional fired cartridge cases were not associated with Officer Blanco's weapon.

¹¹ Att 28

¹² Att 13, file 'ch16_20210816052000'

¹³ Atts 5 - 8

¹⁴ Att 8, file 'EV#[REDACTED]'

¹⁵ Id. at 0:25

¹⁶ Att 9, 14

¹⁷ Att 24, 25, 27, 29

¹⁸ Att 22

d. Documentary Evidence

The **Original Case Incident Report and Supplementary Case Report**¹⁹ indicated that Officer Blanco was involved in an officer-involved shooting in the vicinity of 3939 N. Lamon Avenue. The Officer-Involved Shooting resulted in the residence of 4921 W. Dalkin sustaining a bullet strike to the front window.²⁰

The **Tactical Response Report**²¹ completed by Officer Blanco indicated that an unknown subject displayed an imminent threat of battery with a weapon, physical attack with a weapon, and used force likely to cause death or great bodily harm. Officer Blanco indicated on the report that the individual was armed with a semi-automatic pistol. Officer Blanco responded by firing his semi-automatic weapon (Smith & Wesson) six times.

The **Crime Scene Processing Report**²² indicated that the evidence technicians (ETs) inventoried a Smith & Wesson, M&P, 9mm,²³ and twelve live rounds from the magazine (17 Capacity). The ETs also recovered three expended shell casings from Officer Blanco's vehicle and three on the ground near his vehicle. The ETs inventoried one metal fragment and seven shell casings on the street at [REDACTED]. A fired bullet was recovered in the living room of [REDACTED].

e. Additional Evidence

The **Synoptic Report**²⁴ related to Officer Blanco's drug test, conducted on August 16, 2021, at 8:58 a.m., indicated that his BrAC to .000.

Officer Blanco's Weapon's Qualification History²⁵ showed that he was qualified on June 28, 2021, within the calendar year of the shots fired, no hits on August 16, 2021.

The **canvass**²⁶ conducted in the vicinity of [REDACTED] did not reveal any additional witnesses. Some residents heard gunshots in the area, but they did not witness the Officer-Involved Shooting.

VI. LEGAL STANDARD

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;

¹⁹ Att 2, 21

²⁰ Original Case Incident Report, Page 4

²¹ Att 3

²² Att 16

²³ Officer Blanco's weapon

²⁴ Att 20

²⁵ Att 1

²⁶ Att 12

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** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.²⁷ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense.²⁸ Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”²⁹

VII. ANALYSIS

VIII. LEGAL STANDARD

A. Standard of Proof.

COPA applies a preponderance of the evidence standard to determine whether allegations of excessive force are warranted or well-founded.³⁰ A preponderance of evidence is evidence indicating that it is more likely than not that the alleged conduct occurred.³¹ If the evidence COPA gathers in an investigation establishes that it is more likely than not that misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

B. Applicable Department Policies.

1. Use of Force

Department Policy states that the “Department’s highest priority is the sanctity of life.”³² Department members are expected to act with the utmost regard for preserving human life and

²⁷ See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

²⁸ See e.g., *People v. Coan*, 2016 I.L. App (2d) 151036 (2016).

²⁹ *Id.* at ¶ 28.

³⁰ See Municipal Code of Chicago, Ch. 2-78-110

³¹ *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.”).

³² General Order G03-02 (effective April 15, 2021) (hereinafter the “Use of Force Order”).

must comply with Department use of force orders.³³ Department policy in place on the date of the incident provides that a Department member's use of force must be evaluated based on the totality of the circumstances known by the member at the time of the incident, from the perspective of a reasonable Department member in the same or similar circumstances. 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."³⁴

Department General Order entitled "De-Escalation, Response to Resistance, and Use of Force" provides that a member's use of force must be "objectively reasonable, necessary, and proportional."³⁵ Each of these elements is further explained in Department policy, as follows:

- Objectively Reasonable: In evaluating use of force, Department policy provides that the key issue is whether the Department member's use of force was objectively reasonable under the totality of the circumstances at the time force is used. Although "reasonableness" cannot be precisely defined, Department policy states the following non-exclusive list of factors can be considered:
 - "whether the subject is posing an imminent threat;
 - the risk of harm, level of threat, or resistance presented by the subject; and
 - the subject's proximity or access to weapons."³⁶
- Necessary. Department members are limited to using "only the amount of force required under the circumstances to serve a lawful purpose."³⁷
- Proportional. A Department member's use of force must be proportional to the "threat, actions, and level of resistance offered by a subject."³⁸

To reduce or avoid the need for use of force, Department policy directs members to use de-escalation techniques known as "Principles of Force Mitigation" when it is safe and feasible under the circumstances.³⁹ These techniques include:

- "Continual Communication," which means using verbal control techniques to avoid or minimize confrontations before resorting to physical force. This includes using persuasion, advice, instruction, and warning prior to any use of force;
- "Tactical Positioning," which involves use of positioning, distance, and cover to contain a subject and create a zone of safety for officers and the public; and
- Using "Time as a Tactic" to, among other things, permit the de-escalation of a subject's emotions and provide time for the subject to comply with police orders,

³³ Questions as to the propriety of a police officer's use of force, including excessive or deadly force, are also typically evaluated under state law as well as the 4th Amendments to the United States Constitution and Illinois state Constitution. However, CPD policy in place at the time of the incident in this case prohibited the use of deadly force under circumstances that would have been permissible under state law and 4th amendment law, meaning that CPD policy is *more* restrictive than state law and federal 4th amendment law. COPA's analysis therefore focuses solely on whether Officer Blanco's use of deadly force complied with CPD policy in place at the time of the incident, August 16, 2021.

