

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	May 11, 2019
Time of Incident:	3:28 pm
Location of Incident:	1448 S. Lawndale Ave., Chicago, IL 60623
Date of COPA Notification:	May 11, 2019
Time of COPA Notification:	3:45 pm

On May 11, 2019, at approximately 3:28 pm, Officers Robert Rhodes and Aaron David were on routine patrol near 15<sup>th</sup> Street and Lawndale Avenue. They observed a black male, now identified as [REDACTED] walking in the east alley of Lawndale Avenue. [REDACTED] fit the general description of two wanted offenders the officers were looking for, so they approached [REDACTED] to verify his identity. [REDACTED] voluntarily walked toward the driver’s side of the police vehicle and initiated a conversation with the officers. During the encounter, Officer Rhodes noticed a bulge on the right side of [REDACTED] waist area. Officer Rhodes reached through his open window and felt, then saw, the handle of a Sig Sauer pistol in [REDACTED] right jacket pocket. Officer Rhodes started to open his door to exit the vehicle, and [REDACTED] took off running.

[REDACTED] fled westbound on 15<sup>th</sup> Street, and Officer Rhodes gave chase on foot. As they ran, Officer Rhodes saw [REDACTED] reaching into his right jacket pocket, trying to manipulate the pistol. Officer Rhodes yelled to [REDACTED] to stop running and drop the gun. When [REDACTED] reached the northeast corner of Lawndale Avenue and 15<sup>th</sup> Street, he turned northbound onto Lawndale Avenue and pulled the pistol out of his jacket pocket. Officer Rhodes stated [REDACTED] racked the slide of the pistol, then turned, and pointed the weapon at him. As Officer Rhodes ran southwest across Lawndale Avenue in search of protective cover, he discharged his weapon eight times in [REDACTED] direction. [REDACTED] fled eastbound in the north alley of 15<sup>th</sup> Street, and Officer Rhodes briefly lost sight of him. Officer Rhodes called out, “shots fired” over the air, then reengaged in the foot pursuit. When Officer Rhodes reached the alley, he saw [REDACTED] again and observed that he was still holding the pistol. [REDACTED] looked back and started to pivot toward Officer Rhodes, so Officer Rhodes discharged his weapon three more times. It is unknown whether any of Officer Rhodes’ shots struck [REDACTED]

[REDACTED] fled northbound, and Officer Rhodes lost sight of him. Dozens of officers, including Officer Joseph Lisciandrello, responded to Officer Rhodes’ “shots fired” call. Approximately fifteen minutes after the shooting, Officer Lisciandrello stopped and exited his vehicle in front of 1423 S. Lawndale Avenue, where he noticed the front gate was open. He drew his firearm and entered the rear yard, then approached the north gangway. A chain-link fence separated the north gangway of 1423 S. Lawndale Avenue (the “north gangway”) from the south gangway of 1421 S. Lawndale Avenue (the “south gangway”), and there was a four-foot cutout in the south wall of 1421 S. Lawndale Avenue (the “south gangway alcove”). Officer Lisciandrello could not see into the northeast corner of the alcove, so he peered around the corner, extending his arms and weapon in front of him. Simultaneously, he observed [REDACTED] sitting in the northeast corner of the alcove,



Officer Joseph Lisciandrello #19362	It is alleged by the Civilian Office of Police Accountability that on or about May 11, 2019, at approximately 3:42 pm, at or near 1421 S. Lawndale:	NOT SUSTAINED
	1. Officer Lisciandrello discharged his firearm at or in the direction of █████ █████ in violation of G03-02.	EXONERATED
	2. Officer Lisciandrello failed to ensure that the firearm he recovered from █████ was secured at the scene, as found, until the arrival of Forensic Services Division personnel, in violation of G03-02-03(V)(B).	SUSTAINED
	3. Officer Lisciandrello improperly deactivated and/or failed to properly re-activate his BWC while engaged in law-enforcement activities, in violation of S03-14, "Body Worn Cameras."	

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule 2: Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. Rule 3: Prohibits any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.
4. Rule 8: Prohibits disrespect to or maltreatment of any person, while on or off duty.
5. Rule 10: Prohibits inattention to duty.

General Orders

1. G03-02: Use of Force (Eff. October 16, 2017 – February 28, 2020)
2. G03-02-01: Force Options (Eff. October 16, 2017 – February 28, 2020)
3. G03-02-03: Firearms Discharge Incidents Involving Sworn Members (Eff. October 16, 2017 – February 28, 2020)
4. G04-02: Crime Scene Protection and Processing (Eff. January 14, 2019 – present)

Special Orders

1. S03-14: Body Worn Cameras (Eff. April 30, 2018 – present)
2. S07-01-04: Firearms Taken into Custody or Turned In (Eff. October 1, 2015 – August 15, 2019)

## V. INVESTIGATION

COPA obtained and reviewed the relevant video, audio, physical, medical, and documentary evidence associated with this officer-involved shooting. Additionally, COPA interviewed more than a dozen civilian and officer witnesses, including both accused officers. The following is a summary of the material evidence obtained and analyzed by COPA in this investigation.

### a. Interviews

#### i. Police Officers

In a **statement to COPA on June 24, 2019, Officer Robert Rhodes<sup>2</sup>** provided his account of the incident. Officer Rhodes stated on the date and time of the incident, he was on duty, in uniform, and assigned to Beat 1063D. He was driving an unmarked Ford Explorer and his partner, Officer Aaron David, was the passenger. Officers Rhodes and David were on patrol near 15<sup>th</sup> Street and Lawndale Avenue, looking for a homicide offender and an aggravated robbery offender. Officer Rhodes saw a man wearing a purple and black jacket, now identified as ██████ walk southbound in the alley, across 15<sup>th</sup> Street. ██████ right arm was stiff, he was holding his right side near his right hip, and his strides were a little shorter on the right side. In Officer Rhodes' experience, these were all indicators ██████ might be armed. Officer Rhodes stated he wanted to verify ██████ identity, because ██████ fit the general description of the two offenders they were looking for.

Officer Rhodes drove eastbound on 15<sup>th</sup> Street, then turned southbound in the alley. When ██████ saw the police vehicle, he turned around and walked toward the vehicle with his hands raised. Officer Rhodes observed that ██████ had a distinctive Nike symbol tattooed on his forehead and realized ██████ was not either of the wanted offenders. ██████ approached the driver's side window of the police vehicle and immediately stated, unprompted, "I don't have anything, I don't have anything, I'm not even from around here."<sup>3</sup> Officer Rhodes noted ██████ was talking too much, and answering questions they did not ask. ██████ then put his hands on the driver's side door of the police vehicle, which Officer Rhodes interpreted as a signal that ██████ did not want him to exit the vehicle. As ██████ stood next to the vehicle, Officer Rhodes noticed a bulge on the right side of his waist area. Officer Rhodes reached through his open window and felt the hard-pressed metal handle of a firearm in ██████ right jacket pocket. The handle popped out of ██████ jacket pocket, and Officer Rhodes immediately recognized it as the handle of a Sig Sauer pistol. Officer Rhodes started to open his door to exit the vehicle, and ██████ took off running.

██████ fled westbound on 15<sup>th</sup> Street, and Officer Rhodes gave chase. As they ran, Officer Rhodes saw ██████ reaching into his right jacket pocket, trying to manipulate his firearm. Officer Rhodes activated his BWC and yelled to ██████ to stop running and drop the gun. When ██████ reached the northeast corner of Lawndale Avenue and 15<sup>th</sup> Street, he turned northbound onto Lawndale Avenue and pulled the gun out of his jacket pocket. ██████ brought the gun to the front of his body, put both of his hands on it, and racked the slide. Officer Rhodes, who was still running westbound on 15<sup>th</sup>, drew his own weapon. When Officer Rhodes reached Lawndale Avenue, he

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<sup>2</sup> Atts. 74-79, 107.

<sup>3</sup> Att. 107, pg. 15, lines 8-9.

saw █████ slow down, turn to his right, and extend his right arm and firearm in Officer Rhodes' direction. Officer Rhodes stated █████ pointed the gun directly at him, but he was unsure whether █████ actually fired the weapon. Officer Rhodes responded by discharging his own weapon seven times.<sup>4</sup> As Officer Rhodes fired his weapon with his right hand, he ran southwest across Lawndale Avenue in search of protective cover.<sup>5</sup>

█████ turned eastbound in the north alley of 15<sup>th</sup> Street, and Officer Rhodes lost sight of him. Officer Rhodes called out █████ location and direction over the air, then reengaged in the foot pursuit. When Officer Rhodes reached the north alley of 15<sup>th</sup> Street, he reacquired a visual of █████ and saw that █████ was still holding the gun in his right hand. █████ looked back at Officer Rhodes, slowed down, and started to pivot to the left. Officer Rhodes stated it appeared that █████ was going to bring his right arm and gun across the front of his body, toward the officer. Officer Rhodes discharged his weapon three times from a distance of approximately 125 feet. He stated he did not know if any of his shots struck █████ or if █████ fired his own weapon during the incident.

