



CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

INTEGRITY • TRANSPARENCY • INDEPENDENCE • TIMELINESS

FINAL SUMMARY REPORT¹

I. EXECUTIVE SUMMARY

On December 27, 2021, the Chicago Police Department's (CPD) Crime Prevention and Information Center (CPIC) notified the Civilian Office of Police Accountability (COPA) of an off-duty officer-involved shooting that occurred earlier that evening, at approximately 6:27 pm, near 9200 S. Phillips Avenue.² COPA learned that an off-duty CPD member, Officer Guy Nelson, discharged his firearm at ██████████ after ██████████ attempted to rob Officer Nelson at gunpoint. ██████████ was struck by Officer Nelson's gunfire and was treated for multiple injuries to his lower body and extremities. Following its investigation, COPA determined that Officer Nelson's use of deadly force complied with CPD policy and did not warrant allegations. However, COPA did serve Officer Nelson with an allegation that he failed to make timely notifications regarding his weapon discharge, but that allegation is exonerated.

II. SUMMARY OF EVIDENCE³

On December 27, 2021, at approximately 6:27 pm, Officer Nelson was off-duty and walking his dog near his residence while speaking on his cell phone.⁴ As Officer Nelson walked near E 92nd Street and S Phillips Avenue, Officer Nelson observed ██████████ approach him and point a firearm at him, which caused Officer Nelson to believe he was about to be the victim of a robbery.⁵ Officer Nelson responded by dropping his phone,⁶ backing away from ██████████ and reaching for his firearm.⁷ Officer Nelson was able to unholster his firearm, which prompted an

¹ Appendix A includes case identifiers such as the date, time, and location of the incident, the involved parties and their demographics, and the applicable rules and policies.

² Pursuant to § 2-78-120 of the Chicago Municipal Code, COPA has a duty to investigate all incidents in which a CPD member discharges their firearm. Therefore, COPA determined it would be the primary administrative investigative agency in this matter.

³ The following is a summary of what COPA finds most likely occurred during this incident. This summary utilized information from several different sources, including CPD Reports, body worn camera (BWC) footage, and CPD member statements.

⁴ Att. 93, pg. 10, lns. 1 to 5, pg. 22, lns. 21 to 24.

⁵ Officer Nelson explained that he did not observe anyone else walking in the area, and he estimated that ██████████ was approximately four feet away from him when ██████████ pointed the firearm at him. Att. 93, pg. 8, lns. 18 to 24, pg. 13, lns. 16 to 23, pg. 14, lns. 2 to 4, pg. 21, lns. 1 and 2, pg. 31, lns. 16 to 19.

⁶ Officer Nelson stated that, at the time, he was unaware that he had dropped his phone. Att. 93, pg. 22, ln. 24, pg. 23, ln. 1.

⁷ At the same time, ██████████ said words to the effect of, "Oh, you're going to back up?" Officer Nelson interpreted the comment as an indication that ██████████ "wanted me to stand there so he can complete his mission to rob me." Att. 93, pg. 22, lns. 21 to 24, pg. 23, lns. 1 to 11.

exchange of gunfire with ██████████⁸ Officer Nelson discharged his weapon until he believed it had jammed, but in fact he had discharged all the rounds the firearm held.⁹ As Officer Nelson fired, he reported that ██████████ continued to point and discharge his firearm at him.¹⁰

After Officer Nelson discharged all the rounds in his firearm, he fled the area on foot to escape ██████████¹¹ As he ran towards his residence, he noticed an occupied SUV that was parked and running with its lights on.¹² Officer Nelson then observed his neighbors, ██████████ and ██████████ exiting their residence. Officer Nelson told them that ██████████ had attempted to rob him and asked to use their phone to call for assistance and report his firearm discharge.¹³ After calling for assistance, Officer Nelson observed the SUV reverse towards ██████████ location, and he heard a female voice make reference to ██████████ being shot.¹⁴ At the same time, ██████████ who was ██████████ companion and a passenger in the SUV, retrieved a firearm from ██████████ pocket and discarded it over a nearby fence.¹⁵ Officer Nelson then secured his dog, changed his jacket, donned a hat, returned to the scene, and reported to responding CPD members that he was off-duty and had discharged his weapon.¹⁶

Responding members located Officer Nelson's discarded cell phone¹⁷ and the firearm (a revolver) that ██████████ had thrown over the fence. Subsequent examination revealed that four of the six rounds contained within the revolver had been discharged.¹⁸ Additionally, CPD members recovered fired cartridge casings that were consistent with Officer Nelson's firearm.¹⁹ Finally,

⁸ Att. 108 at 00:17 (Att. 108 is an enhanced version of Atts. 17 and 18). Officer Nelson could not recall who discharged their firearm first. Att. 93, pg. 23, lns. 13 to 17, pg. 24, lns. 20 to 22.