³⁴ Use of Force Order, section II.D.

³⁵ Use of Force Order, section III.B.

³⁶ Use of Force Order, section III.B.1(a)-(c).

³⁷ Use of Force Order, section III.B.2.

³⁸ Use of Force Order, section III.B.3.

³⁹ General Order G03-02-01(III) (the "Force Options Order").

provide time for continued communication, and allow for the arrival of additional members or special units and equipment.⁴⁰

While attempting to de-escalate an encounter, Department members are required to continually assess the situation and modify their use of force in ways that ensure officer safety as circumstances develop.⁴¹

2. Use of Deadly Force.

A Department member's use of deadly force, which includes the discharge of a weapon at or in the direction of a person subject to arrest, is controlled by Department policy restrictions in addition to those described above. In particular, Department members may only use deadly force as a "last resort" when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.⁴² A threat is defined as "imminent" when it is objectively reasonable to believe that:

- the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken;
- the subject has the means or instruments to cause death or great bodily harm; and
- the subject has the opportunity and ability to cause death or great bodily harm."

The Department's definition of "last resort" re-enforces the principle that a Department member may only use deadly force when presented with an "imminent threat."⁴³

The Force Options Order outlines the force options available to Department members when met with resistance or threats.⁴⁴ The Force Options Order authorizes the use of deadly force in situations involving an "assailant," which is defined as a subject whose actions constitute an imminent threat of death or great bodily harm to a Department member or another person.⁴⁵

3. Required Notifications.

Department members involved in a firearms discharge are required to immediately notify the Office of Emergency Management and provide all relevant information and to request additional resources.⁴⁶

IX. LEGAL ANALYSIS

A. Officer Juan Blanco's use of force was authorized under Department policy.

As noted above, COPA has completed its investigation and determined that the available evidence did not support allegations of excessive force against Officer Blanco. In making the

⁴⁰ Force Options Order, section III.

⁴¹ Force Options Order, section II.E.

⁴² Use of Force Order, section IV.C.

⁴³ *Id.*

⁴⁴ Use of Force Order, section III.C.

⁴⁵ Force Options Order, section IV.

⁴⁶ General Order G03-06 (effective April 15, 2021).

determination, COPA weighed the credibility and reliability of all available statements and evidence discussed above.

1. Officer Blanco attempted to de-escalate the situation.

In the instant case, once Officer Blanco observed the subject vehicle, he took measures to distance his vehicle to safe location. He drove around the neighborhood, attempting to avoid the suspect vehicle. He then drove to a public parking lot, turned his lights off and parked, attempting to avoid attention and a confrontation. Officer Blanco informed COPA during his interview that he also attempted to drive out of the parking lot when the sedan reversed toward him. COPA finds Officer Blanco appropriately attempted to avoid the use of force in this instance.⁴⁷

2. Officer Blanco faced an assailant whose actions constituted an imminent threat of death or great bodily harm.

COPA finds that the passenger who fired his weapon at Officer Blanco was an assailant whose actions constituted an imminent threat. First, the individual was one of three people who appeared to be attempting to locate Officer Blanco, despite him attempting to distance himself. Secondly, the front passenger's actions, firing on Officer Blanco, was immediately likely to cause death or great bodily harm unless Officer Blanco took action. Additionally, the physical evidence corroborates that the person had a weapon, and fired that weapon, as shell casings from a weapon other than Officer Blanco's were discovered. Finally, the unknown person had the opportunity and ability to cause death or great bodily harm by firing their weapon into an occupied vehicle. Officer Blanco was authorized to use deadly force because he faced an imminent threat of death and/or great bodily harm.

3. Officer Blanco's use of force was objectively reasonable, necessary, and proportional.

Officer Blanco discharged his weapon in response to being shot at. Evidence recovered from the scene revealed fired cartridge cases matching Officer Blanco's weapon as well as cases that did not match his weapon.⁴⁸ Gunshot damage to Officer Blanco's vehicle is also shown in the Evidence Technician's photographs.⁴⁹ A fired bullet was also recovered from [REDACTED], which is consistent with Officer Blanco being fired at. Furthermore, he stopped firing when the threat diminished, placed his weapon in the center console and immediately contacted OEMC. Based on these facts, and the fact that he faced an imminent threat, COPA finds that Officer Blanco's firearm discharge was objectively reasonable, necessary, and proportional to the threat he faced.

B. Officer Blanco's notifications were adequate.

Officer Blanco informed COPA that he immediately exited the vehicle and contacted OEMC. The records obtained from the Office of Emergency Management and Communications reveal

⁴⁷ Similarly, COPA finds Officer Blanco used deadly force as a last resort. He fired only after being fired upon and had no opportunity to take other less lethal measures.

⁴⁸ Att. 22

⁴⁹ Att. 19

multiple 911 calls of shots fired related to the incident, including the call from Officer Blanco.⁵⁰ Officer Blanco provided a description of the incident, the suspects, the suspect vehicle, and informed that he discharged his weapon. COPA finds Officer Blanco’s notifications in this instance reasonable and adequate under the circumstances.

X. CONCLUSION

For the reasons set forth above, COPA finds that Officer Blanco’s use of deadly force was authorized under Department policy.

Approved:

[Redacted Signature]

Sharday Jackson
Deputy Chief Administrator – Chief Investigator

January 24, 2023

Date

[Redacted Signature]

Andrea Kersten
Chief Administrator

January 24, 2023

Date

⁵⁰ Att. 5-8