After Officer Rhodes discharged his weapon, █████ fled northbound, and Officer Rhodes lost sight of him. Officer Rhodes called out a 10-1<sup>6</sup> and provided a description of █████ over the air. He sought cover until assisting units arrived, then searched for █████ in the rear yards of the 1400 block of S. Millard Avenue. Officer Rhodes also completed a tactical reload of his firearm, replacing his partially spent magazine with a fully-loaded magazine.<sup>7</sup> Approximately ten to fifteen minutes later, Officer Rhodes heard multiple gunshots and relocated to the area where they were fired. He saw EMS moving █████ into the ambulance, at which point he identified █████ as the person who pointed the gun at him. Officer Rhodes did not take part in the search for evidence, but other officers directed him to a magazine on the street at approximately 1445-47 S. Lawndale Avenue. He observed that the magazine was close to the location where █████ turned and pointed the gun at him. Officer Rhodes stated he did not see █████ drop the magazine during the foot pursuit, but he assumed it came from █████ weapon as it did not come from his own weapon.

Officer Rhodes denied that he violated the Department's deadly force policy, reiterating that he only discharged his weapon because he feared █████ was going to kill him. Officer Rhodes also denied Allegation #2, that he failed to take reasonable precautions to ensure that people other than █████ would not be struck. He stated he was aware of his surroundings both times he discharged his weapon, and before he fired he visually ensured that there were no other people in his line of fire. Officer Rhodes emphasized that there were no people outside, no occupied cars, and no movement in his line of fire. He was unaware that any civilians complained he shot their front door.

In a **statement to COPA on June 24, 2019, Officer Aaron David**<sup>8</sup> stated on the date and time of the incident, he was a 10<sup>th</sup> District tactical team officer, assigned to Beat 1063D. Officer

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<sup>4</sup> The ShotSpotter audio indicates Officer Rhodes actually discharged his weapon eight times at this location. Atts. 61-62.

<sup>5</sup> During his COPA interview, Officer Rhodes marked on a map his location and █████ location at the time █████ pointed the firearm. Att. 107, pg. 25, lines 6-24; Att. 78. These markings are depicted on Appendix A.

<sup>6</sup> A 10-1 is a radio call indicating an officer in need of emergency assistance.

<sup>7</sup> Officer Rhodes' BWC video confirms he tactically reloaded his firearm at 3:30:14 pm. Att. 36.

<sup>8</sup> Atts. 80, 105.

David was the passenger in an unmarked Ford Explorer, and his partner, Officer Rhodes, was the driver. The officers were driving eastbound on 15<sup>th</sup> Street when Officer David observed a man, now identified as ██████ obstructing traffic as he walked across the street. ██████ had his hood up, and Officer David observed that he matched the gender, race, height, and weight of several wanted offenders. Officer Rhodes turned into the east alley of Lawndale Avenue and drove toward ██████ Officer David stated ██████ looked over his shoulder in the officers' direction, then turned around and put his hands in the air. ██████ approached the driver's side of the police vehicle, put his hand on the vehicle, and stated, "I ain't got nothing, I ain't got nothing."<sup>9</sup> Both officers began to talk to ██████ and Officer David assured him they just wanted to run a name check. As Officer David looked at his PDT, he saw Officer Rhodes reach out of the driver's side window and make contact with ██████ right waist area. Officer David did not see anything in ██████ jacket or waistband, as the vehicle obstructed his view. Officer David stated that as soon as Officer Rhodes touched ██████ ██████ took off running.

Officer Rhodes put the police vehicle in park and gave chase on foot. ██████ and Officer Rhodes ran northbound in the alley, then westbound on 15<sup>th</sup> Street. Officer David heard his partner shouting at ██████ but he could not recall what Officer Rhodes said. Officer David exited the police vehicle, intending to join the foot pursuit, but he changed his mind when he saw that Officer Rhodes was right behind ██████ Officer David reentered the police vehicle, reversed out of the alley, and turned westbound on 15<sup>th</sup> Street. As he turned the vehicle around, he saw ██████ tugging at his side, trying to pull something out of his jacket with his right hand. ██████ then turned northbound on Lawndale Avenue, and Officer David lost sight of him. Officer David saw his partner running westbound on 15<sup>th</sup> Street, firing his weapon with one hand. Officer Rhodes looked north as he discharged his weapon, in the direction that ██████ fled. Officer David could not see ██████ when his partner fired, and he could not see if there were any other people in Officer Rhodes' line of fire. He heard a total of five or six gunshots.

Officer David turned the police vehicle northbound onto Lawndale Avenue and observed Officer Rhodes again discharge his weapon at the mouth of the north alley of 15<sup>th</sup> Street. Officer Rhodes fired eastbound in the alley, and Officer David heard a total of four gunshots. Officer David could not see ██████ when his partner fired, nor could he see if there was anyone else in Officer Rhodes' line of fire. Officer David never saw ██████ with a weapon.

Officer David located Officer Rhodes in the alley, and Officer Rhodes told him to get out his weapon, because ██████ had just pointed a gun at him. Officer David drew his weapon, and then searched for ██████ on the 1400 block of S. Lawndale Avenue. During the search, Officer David stated a family from a house on Millard Avenue approached him and complained that someone just shot their window. Officer David responded there was no way that happened, as he believed their house was south of the alley, not directly facing it. Approximately twenty minutes after Officer Rhodes discharged his weapon, Officer David heard ten more gunshots. He walked to the house on Lawndale Avenue where the shots were fired and observed EMS move ██████ out of the gangway and into the ambulance.

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<sup>9</sup> Att. 105, pg. 11, lines 12-13.

In a statement to COPA on June 25, 2019, Officer Joseph Lisciandrello<sup>10</sup> stated he is a tactical team officer in the 11<sup>th</sup> District. On the date and time of the incident, he was on duty, in civilian dress, and assigned to Beat 1162E. Officer Lisciandrello was in the basement of the 11<sup>th</sup> District when he heard a radio call of shots fired at and by the police in the 10<sup>th</sup> District. The offender was described as a male black with a Nike tattoo, wearing a white t-shirt and a purple Lakers jacket. Officer Lisciandrello went upstairs but discovered that his tactical team, including his partner, had already left the station. He got into an unmarked Ford Explorer and responded to the scene alone. Officer Lisciandrello first arrived at Douglas Boulevard and Ridgeway Avenue, where he saw other officers detaining an armed individual who matched the description of the offender. The officers subsequently determined the individual was not the offender.<sup>11</sup>

After approximately five to ten minutes, Officer Lisciandrello got back in his vehicle and drove to the 1400 block of S. Lawndale Avenue. He observed that the block was cordoned off between the south alley of Douglas Blvd. and 15<sup>th</sup> Street, and officers were milling around on the sidewalk. Officer Lisciandrello stopped and exited his vehicle at approximately 1421 S. Lawndale Avenue, where he had a brief conversation with Officers Patrick Bowery and Jerry Luke, whom he knew from the 11<sup>th</sup> District. Officer Bowery related the scene was secure, and Officer Lisciandrello deactivated his BWC, which had been recording since the stop at Douglas Boulevard and Ridgeway Avenue.

At that point, approximately fifteen minutes had passed since the original shots fired radio call, and Officer Lisciandrello believed the offender had likely fled the area. Nonetheless, he noticed the front gate at 1423 S. Lawndale Avenue was open and decided to check the yard. He entered the front gate, then drew his firearm and cleared the south gangway of 1423 S. Lawndale Avenue. Officer Lisciandrello walked northbound through the rear yard and approached the north gangway. He observed a low chain-link fence separating the north gangway of 1423 S. Lawndale Avenue from the south gangway of 1421 S. Lawndale Avenue, and a three-to-four foot alcove, or cutout, in the south wall of 1421 S. Lawndale Avenue. Officer Lisciandrello recalled that the hairs on his body stood up when he saw the alcove, as he sensed it might be where the offender was hiding.

Officer Lisciandrello remained on the 1423 S. Lawndale Avenue side of the fence and entered the north gangway. He could see the entire alcove except the northeast corner. In order to clear that corner, he approached the east end of the alcove and peered around the corner, extending his arms and weapon in front of him. Officer Lisciandrello recalled leaning far to the left, “so my body is protected by the building, and only the firearm and my face are exposed.”<sup>12</sup> Simultaneously, Officer Lisciandrello observed the subject, now identified as ██████ sitting in the northeast corner of the alcove, facing him. He estimated that ██████ was three to four feet away. Officer Lisciandrello and ██████ made eye contact, and ██████ immediately leaned forward and raised a black semi-automatic pistol. Both of ██████ arms were fully extended, and he held the

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<sup>10</sup> Atts. 85-95, 104.