⁹ Att. 93, pg. 33, lns. 9 to 11.

¹⁰ Att. 93, pg. 34, lns. 1 to 11.

¹¹ Att. 108 at 00:17; Att. 93, pg. 34, lns. 8 to 24; Att. 25 at 05:05.

¹² Officer Nelson was concerned that ██████████ was connected to the SUV in part because Officer Nelson did not recognize the SUV, and it appeared to be out of place. Att. 93, pg. 35, lns. 16 to 24, pg. 36, lns. 1 to 13; see also Att. 80, pg. 13, lns. 10 to 12, pg. 14, lns. 6 to 13. In an electronically recorded interview, ██████████ told CPD detectives that the SUV belong to ██████████ and that ██████████ had driven it to the location with ██████████ and ██████████ after consuming alcohol. Att. 25 from 03:20 to 04:35.

¹³ Att. 93, pg. 36, lns. 1 to 5, pg. 39, lns. 17 to 22. ██████████ confirmed that Officer Nelson informed him of the shooting, and that he too observed the SUV parked in the area. Att. 80, pg. 3, lns. 1 to 16.

¹⁴ Officer Nelson told COPA that the female stated words to the effect of, "Oh, he's shot." Att. 93, pg. 38, lns. 1 to 4. ██████████ stated that he also heard the female's remarks, and Officer Nelson responded by asking him to call for an ambulance. Att. 80, pg. 3, lns. 10 to 16, pg. 7, lns. 14 to 17. According to ██████████ entered the driver's seat of the SUV and drove to ██████████ location after the shooting, at which point ██████████ and ██████████ observed ██████████ on the ground and realized he was shot. Att. 25 at 05:24. ██████████ confirmed to CPD detectives that she heard shots and backed up to look for ██████████ Att. 27 at 04:25 to 04:37.

¹⁵ Att. 25 at 06:40 to 07:00. ██████████ told CPD detectives that she saw ██████████ recover a firearm from ██████████ rear pocket. Att. 27 at 05:08.

¹⁶ Officer Nelson explained that he put on a different jacket and donned a hat to change his appearance, as he had heard the female's remark that ██████████ was shot, and he was concerned the occupants of the SUV were still on scene. Att. 93, pg. 44, lns. 5 to 22, pg. 46, lns. 2 to 8.

¹⁷ Att. 102, pgs. 60 and 61.

¹⁸ Att. 102, pgs. 39, 64, and 86 to 90; Att. 101, pg. 3.

¹⁹ Att. 102, pgs. 4 to 7, 27 to 35 and 48 to 59.

the Illinois State Police confirmed that [REDACTED] right hand tested positive for the presence of gunshot residue.²⁰

III. ALLEGATIONS

Officer Guy Nelson

1. Failing to accurately notify OEMC that he discharged his firearm, in violation of G03-06.
 - Exonerated.

IV. CREDIBILITY ASSESSMENT

This investigation did not reveal any evidence that caused COPA to doubt the credibility of any of the individuals (sworn or unsworn) who provided statements. In fact, Officer Nelson's account of the events is corroborated by both independent witnesses and surveillance footage.

V. ANALYSIS²¹

a. Officer Nelson's use of deadly force was authorized by CPD policy.

COPA finds the preponderance of the evidence shows that Officer Nelson's use of deadly force was objectively reasonable, necessary, and proportional to the circumstances he faced. Additionally, Officer Nelson used deadly force as an option of last resort. COPA thus concludes that Officer Nelson's use of deadly force complied with CPD rules and policy. In coming to that conclusion, COPA weighed the credibility and reliability of all available statements and evidence discussed above.

CPD's stated highest priority is the sanctity of human life. In all aspects of their conduct, CPD expects that its members will act with the foremost regard for the preservation of human life and the safety of all persons involved.²² CPD members are only authorized to use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, to ensure the safety of a member or a third person, stop an attack, make an arrest, bring a person or situation safely under control, or prevent escape.²³ This means that CPD members may use only the amount of force necessary to serve a lawful purpose. The amount and type of force used must be proportional to the threat, actions, and level of resistance a person offers.²⁴

The main issue in evaluating every use of force is whether the amount of force used by the member was objectively reasonable in light of the totality of the circumstances faced by the

²⁰ Att. 106, pg. 6.