<sup>11</sup> The Investigatory Stop Report (ISR) identifies this person as rideshare driver ██████. ██████ told officers he was driving a Lyft patron, now identified as ██████, near the location of the incident. When ██████ and ██████ heard gunshots, he sped northbound on Lawndale Avenue, away from the scene. COPA investigators made multiple attempts to contact ██████ and ██████ by phone and mail, but their efforts were unsuccessful. Atts. 144-147; Investigator’s Case Log, notes 34417 and 34432.

<sup>12</sup> Att. 104, pg. 36, line 24 – pg. 37, line 2.

weapon in his right hand while using his left hand as support. Officer Lisciandrello saw the barrel of [REDACTED] weapon pointed directly at him; Officer Lisciandrello discharged his own weapon six times. As he fired, he felt what he thought were rounds passing by the left side of his head, and he believed [REDACTED] was returning fire.<sup>13</sup>

Officer Lisciandrello pulled his body upright and leaned back, using the east wall of the alcove for cover. He yelled for [REDACTED] to drop the gun, but when he leaned forward again he saw that [REDACTED] was still pointing the gun at him. Officer Lisciandrello discharged his weapon three more times, then stopped firing when he saw [REDACTED] right hand and gun drop to the ground. Officer Lisciandrello stated he had no opportunity to deescalate the situation prior to discharging his weapon, as he did not see [REDACTED] until [REDACTED] pointed the gun at him. At that point, he said it would have been dangerous to do anything other than protect himself.

COPA investigators showed Officer Lisciandrello the Medical Examiner's (ME) photographs of [REDACTED] and he explained the right-to-left and downward trajectories of the three gunshot wounds to [REDACTED] head. He stated when he discharged his weapon, he was leaned so far into the alcove that his arms were actually extended west of [REDACTED] who was sitting in the northeast corner of the alcove. As a result, he was firing in a northeasterly direction, and his shots struck [REDACTED] on the right side. With regard to the downward trajectory, Officer Lisciandrello pointed out he is six feet tall and fired from a standing position, whereas [REDACTED] was seated on the ground. He also stated the north gangway of 1423 S. Lawndale Avenue is at least six inches higher in elevation than the south gangway of 1421 S. Lawndale Avenue. Finally, Officer Lisciandrello noted the trajectory of the gunshot wound to [REDACTED] right arm is consistent with [REDACTED] extending his arm and pointing his weapon at the officer.

After Officer Lisciandrello discharged his weapon, he immediately called out shots fired at and by the police over his radio. He then moved west, across the center of the alcove, and jumped the chain-link fence into the south gangway of 1421 S. Lawndale Avenue. He kept his weapon in his right hand, covering [REDACTED] as he jumped the fence. [REDACTED] appeared to be incapacitated, but Officer Lisciandrello could not see where he was shot or if [REDACTED] was alive. Officer Lisciandrello observed that [REDACTED] was still clenching the gun tightly with his right hand, and he decided it was not safe to leave the firearm unsecured. He did not have a glove, so he recovered the weapon with his left hand. Responding officers arrived almost immediately, and Officer Lisciandrello turned the weapon over to Sgt. Karl Kruger. Officer Lisciandrello then activated his BWC, at Sgt. Kruger's instruction.

Responding officers requested EMS, and one of the officers stated he would attempt to render medical aid to [REDACTED]. Officer Lisciandrello left the gangway, as he was experiencing shortness of breath, chest tightness, and pain in his left ankle. Paramedics administered morphine and transported Officer Lisciandrello to Rush Medical Center, where he was treated and released the same day.

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<sup>13</sup> Officer Lisciandrello did not see any muzzle flashes from [REDACTED] weapon, and he did not hear any gunshots he did not fire. He later realized that what he felt passing by his head may actually have been blowback from his own weapon.

Officer Lisciandrello denied all three allegations against him. With regard to the BWC allegation, he emphasized he did not deactivate his camera until another officer related the scene was secure, and he agreed with that officer's assessment. Officer Lisciandrello stated a supervisor is not always available to authorize BWC deactivations, particularly in a situation like this, where the scene was spread over a block and a half and he was an assisting unit from another district. Additionally, Officer Lisciandrello denied Department policy required him to reactivate his BWC when he entered the yard and gangway of 1423 S. Lawndale Avenue. Officer Lisciandrello explained that more than fifteen minutes had passed since the original shots fired call, he believed the area was secure, and he had no expectation he would actually encounter [REDACTED]. He was simply doing his due diligence in checking the area. By the time Officer Lisciandrello realized [REDACTED] might be hiding in the alcove, it was too late to activate his BWC. He had no time to act other than to protect himself.

In a **statement to COPA on June 25, 2019, Officer Connor Purdy**<sup>14</sup> stated on the date and time of the incident, he and his partner, Officer Jacob Geary, were beat officers in the 11<sup>th</sup> District. Officer Geary was the driver of their marked Ford Explorer, and Officer Purdy was the passenger. The officers responded to a radio call of shots fired in the 10<sup>th</sup> District. They toured the area, looking for an offender wearing a purple jacket, with a Nike swoosh tattooed on his forehead. As Officer Geary drove southbound in an alley off Lawndale Avenue, Officer Purdy heard several gunshots fired in rapid succession. He did not see who fired the shots, but they sounded like they were coming from his right (west). Officer Purdy exited the vehicle and jumped the fence into the rear yard of 1423 S. Lawndale Avenue. He observed Officer Lisciandrello standing in the north gangway, on the east side of the south gangway alcove. There were no other officers in the rear yard or gangway.

As Officer Purdy approached, Officer Lisciandrello jumped the fence from the north gangway to the south gangway. Officer Purdy saw that Officer Lisciandrello was holding his service weapon in his right hand, and his left hand was free. Officer Lisciandrello bent down toward the waistband area of the offender, now identified as [REDACTED] and when he came back up, he was holding a black handgun in his left hand. Officer Purdy acknowledged he did not actually see the weapon before Officer Lisciandrello recovered it. However, he explained that when he reviewed his BWC video, "I could see that Officer Lisciandrello bent down and recovered the pistol out of the offender's actual hand, causing his hand to, like, literally flop down at that point."<sup>15</sup>

Officer Purdy described [REDACTED] as slumped over, seated with his back against the north wall of the alcove, and facing southbound. [REDACTED] fit the description of the offender that Officer Purdy heard over the radio, and he had a Nike swoosh tattooed on his forehead. Officer Purdy stated less than ten seconds elapsed between the time he heard the gunshots and the time he saw Officer Lisciandrello jump the fence and recover the weapon. When Officer Purdy was asked if he believed exigent circumstances existed that required Officer Lisciandrello to immediately recover the weapon, he affirmed. He stated [REDACTED] posed an immediate danger to others while armed, as his condition was unknown at that time.

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<sup>14</sup> Atts. 115-116, 120.

<sup>15</sup> Att. 120, pg. 21, lines 7-11.

Officer Lisciandrello instructed Officer Purdy and other arriving officers to get off the crime scene, and Officer Purdy returned to the rear yard of 1423 S. Lawndale Avenue. At that point, Officer Lisciandrello was still holding the recovered weapon in his left hand. Officer Purdy did not see what happened to the weapon after he left the gangway.

## ii. Civilian Witnesses

In a statement to COPA on May 13, 2019, ██████████<sup>16</sup> stated on the date and time of the incident, she was inside her second-floor apartment at ██████████. Her bedroom window faces south, and she has clear view of 15<sup>th</sup> Street from Lawndale Avenue to the east alley of Lawndale Avenue. ██████████ was looking out her open window when she saw a police vehicle turn from 15<sup>th</sup> Street into the east alley of Lawndale Avenue. The vehicle pulled up next to a black male, now identified as ██████████ and the officers inside the vehicle gestured for ██████████ to come toward them. ██████████ turned and fled westbound on 15<sup>th</sup> Street. One of the officers, now identified as Officer Rhodes, exited the vehicle and gave chase on foot, with his weapon still holstered. According to ██████████ when ██████████ reached the fire hydrant on the northeast corner of 15<sup>th</sup> Street and Lawndale Avenue, he turned around and started shooting at Officer Rhodes. ██████████ fired four or five times, causing Officer Rhodes to run westbound across Lawndale Avenue in search of cover. ██████████ turned northbound and ran out of ██████████ line of sight, and Officer Rhodes followed. His partner turned the police vehicle around and drove in the direction of the foot pursuit.

Approximately three minutes later, ██████████ heard additional gunshots but did not see who fired the shots. Responding officers arrived in the area and started looking in the backyards, and sometime later ██████████ heard a third round of gunshots.

In a statement to COPA on May 13, 2019, ██████████<sup>17</sup> stated on the date and time of the incident, she was at her sister ██████████ apartment. She was on the rear porch stairs when she saw a man, now identified as ██████████ running on 15<sup>th</sup> Street with a gun in his hand. An officer, now identified as Officer Rhodes, was chasing ██████████ on foot. When ██████████ reached the fire hydrant on the northeast corner of 15<sup>th</sup> Street and Lawndale Avenue, he turned and fired two or three shots at Officer Rhodes, whose own weapon was not drawn. At that point, Officer Rhodes was in the middle of 15<sup>th</sup> Street, approximately twenty feet behind ██████████ heard someone say, “stop,” but ██████████ continued shooting as he ran northbound on Lawndale Avenue. Officer Rhodes followed ██████████ and they ran out of ██████████ line of sight. Approximately two to three minutes later, ██████████ heard at least six more gunshots. She did not hear ██████████ say anything during the incident.

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<sup>16</sup> Atts. 30, 63. In an electronically recorded interview (ERI) on May 12, 2019, ██████████ related essentially the same account of the incident to detectives. Att. 66.

<sup>17</sup> Atts. 33, 59. In an ERI on May 13, 2019, ██████████ related essentially the same account of the incident to detectives, with fewer details. Att. 67.

In a statement to COPA on July 3, 2019, ██████████<sup>18</sup> stated she resides at ██████████. On the date and time of the incident, she was inside her kitchen in the rear of her house when she heard multiple back-to-back gunshots. She could tell the shots were coming from Lawndale Avenue, but she could not see who fired them. ██████████ went to her kitchen window, which overlooks the intersection of the east alley of Lawndale Avenue and the north alley of 15<sup>th</sup> Street. She observed a black male wearing a loud-colored purple shirt and a hat, now identified as ██████████ running eastbound in the north alley of 15<sup>th</sup> Street. He was holding a long silver object in his right hand, which ██████████ believed to be a large handgun. ██████████ right arm was at his side as he ran, and he was holding the gun near his waistline.

When ██████████ reached the T of the alley, he turned northbound in the east alley of Lawndale Avenue. He was running like he was trying to get away from someone, and he did not turn back or look behind him as he fled. After a couple of seconds, ██████████ feared that ██████████ saw her, and she dropped to the floor and crawled into her bathroom. When she got back up, she saw police officers in her rear yard and the alley, searching for ██████████. Approximately ten to fifteen minutes later, ██████████ heard another volley of gunshots that sounded like they came from two different weapons. She saw the police running in the direction of the gunshots, toward 1421 or 1423 S. Lawndale Avenue. Sometime later, she observed EMS personnel move ██████████ into the back of an ambulance. ██████████ noticed he was wearing the same hat he had on when he was running in the alley.

COPA investigators conducted canvasses<sup>19</sup> of the area near the shooting scene on May 13, 2019, and May 25, 2019. Investigators located several individuals who heard multiple gunshots but did not witness any portion of the incident. Additionally, investigators interviewed the following individuals who provided additional information:

- ██████████<sup>20</sup> of ██████████ stated on the date and time of the incident, he heard approximately ten gunshots south of his residence. The gunshots stopped for approximately six to seven seconds, at which point ██████████ heard approximately ten more gunshots. ██████████ noted the second round of shots sounded closer to his location than the initial shots, but both rounds sounded like they were fired from the same type of firearm. ██████████ looked out his rear (east-facing) window and saw a black male, late twenties to early thirties, wearing a purple and black varsity jacket, a hat, and dark pants, enter his rear yard through the alley and run northbound through the yard. ██████████ did not recognize the man and did not notice a gun in his hands, but he only observed him briefly. At that point, ██████████ ran to the other side of his residence and did not see anything further. Approximately fifteen minutes later, ██████████ heard five more gunshots that sounded like they were fired near the front of his house.

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<sup>18</sup> Atts. 108-111, 114. On May 23, 2019, a COPA investigator received a voicemail from an anonymous witness, now identified as ██████████. In the voicemail, ██████████ states, “Before the police came, I’m pretty sure that young man had a long silver gun. He had on a hat and it looked like him, and he was running in the alley, and then the police— I heard some shots at first, and I saw the boy running in the alley with a long gun, and then, um, then the police came. Then I heard some more...” Att. 56 at 29 seconds. After COPA investigators identified ██████████ as the caller, she agreed to provide a formal statement to COPA.

<sup>19</sup> Atts. 8, 54, 71.

<sup>20</sup> Atts. 71, 125.

- ██████████<sup>21</sup> of ██████████ stated she heard multiple gunshots, followed approximately one minute later by additional gunshots that sounded closer to her location. ██████████ observed the police flooding her block, and sometime later she heard a third round of gunshots. She could not tell where the final gunshots were fired from.
- ██████████<sup>22</sup> stated she resides on the second floor of ██████████ with her two small children. On the date and time of the incident, she and three of her friends were on the front porch until it started to rain, and they went inside. Moments after they shut the front door, ██████████ heard multiple gunshots and the sound of bullets hitting the house. Sometime later, she heard additional gunshots and went outside. ██████████ observed a bullet hole in the middle of her front door that was not there prior to the shooting. When COPA investigators spoke with ██████████ they observed the bullet hole and confirmed that the door directly faces the north alley of 15<sup>th</sup> Street.
- ██████████, an unidentified Black male, and an unidentified Black female<sup>23</sup> were present when COPA investigators spoke to ██████████. All three individuals related they were with ██████████ at ██████████ at the time of the shooting, and they provided essentially the same account of the incident as ██████████. Additionally, the unidentified male stated he looked outside immediately after the first round of gunshots and observed an unmarked police vehicle at the T of the alley, facing northbound. An officer was standing next to the vehicle with his weapon pointed across the hood of the vehicle.

In a telephonic interview with COPA on September 12, 2019, ██████████<sup>24</sup> stated she is the owner and landlord of ██████████. On the evening of May 11, 2019, ██████████ received a phone call from one of her first-floor tenants, who stated there was a bullet in the front door from the police shooting that occurred that afternoon. ██████████ stated she contacted the police, who told her she had to be present at the property to make a report. ██████████ lives in Bolingbrook, Illinois, and was unable to come to Chicago until May 22, 2019. On that date, she reported the property damage and observed the police remove the fired bullet from the front door of ██████████.<sup>25</sup> ██████████ declined to identify her tenants, stating they were not willing to speak to COPA. However, she stated the residence is a two-flat, and three adults and two children live in the first-floor unit. She confirmed that ██████████, another adult, and three or four children live in the second-floor unit.

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<sup>21</sup> Att. 54, pg. 3.

<sup>22</sup> Att. 54, pgs. 4, 6. ██████████ declined to provide a formal statement to COPA, and subsequent efforts to contact her were unsuccessful. Att. 136.

<sup>23</sup> Att. 54, pgs. 4, 6. The unidentified male and female refused to provide their names to COPA investigators, and all three individuals declined to provide a formal statement. However, COPA investigators recognized ██████████ the unidentified male, and the unidentified female as the same four individuals that Officer David's BWC captured reporting a bullet strike to the house after the shooting. See Att. 37 at 3:39:50 pm.

<sup>24</sup> Att. 136.

<sup>25</sup> The BWC videos of Officers Timothy Silva and Manuel Ayala capture the officers' response to ██████████ and their interactions with ██████████ on May 22, 2019. As the officers approach the front door of the residence, the videos show what appears to be a bullet hole in the outside of the door and a fired bullet lodged in the interior of the door. Att. 135.

## b. Digital Evidence<sup>26</sup>

### i. Video Evidence

The **Third-Party Video from Frazier Preparatory Academy**<sup>27</sup>, located at 3711 W. Douglas Boulevard, captures a portion of the incident. The video shows two people, now identified as [REDACTED] and Officer Rhodes, running westbound on 15<sup>th</sup> Street. Officer Rhodes is running behind [REDACTED] and appears to be pursuing him. When [REDACTED] reaches the northeast corner of Lawndale Avenue and 15<sup>th</sup> Street, he turns northbound and appears to briefly look back at Officer Rhodes. Officer Rhodes ducks down, then veers westbound across Lawndale Avenue. As he runs across the street, his right arm is raised and pointed northward, in [REDACTED] direction. Officer Rhodes then turns around and pursues [REDACTED] into the north alley of 15<sup>th</sup> Street. The camera is too far away to determine if either [REDACTED] or Officer Rhodes are holding or discharging a firearm.