²¹ For a definition of COPA's findings and standards of proof, *see* Appendix B.

²² Att. 111, G03-02 (II)(A), Use of Force (effective April 15, 2021 to June 28, 2023).

²³ Att. 111, G03-02 (III)(B).

²⁴ Att. 111, G03-02 (III)(B)(3).

member on scene.²⁵ Factors to be considered include, but are not limited to: (1) whether the person is posing an imminent threat to the member or others; (2) the risk of harm, level of threat or resistance presented by the person; (3) the person's proximity to or access to weapons; (4) whether de-escalation techniques can be employed or would be effective; and (5) the availability of other resources.²⁶

Deadly force is force by any means that is likely to cause death or great bodily harm, including the discharge of a firearm in the direction of a person.²⁷ The use of deadly force is permitted only 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."²⁸ A CPD member may use deadly force in only two situations: (1) to prevent "death or great bodily harm from an imminent threat posed to the sworn member or to another person;" or (2) 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."²⁹

A threat is considered imminent "when it is objectively reasonable to believe that: (a) the person's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; **and** (b) the person has the means or instruments to cause death or great bodily harm; **and** (c) the person has the opportunity and ability to cause death or great bodily harm."³⁰ Officers are expected to modify the use of force as circumstances change and in ways that are consistent with officer safety, including stopping the use of force when it is no longer necessary.³¹

i. Officer Nelson's use of deadly force was objectively reasonable, proportional, and necessary to protect against an imminent threat.

This investigation revealed that Officer Nelson appeared to be the intended target of an armed robbery. The available evidence shows a high level of consistency between Officer Nelson's account and other sources, such as the details provided by the [REDACTED] and the surveillance footage. Most significantly, the evidence supports the finding that [REDACTED] possessed and discharged a firearm.³² The fact that an armed confrontation occurred involving [REDACTED] is not in question, and based on the totality of the evidence, COPA finds it

²⁵ Att. 111, G03-02 (III)(B)(1).

²⁶ Att. 111, G03-02 (III)(B)(1).

²⁷ Att. 111, G03-02 (IV)(A)(1).

²⁸ Att. 111, G03-02 (IV)(C).

²⁹ Att. 111, G03-02 (IV)(C)(1-2).

³⁰ Att. 111, G03-02 (IV)(B) (emphasis added).

³¹ Att. 111, G03-02 (III)(C)(2).

³² As noted above, [REDACTED] admitted to CPD detectives that he recovered a revolver from [REDACTED] pocket and threw it over the fence. Additionally, ETs found four discharged rounds inside the revolver, and [REDACTED] tested positive for gunshot residue.

was objectively reasonable for Officer Nelson to have believed that ██████ was attempting to rob him at gunpoint and posed a threat to the officer's life. ██████ possession of a firearm and his behavior would have made it apparent that he had the means, opportunity, and ability to cause death and/or great bodily harm. Therefore, the force used by Officer Nelson during this incident was proportional to the threat directed against him. Additionally, the officer's use of force was necessary to protect himself from an apparent armed robbery.

ii. Officer Nelson's use of deadly force was a last resort.

This incident occurred as Officer Nelson was walking his dog near his home. During his interview with COPA, Officer Nelson stated that ██████ pointed a weapon at him from a distance of approximately four feet, which caused Officer Nelson to retreat and unholster his own firearm. As Officer Nelson retreated, ██████ discharged his firearm at Officer Nelson. Under these circumstances, Officer Nelson did not have the time or ability to retreat from the threat. Lastly, due to the location of this encounter, on the open sidewalk and street, there was no feasible way for Officer Nelson to take protective cover. Therefore, COPA finds that the use of deadly force was a last resort in this situation.

iii. Officer Nelson was confronted with an assailant whose actions constituted an imminent threat of death or great bodily harm.

CPD policy defines an assailant as a person who is using or threatening the use of force against another person which is likely to cause physical injury. Assailants are divided into two categories: (1) a person whose actions are aggressively offensive with or without weapons, and (2) a person whose actions constitute an imminent threat of death or great bodily harm to a CPD member or another person.³³ In this case, ██████ belonged to the second category of assailants, as the aiming of his handgun and his attempt to commit armed robbery constituted an imminent threat to Officer Nelson. CPD policy authorizes members to use deadly force, including the discharge of a firearm, in response to such a scenario.