COPA obtained and reviewed the **BWC video of Officer Rhodes**<sup>28</sup> relative to this incident. The video begins as Officer Rhodes drives into the east alley of Lawndale Avenue, stops the police vehicle, and rolls down his window. A black male wearing a purple jacket, now identified as [REDACTED] approaches the driver's side of the vehicle.<sup>29</sup> After several seconds, Officer Rhodes reaches through his open window toward [REDACTED]. He then exits the vehicle, and the video captures [REDACTED] fleeing westbound on 15<sup>th</sup> Street. As Officer Rhodes gives chase on foot, [REDACTED] appears to reach into his right jacket pocket with his right hand. (See Figure 1.) Officer Rhodes yells, "I'm going to fucking shoot you. I'm going to fucking kill you."<sup>30</sup> [REDACTED] turns northbound on the east sidewalk of Lawndale Avenue and appears to pull an object out of his right jacket pocket, but the video does not clearly show what he is holding. (See Figure 2.) Officer Rhodes draws his weapon and fires multiple times as he runs westbound across Lawndale Avenue. He reports shots fired over his radio and runs northbound on Lawndale Avenue, in the direction that [REDACTED] fled. When Officer Rhodes reaches the north alley of 15<sup>th</sup> Street, the video captures [REDACTED] running eastbound in the alley. [REDACTED] turns northbound in the T of the alley, and Officer Rhodes fires multiple times in his direction. Officer Rhodes continues in the direction of [REDACTED] but loses sight of him in the alley.

Officer David drives the police vehicle into the alley, and Officer Rhodes points in the direction that [REDACTED] fled. Officer Rhodes calls out a 10-1, then reports, "He pointed the gun at me squad. Shots fired by police."<sup>31</sup> Officer Rhodes describes [REDACTED] as a male black wearing a purple and black jacket. He then requests a perimeter be set. Over the next fifteen minutes, Officer Rhodes and responding officers search for [REDACTED] with negative results. At 3:42:45 pm, the video captures the sound of six gunshots, followed by a one to two second pause, then three more gunshots. By the time Officer Rhodes arrives at the scene, multiple responding officers are present. Sgt. Timothy Gorzkowski approaches Officers Rhodes and David and instructs them to sit in his vehicle.

<sup>26</sup> The relevant BWC video, In-Car Camera (ICC) video, third-party video, ShotSpotter audio, and OEMC audio are available on COPA's website at <https://www.chicagocopa.org/case/2019-0001617/>.

<sup>27</sup> Att. 40, FrazierMainEntrance.g64 and Herzl-05-Main-ExtSERamp-C119-23.g64.

<sup>28</sup> Att. 36.

<sup>29</sup> The first thirty seconds of video does not contain audio, so it does not capture the verbal exchange between Officer Rhodes and [REDACTED].

<sup>30</sup> Att. 36 at 3:27:31 pm.

<sup>31</sup> Att. 36 at 3:28:20 pm. Several minutes later, another unit radios Officer Rhodes to ask if the offender fired any shots at the police. Officer Rhodes replies that [REDACTED] pointed the gun directly at him, but he is unsure if [REDACTED] actually fired the weapon. Att. 36 at 3:37:16 pm.



Figure 1. Screenshot from Officer Rhodes' BWC showing [REDACTED] appear to reach into his right jacket pocket as he runs westbound on 15<sup>th</sup> Street.



Figure 2. Screenshot from Officer Rhodes' BWC showing [REDACTED] appear to pull an object out of his right jacket pocket as he turns northbound on Lawndale Avenue.

COPA obtained and reviewed the **BWC video of Officer David**<sup>32</sup> relative to this incident. The video shows Officer David exiting the passenger's side of the police vehicle in the east alley of Lawndale Avenue. As Officer David runs toward the driver's side of the vehicle, his BWC captures Officer Rhodes pursuing a man, now identified as [REDACTED] westbound on 15<sup>th</sup> Street. Officer David reenters the police vehicle and drives into the north alley of 15<sup>th</sup> Street, where Officer Rhodes is standing near the T of the alley. The video does not capture Officer Rhodes discharging his weapon. Officer David exits the vehicle and begins searching for [REDACTED] on the 1400 block of S. Lawndale Avenue. He informs the dispatcher [REDACTED] is wearing a purple Lakers jacket and has a Nike swoosh tattoo on his forehead. During the search, Officer David describes the incident to responding officers, stating, "We stop him. We pull up on him. He starts trying to schmooze us, whatever, takes off. Starts right away pulling it out. But I lost sight of him because I hopped back in the car."<sup>33</sup>

Approximately twelve minutes after the shooting, Officer David encounters two black males and two black females in front of [REDACTED]. One of the women, now identified as [REDACTED] [REDACTED] tells Officer David the police owe her a window. Officer David responds there is no way the bullets struck her house, as no one shot in that direction. However, his BWC video shows a hole, now known to be a bullet strike, in the center of the front entrance door. Several minutes later, the video captures the sound of six gunshots, followed by a one to two second pause, then three more gunshots.

COPA obtained and reviewed the **BWC video of Officer Lisciandrello**<sup>34</sup> relative to this incident. The video begins at 3:34:03 pm as Officer Lisciandrello is standing next to a black Kia, assisting officers who are detaining a male, now identified as [REDACTED]. [REDACTED] is wearing a white t-shirt, and Officer Lisciandrello points out that there is a purple Lakers jacket inside the Kia. Other officers apparently determine [REDACTED] is not the offender, and Officer Lisciandrello returns Forbes' weapon to the inside of the Kia. After the officers release [REDACTED] Officer Lisciandrello returns to his vehicle and tours the area for several minutes. At approximately 3:40 pm, Officer Lisciandrello arrives at the 1400 block of S. Lawndale Avenue. Officer Luke approaches Officer Lisciandrello's vehicle and informs him of [REDACTED] apparent flight path. Officer Lisciandrello responds by pointing in the direction of 1421 S. Lawndale Avenue and stating, "So he's probably in one of these yards."<sup>35</sup> He then exits his vehicle and stands in front of 1421 S. Lawndale with Officers Luke and Bowery. Officer Bowery asks if the scene is secure, and someone off camera says yes. Officer Lisciandrello deactivates his BWC at 3:41:58 pm.

Officer Lisciandrello's second BWC video begins at 3:43:38 pm, approximately one minute after he discharged his weapon.<sup>36</sup> The video captures [REDACTED] sitting in the northeast corner of the alcove, wearing a purple Lakers jacket and a burgundy baseball cap. He is slumped over and appears to be unresponsive. Officer Lisciandrello is standing in the south gangway alcove, holding a firearm in his hand. He informs a responding supervisor, now identified as Sgt. Kruger, that he

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<sup>32</sup> Att. 37.

<sup>33</sup> Att. 37 at 3:39:11 pm.

<sup>34</sup> Atts. 38-39.

<sup>35</sup> Att. 38 at 3:40:21 pm. Officer Luke's BWC video also captures this exchange. See Att. 151.

<sup>36</sup> Officer Lisciandrello did not activate his BWC until 3:44:08 pm; however, his camera was configured to automatically retain the prior 30 seconds of video without audio.

recovered the weapon from ██████ hand. Sgt. Kruger puts on a latex glove and Officer Lisciandrello gives him the weapon. Officer Lisciandrello jumps the fence and enters the rear yard of 1423 S. Lawndale Avenue, where Sgt. Kruger instructs him to deactivate his BWC.

COPA obtained and reviewed the **BWC video of Officer Purdy**<sup>37</sup> relative to this incident. At 3:42:48 pm, the video captures Officer Purdy exit his vehicle in the east alley of Lawndale Avenue and jump the fence into the rear yard of 1423 S. Lawndale Avenue. He appears to be the first responding officer to arrive at the scene. As Officer Purdy runs through the yard, the video captures Officer Lisciandrello standing in the north gangway, facing the south gangway alcove. He is holding his weapon in his right hand ,and his left hand appears to be free. Officer Lisciandrello jumps the chain link fence into the south gangway alcove and immediately approaches ██████ who is sitting in the alcove, slumped over. At approximately 3:43:03 pm, Officer Lisciandrello reaches down with his left hand and recovers a black handgun from ██████ right hand. He tells Officer Purdy and other responding officers to get off the crime scene, and Officer Purdy returns to the rear yard of 1423 S. Lawndale Avenue.

COPA obtained and reviewed the **BWC video of Officer Sgt. Karl Kruger**<sup>38</sup> relative to this incident. The video begins approximately twenty seconds after the fatal shooting, as Sgt. Kruger enters the rear yard of 1423 S. Lawndale Avenue and approaches the north gangway. Officer Lisciandrello is standing in the south gangway alcove, holding a firearm in his left hand. He tells Sgt. Kruger that ██████ shot at him, but his BWC was not activated. Sgt. Kruger instructs Officer Lisciandrello to activate his camera, and Officer Lisciandrello complies. Officer Lisciandrello then states the weapon he is holding belongs to ██████ and he recovered it from ██████ hand. Sgt. Kruger puts on a latex glove and Officer Lisciandrello hands him the weapon. The video ends as both men exit the gangway and stand in the rear yard of 1423 S. Lawndale Ave.

COPA obtained and reviewed **66 additional BWC videos**<sup>39</sup> from responding officers. None of the videos show the foot pursuit of ██████ or either officer-involved shooting, though multiple officers' cameras record the sound of Officer Lisciandrello's gunshots. Additionally, approximately three minutes after Officer Lisciandrello discharged his weapon, Officer Emil Hageline's BWC video captures Officer Lisciandrello describing the incident to Sgt. Kruger. Officer Lisciandrello points to the south gangway alcove and states, "I didn't know he was in there, and naturally I pied<sup>40</sup> it. And as soon as I pied it, he upped the gun...I'm pretty sure he got off one round, 'cause I felt something go by me."<sup>41</sup>

COPA requested the **In-Car Camera (ICC) Video for Beats 1063D and 1162E**<sup>42</sup>; however, neither of the vehicles was equipped with ICCs on the night of the incident.

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<sup>37</sup> Att. 68.

<sup>38</sup> Att. 69.

<sup>39</sup> Atts. 129, 151, 154.

<sup>40</sup> This is a reference to "slicing the pie," which is a tactic used to clear a blind corner in segments, or "slices," while keeping a reduced profile.

<sup>41</sup> Att. 129, Hageline AXON\_Body\_2\_Video\_2019-05-11\_1530 (2).mp4 at 3:45:53 pm. This statement is not captured on Officer Lisciandrello's BWC video, as he deactivated his camera at 3:45:36 pm.

<sup>42</sup> Atts. 49, 65, 128. COPA obtained and reviewed 58 ICC videos from the vehicles of responding officers. Although several of the videos capture officers running toward 1421 S. Lawndale Avenue after Officer Lisciandrello discharged his weapon, none of the videos show the foot pursuit or either officer-involved shooting. Atts. 70, 130.

## ii. Audio Evidence

The **Office of Emergency Management and Communications (OEMC) Event Queries<sup>43</sup>, Radio Transmissions<sup>44</sup>, and 911 Calls<sup>45</sup>** document the following relevant and material communications. At 3:27:40 pm, Officer Rhodes calls out shots fired at 14<sup>th</sup> Street and Lawndale Avenue. Approximately 25 seconds later, an anonymous 911 caller reports he heard six gunshots near 15<sup>th</sup> Street and Lawndale Avenue, then saw a black vehicle speeding southbound on Lawndale Avenue.<sup>46</sup> At 3:28:23 pm, Officer Rhodes informs the dispatcher that the offender pointed a gun at him and the shots were fired by police. Officer Rhodes describes the offender as a male black wearing a purple and black jacket, and Officer David adds he has a Nike swoosh tattoo on his forehead. Beat 1000X requests a perimeter be set at Lawndale Avenue, Millard Avenue, Douglas Boulevard, and 15<sup>th</sup> Street. Over the next fifteen minutes, officers search for the offender, with negative results.

Beginning at 3:42:54 pm, the dispatcher receives multiple reports of shots fired at and by the police at 1423 S. Lawndale Avenue. Approximately one minute later, Beat 1063 (Sgt. Gorzkowski) reports the offender is down and requests EMS. A second ambulance is later requested for Officer Lisciandrello, who is complaining of chest pain. At 3:48:30 pm, Beat 1000X (the 10<sup>th</sup> District Executive Officer) authorizes the deactivation of all BWCs. At 3:54:02 pm, Sgt. Gorzkowski reports that Officer Rhodes positively identified the offender, now known to be [REDACTED] as the person who pointed the gun at him.

The **ShotSpotter Data<sup>47</sup>** includes audio recordings of the eleven gunshots fired by Officer Rhodes. At 3:27:36 pm, ShotSpotter identified eight gunshots fired at 1447 S. Lawndale Avenue, near the northwest corner of 15<sup>th</sup> Street and Lawndale Avenue. All eight shots were fired in less than two seconds. At 3:27:48 pm, ShotSpotter identified three gunshots fired in rapid succession at 1439 S. Lawndale Avenue, near the intersection of the east sidewalk of Lawndale Avenue and the mouth of the north alley of 15<sup>th</sup> Street.

## c. Physical Evidence

### i. Forensic Evidence

The **Crime Scene Processing Reports<sup>48</sup>, Evidence Plat<sup>49</sup>, and Inventory Sheets<sup>50</sup>** document the recovery of firearms evidence following the incident. ETs recovered a Sig Sauer P229 magazine with an unknown number of live rounds from the street at 1443 S. Lawndale Avenue. Additionally, in CPD's Mobile Command Van, Sgt. Kruger turned over a Sig Sauer Model P229, 9X9 semi-automatic pistol (Serial #45A037319), which he reported belonged to [REDACTED] ETs processed the weapon and determined it did not contain a magazine, and the firing

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<sup>43</sup> Att. 6.

<sup>44</sup> Att. 122.

<sup>45</sup> Att. 121.

<sup>46</sup> COPA investigators made numerous attempts to contact the 911 caller, to no avail. Att. 126.

<sup>47</sup> Atts. 61-62. ShotSpotter did not capture the gunshots fired by Officer Lisciandrello. Att. 153, pg. 110.

<sup>48</sup> Atts. 17-18, 119, 141.

<sup>49</sup> Att. 106.

<sup>50</sup> Atts. 22, 58.

chamber was empty. The Gun Desk later notified ETs the weapon was reported stolen on November 1, 2017.

Additionally, ETs recovered a total of eighteen fired cartridge cases and six fired bullets following the incident, including:

- Six fired cartridge cases, headstamped Win 9mm Luger +P, recovered from the sidewalk and street near the northwest corner of 15<sup>th</sup> St. and Lawndale Ave.
- Four fired cartridge cases, headstamped Win 9mm Luger +P, recovered from the mouth of the alley at 1439 S. Lawndale Avenue.
- Seven fired cartridge cases, headstamped Win 9mm Luger +P, recovered from the north gangway of 1423 S. Lawndale Avenue and the south gangway alcove at 1421 S. Lawndale Avenue.
- One fired cartridge case, headstamped PMC .40 S&W, recovered from the cement carport pad in the rear of 1425 S. Lawndale Avenue.<sup>51</sup>
- Two fired bullets recovered from the south gangway alcove.
- Three fired bullets recovered by the ME (two from [REDACTED] body and one from [REDACTED] body bag).
- One fired bullet recovered from the front entrance door of 1439 S. Millard Avenue on May 22, 2019. An ET inventoried this fired bullet under RD #JC274009 and noted it was possibly related to this officer-involved shooting.

ETs also processed Officer Rhodes' Glock Model 19 Gen 4, 9X19 semi-automatic pistol (Serial #BADS984) and Officer Lisciandrello's Glock Model 17 Gen 4, 9X19 semi-automatic pistol (Serial #WZN278). Officer Lisciandrello's weapon, which had a seventeen-round capacity magazine, was found to have eight live rounds of ammunition in the magazine and one live round in the chamber (all Win 9mm Luger +P). Officer Rhodes' weapon, which had a fifteen-round capacity magazine, was found to have fifteen live rounds of ammunition in the magazine and one live round in the chamber (all Win 9mm Luger +P). Officer Rhodes then produced a second magazine from his pocket, which he stated was the magazine in his weapon at the time he fired.<sup>52</sup> It had a capacity of fifteen rounds and was found to contain four live rounds of ammunition (all Win 9mm Luger +P). An ET swabbed all three firearms for the presence of DNA.

The **Evidence Technician's (ET) Photographs**<sup>53</sup> depict the shooting scene from various angles. They include images of the south gangway alcove, as well as the Sig Sauer pistol, magazine, and fired cartridge cases recovered from the 1400 block of S. Lawndale Avenue. The photographs do not capture any visible blood trail along the path of the foot pursuit.<sup>54</sup> At the Mt.

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<sup>51</sup> The location, condition, and caliber of this casing indicate it is likely unrelated to this incident.

<sup>52</sup> Att. 5, pg. 4. Officer Rhodes performed a tactical reload of his weapon during the incident. See Att. 107, pg. 45.

<sup>53</sup> Atts. 98-102, 139.

<sup>54</sup> There was blood on the rear fence of 1423 S. Lawndale Avenue; however, Department reports and BWC videos indicate the blood transfer occurred after the fatal shooting, when CFD personnel lifted [REDACTED] over the fence on a stretcher. Att. 153, pg. 95.

Sinai Medical Center morgue, ETs took photographs of ██████ including his identifying marks. The photos include several images of a large black and red Nike swoosh tattoo on the center of ██████ forehead. On May 22, 2019, an ET returned to the scene and took photographs of the fired bullet protruding through the inside of the front entrance door of 1439 S. Millard Avenue.

The **Illinois State Police (ISP) Forensic Science Laboratory Report—Latent Prints**<sup>55</sup> documents the processing of the Sig Sauer pistol recovered from ██████ and the Sig Sauer magazine recovered from the street at 1443 S. Lawndale Ave. An ISP forensic scientist did not find any latent prints suitable for comparison on the pistol, the magazine, or the twelve live rounds recovered from the magazine.