For all these reasons, COPA finds that Officer Nelson was justified in employing deadly force to defend his life. COPA also notes that Officer Nelson reassessed the situation after he fired, and he discontinued his use of force when ██████ stopped discharging his weapon. Overall, the evidence demonstrates that Officer Nelson conducted himself properly throughout this incident, and none of his actions exceeded the boundaries of established CPD policy.

b. Officer Nelson's notification to OEMC

COPA finds that Allegation #1 against Officer Nelson, that he failed to properly notify OEMC of his firearm discharge, is **exonerated**. CPD policy requires members who discharge their firearms to "immediately notify the Office of Emergency Management and

³³ Att. 112, G03-02-01(IV)(C), Force Options (effective April 15, 2021 to June 28, 2023).

Communications (OEMC) providing all relevant information and requesting additional resources.”³⁴ In this instance, it is undisputed that Officer Nelson lost control of his cell phone during the incident. Since, in a practical manner, Officer Nelson no longer had a way to call OEMC, he made reasonable efforts to contact OEMC at the first possible opportunity, when he encountered the [REDACTED] and asked to use their phone. Therefore, COPA determined the slight delay in notifying OEMC was reasonable under the totality of the circumstances.

Approved:

[REDACTED] #13

Steffany Hreno
Director of Investigations

1/16/2024

Date

[REDACTED]

Andrea Kersten
Chief Investigator

1/16/2024

Date

³⁴ Att. 113, G03-06 (V)(A), Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective April 15, 2021 to current).

Appendix ACase Details

Date/Time/Location of Incident:	December 27, 2021 / 6:27 pm / 9200 S Phillips Avenue, Chicago, IL 60617
Date/Time of COPA Notification:	December 27, 2021 / 7:17 pm
Involved Member #1:	Officer Guy Nelson, Star #4066, Employee ID # [REDACTED], DOA: April 29, 2002, Unit: 484/376, Male, Black
Involved Individual #1:	[REDACTED] Male, Black

Applicable Rules

- Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3:** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5:** Failure to perform any duty.
- Rule 6:** Disobedience of an order or directive, whether written or oral.
- Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10:** Inattention to duty.
- Rule 14:** Making a false report, written or oral.
- Rule 38:** Unlawful or unnecessary use or display of a weapon.

Applicable Policies and Laws

- G03-02: De-Escalation, Response to Resistance, and Use of Force (effective April 15, 2021 to June 28, 2023)³⁵
- G03-02-01: Response to Resistance and Force Options (effective April 15, 2021 to June 28, 2023)³⁶
- G03-06: Firearm Discharge and Officer-Involved Death Incident Response and Investigation (effective April 15, 2021 to current)³⁷

³⁵ Att. 111.

³⁶ Att. 112.

³⁷ Att. 113.

Appendix B

Definition of COPA's Findings and Standards of Proof

COPA applies a preponderance of the evidence standard to determine whether allegations of excessive force are warranted or well-founded.³⁸ Additionally, for each allegation, COPA must make one of the following findings:

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

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.³⁹ For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct complied with CPD 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. 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.”⁴⁰

³⁸ See Municipal Code of Chicago, Ch. 2-78-110

³⁹ 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 is found to be more probably true than not).

⁴⁰ *People v. Coan*, 2016 IL App (2d) 151036, ¶ 28 (quoting Illinois Pattern Jury Instructions, Criminal, No. 4.19 (4th ed. 2000)).

Appendix C

Transparency and Publication Categories

Check all that apply:

- Abuse of Authority
- Body Worn Camera Violation
- Coercion
- Death or Serious Bodily Injury in Custody
- Domestic Violence
- Excessive Force
- Failure to Report Misconduct
- False Statement
- Firearm Discharge
- Firearm Discharge – Animal
- Firearm Discharge – Suicide
- Firearm Discharge – Unintentional
- First Amendment
- Improper Search and Seizure – Fourth Amendment Violation
- Incidents in Lockup
- Motor Vehicle Incidents
- OC Spray Discharge
- Search Warrants
- Sexual Misconduct
- Taser Discharge
- Unlawful Denial of Access to Counsel
- Unnecessary Display of a Weapon
- Use of Deadly Force – other
- Verbal Abuse
- Other Investigation