The **ISP Laboratory Report—DNA**<sup>56</sup> documents the biological testing of the swabs taken of the Sig Sauer pistol. An ISP forensic scientist determined the swabs contained the DNA profiles of at least three people. All of the profiles were inconclusive, meaning they were not suitable for comparison to any DNA standards or entry into the CODIS<sup>57</sup> database.

The **ISP Laboratory Report—Firearms/Toolmarks**<sup>58</sup> documents the examination and testing of the recovered firearms evidence. An ISP forensic scientist test fired the Sig Sauer pistol with the Sig Sauer magazine and determined the weapon to be operable as received. Both officers' weapons were also test fired and found to be operable as received. After test firing the three weapons, the ISP forensic scientist made the following determinations with respect to the recovered casings and fired bullets:

- The six fired cartridge cases recovered from the sidewalk and street near the northwest corner of 15<sup>th</sup> St. and Lawndale Avenue were fired from Officer Rhodes' weapon.
- The four fired cartridge cases recovered from the mouth of the alley at 1439 S. Lawndale Avenue were fired from Officer Rhodes' weapon.
- The seven fired cartridge cases recovered from the north gangway of 1423 S. Lawndale Avenue and the south gangway alcove at 1421 S. Lawndale Avenue were fired from Officer Lisciandrello's weapon.
- The PMC .40 S&W fired cartridge case recovered from the carport pad in the rear of 1425 S. Lawndale Avenue was not fired from Officer Rhodes' weapon, Officer Lisciandrello's weapon, or the Sig Sauer pistol.

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<sup>55</sup> Att. 140. The ISP laboratory reports summarized below do not document where each individually numbered piece of evidence was recovered, but they do reference the inventory numbers associated with each piece of evidence. The inventory number can then be cross-referenced with the associated inventory sheets, crime scene processing reports, ET's photos, and ET's plat, which refer to the specific location where each piece of evidence was recovered. See Atts. 17, 22, 57-58, 98-102, 106, 119, 139.

<sup>56</sup> Att. 161. COPA also requested that ISP test the gunshot residue (GSR) kit that ETs collected from ██████ hands. As of the date of this report, the results of the GSR testing are outstanding. Att. 138.

<sup>57</sup> Combined DNA Index System

<sup>58</sup> Atts. 149-150.

- The two fired bullets recovered from the south gangway alcove and the three fired bullets recovered from ██████ body and body bag were not fired by the Sig Sauer pistol. Testing was inconclusive with respect to Officer Rhodes and Lisciandrello's weapons.
- The fired bullet recovered from the front door of 1439 S. Millard Avenue was not fired by Officer Rhodes' weapon, Officer Lisciandrello's weapon, or the Sig Sauer pistol.

A COPA investigative report<sup>59</sup> contains photographs and measurements of the north gangway of 1423 S. Lawndale Avenue and the south gangway of 1421 S. Lawndale Avenue. A 48-inch-tall chain link fence separates the gangways, and the north gangway is 10.375 inches higher than the south gangway. The south gangway alcove is 51.5 inches wide and 48 inches deep.



Figures 3-4. Photographs taken by COPA personnel depicting the north and south gangways, and the south gangway alcove, from the rear yard of 1423 S. Lawndale Avenue.

## ii. Medical Evidence

The **Chicago Fire Department (CFD) Ambulance Report for ██████**<sup>60</sup> records that paramedics from Ambulance 77 arrived at 1423 S. Lawndale Avenue at 3:48:52 pm. They found ██████ lying on his back in a gangway, up against a building, behind a fence. He was unresponsive and presented with two gunshot wounds to the right side of his face. EMS personnel had to jump the fence in order to access ██████ and they were unable to immediately initiate CPR due to his

<sup>59</sup> Att. 103.

<sup>60</sup> Att. 7.

location. They placed [REDACTED] on a stretcher, lifted him over three fences, and moved him into the ambulance. Paramedics initiated CPR but [REDACTED] was asystole on the monitor. The ambulance departed the scene at 3:58:59 pm and arrived at Mt. Sinai Hospital at 4:06:27 pm.

According to [REDACTED] **medical records**<sup>61</sup>, he arrived at Mt. Sinai Hospital via ambulance at 4:06 pm on May 11, 2019. He presented with multiple gunshot wounds to the left and right temples, the nasal bridge, and the right upper arm, as well as a laceration to the right scalp. [REDACTED] was unresponsive. Paramedics reported [REDACTED] was in traumatic arrest for approximately twenty minutes prior to his arrival at the hospital. He was pronounced deceased at 4:07 pm on May 11, 2019.

The **Report of Postmortem Examination**<sup>62</sup> and **ME's Photographs**<sup>63</sup> indicate the autopsy of [REDACTED] was performed in the morgue of the Cook County Medical Examiner's Office on May 12, 2019. The autopsy determined [REDACTED] sustained six gunshot wounds, summarized below:

- 1) A penetrating gunshot wound to the head, which entered the right temporal area of the head and lodged in the left temporal lobe. The direction of the wound track was right to left, front to back, and downward.
- 2) A graze gunshot wound to the right temporal area of the head, limited to the scalp. The direction of the wound track was left to right, front to back, and downward.
- 3) A perforating gunshot wound to the face, which entered the right side of the nose and exited through the front of the left ear. The direction of the wound track was right to left, front to back, and downward.
- 4) A penetrating gunshot wound to the face, which entered the right cheek and lodged in the neck. The direction of the wound track was right to left, back to front, and downward.
- 5) A perforating gunshot wound to the right arm, which entered the outside of the right elbow and exited the inside of the right arm, near the armpit. The direction of the wound track was right to left and upward. (*See Figure 5.*)
- 6) A perforating gunshot wound to the right forearm. The direction of the wound track could not be determined with certainty.

There was no soot, muzzle imprints, or gunpowder stippling associated with any of the wounds. The assistant medical examiner recovered one projectile from [REDACTED] head, one projectile from [REDACTED] neck, and one projectile from the body bag. The report finds [REDACTED] cause of death was multiple gunshot wounds, and his manner of death was Homicide.

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<sup>61</sup> Att. 72.

<sup>62</sup> Att. 124.

<sup>63</sup> Att. 53.

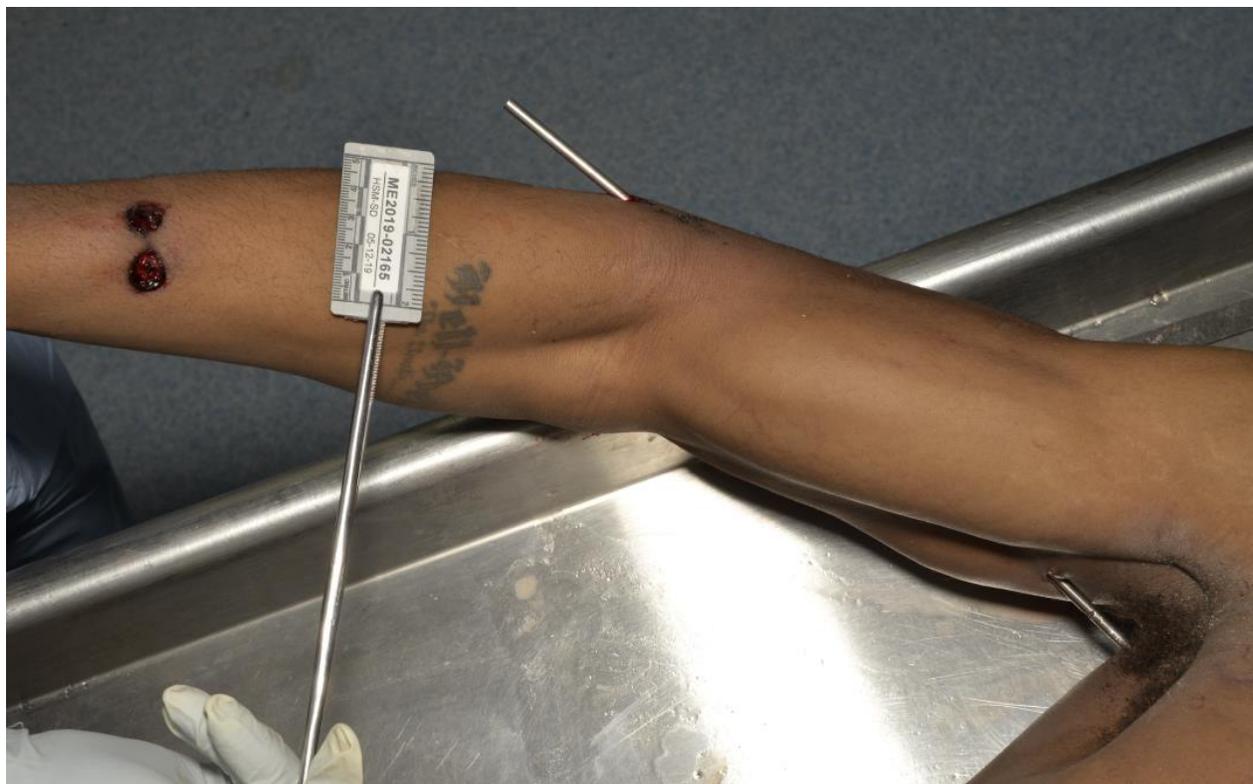


Figure 5. ME's photo showing the trajectory of the gunshot wound to [REDACTED] right arm, which entered the outside of the elbow and exited near the armpit. The photo also depicts the gunshot wound to [REDACTED] right forearm.

The **CFD Ambulance Report**<sup>64</sup> and **Medical Records**<sup>65</sup> for **Officer Lisciandrello** indicate that paramedics from Ambulance 34 arrived at the scene at 3:53:40 pm. They found Officer Lisciandrello alert, oriented, and ambulatory. He complained of chest pain and left ankle pain, which he stated he sustained after jumping a fence. Paramedics administered morphine and transported Officer Lisciandrello to Rush University Medical Center, where he arrived at 4:17:39 pm. At the hospital, an x-ray of Officer Lisciandrello's left ankle revealed negative results, and doctors noted no tenderness, swelling, or deformity in his ankle. He declined further treatment and signed out of the hospital against medical advice at 5:57 pm on the same day.

CPD's Bureau of Internal Affairs (BIA) administered **breathalyzer tests**<sup>66</sup> to Officers Rhodes and Lisciandrello at 8:27 pm and 8:31 pm, respectively, on May 11, 2019. Both officers' breath alcohol concentration (B.A.C.) was .000. Officer Rhodes submitted to a urine drug test on the same date, which revealed negative results. Dep. Chief Terrence Williams #59 waived the drug test requirement for Officer Lisciandrello, as he received medical treatment following the incident.<sup>67</sup>

<sup>64</sup> Att. 60.

<sup>65</sup> Att. 96.

<sup>66</sup> Atts. 73, 143.

<sup>67</sup> See also Atts. 12-13. COPA addressed the Department's failure to consistently drug test officers following firearm discharge incidents in an advisory letter dated June 26, 2019, which is available on COPA's website.

#### d. Documentary Evidence

**Officer Rhodes' Tactical Response Report (TRR)**<sup>68</sup> indicates he was on duty, in uniform, and with a partner at the time of the incident. Officer Rhodes encountered █████ on-view and attempted to conduct an investigatory stop of a man with a gun. █████ did not follow verbal direction, fled, posed an imminent threat of a battery with a weapon, and used force likely to cause death or great bodily harm. According to the TRR, █████ was armed with a semi-automatic pistol, which he used to attempt to attack Officer Rhodes. Officer Rhodes responded with member presence, verbal direction/control techniques, and by discharging his weapon eleven times. In the reviewing supervisor's comments, Sgt. Gorzkowski noted it was unknown if any of Officer Rhodes' shots struck █████. Officer Rhodes did not sustain any injuries in the incident.

**Officer Lisciandrello's TRR**<sup>69</sup> indicates he was on duty, in civilian dress, and alone at the time of the incident. Officer Lisciandrello responded to a radio call of a 10-1 and encountered █████ in the rear yard/gangway between 1421 and 1423 S. Lawndale Avenue. █████ did not follow verbal direction, posed an imminent threat of a battery with a weapon, and used force likely to cause death or great bodily harm. According to the TRR, █████ was armed with a semi-automatic pistol, which he used to attempt to attack Officer Lisciandrello. Officer Lisciandrello responded with member presence, verbal direction/control techniques, tactical positioning, and by discharging his firearm nine times. █████ was fatally injured, and Officer Lisciandrello sustained injuries categorized as "other."

The **Detectives' Supplementary Reports and General Progress Reports (GPRs) for RD #JC259152/Assault-Aggravated PO: Handgun**<sup>70</sup> include summaries of the detectives' interviews with Officers Rhodes and Lisciandrello, as well as numerous responding officers and civilian witnesses. Detectives interviewed Officer Lisciandrello on November 27, 2019, and he related essentially the same account of the incident that he provided to COPA.<sup>71</sup> Detectives interviewed Officer Rhodes on November 19, 2019.<sup>72</sup> Although most of his interview was consistent with his COPA statement, there is one material discrepancy. Officer Rhodes told COPA he discharged his weapon at the mouth of the alley when █████ started to pivot to the left, and it looked like █████ was going to bring his right arm and gun across his body, towards the officer. However, according to the detectives' summary of Officer Rhodes' interview, Officer Rhodes stated as █████ was turning toward him, "█████ raised his weapon across his body and pointed it at him."<sup>73</sup>

In addition to both involved officers, detectives interviewed a total of twenty-eight responding officers. Sixteen of the officers responded to the first officer-involved shooting and heard Officer Lisciandrello's gunshots, but they did not see either shooting. Six of the officers

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<sup>68</sup> Att. 2.

<sup>69</sup> Att. 3. Sgt. Kruger completed the TRR on Officer Lisciandrello's behalf. Officer Lisciandrello told COPA he was unable to complete the TRR himself, as he was under the influence of the morphine that paramedics administered to him following the incident. He reviewed the TRR prior to his COPA statement and verified it was accurate. See Att. 104, pg. 58, lines 4-19.

<sup>70</sup> Att. 153.

<sup>71</sup> See Att. 153, pgs. 66-68.

<sup>72</sup> See Att. 153, pgs. 114-116.

<sup>73</sup> Att. 153, pg. 115.

were not at the scene when either officer-involved shooting occurred. Officers Purdy and David provided statements consistent with their COPA interviews. The remaining four members provided the following additional information:

- **Field Training Officer (FTO) Eugene Vann<sup>74</sup>** stated he heard a radio call of shots fired by the police near Douglas Boulevard and Lawndale Avenue. FTO Vann and his partner responded to the scene and began searching for the offender. At approximately 1419 S. Lawndale Avenue, they encountered an unidentified citizen who pointed to the rear basement door of 1421 S. Lawndale Avenue and stated the subject ran inside the door. FTO Vann walked the fence-line of the rear yard at 1421 S. Lawndale Avenue and determined the basement door was not a feasible entrance, as it was padlocked from the outside.

As FTO Vann searched a nearby yard, he heard a single gunshot, followed by approximately four or five additional gunshots. He immediately jumped the rear fence at 1423 S. Lawndale Avenue and observed Officer Lisciandrello standing in the south gangway alcove, facing east. Officer Lisciandrello was holding a firearm in his hand and FTO Vann could see [REDACTED] feet on the ground in the alcove. Officer Lisciandrello requested an evidence box for the firearm, and Sgt. Kruger took possession of and cleared the weapon. FTO Vann related he was still at the scene when CFD fire-truck personnel arrived. As they began to work on [REDACTED] FTO Vann heard one of the CFD members state, "We got a pulse."<sup>75</sup> CFD eventually moved [REDACTED] into the ambulance and transported him to the hospital.

- **Sgt. Timothy Gorzkowski<sup>76</sup>** stated he responded to a radio call of a 10-1 near 15<sup>th</sup> Street and Lawndale Avenue. When Sgt. Gorzkowski arrived at the scene, Officer Rhodes informed him he had discharged his weapon. Officer Rhodes was shaken up and unsure how many times he fired, but he believed he reloaded his weapon during the incident. Sgt. Gorzkowski requested the helicopter unit assist in locating [REDACTED] While at the scene, Sgt. Gorzkowski heard approximately ten gunshots. He approached the location where the shots came from and observed Officer Lisciandrello standing in the gangway between 1421 and 1423 S. Lawndale Avenue, yelling "shots fired at and by police." Sgt. Gorzkowski related when he looked down the gangway, he observed [REDACTED] shoes on the ground in the south gangway alcove. Sgt. Gorzkowski informed OEMC and requested EMS, but he did not enter the gangway. Sgt. Gorzkowski and Officer Rhodes observed CFD remove [REDACTED] from the scene, at which point Officer Rhodes positively identified [REDACTED] as the subject who pointed the weapon at him.
- **Officer Bryan Mordan<sup>77</sup>** stated he responded to a call of shots fired by police on the 1400-1500 block of S. Lawndale Ave. As he searched the alley and yards for the offender, he heard one gunshot, followed by several additional gunshots. Officer Mordan ran toward the location where the shots came from and entered the rear yard of 1423 S. Lawndale Avenue. He heard Officer Lisciandrello say that [REDACTED] shot at him and heard a "bullet whiz past his head."

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<sup>74</sup> Att. 153, pgs. 86-88.

<sup>75</sup> Att. 153, pg. 88.

<sup>76</sup> Att. 153, pgs. 91-92, 259-263. On the date of the incident, Sgt. Gorzkowski was a 10<sup>th</sup> District tactical team sergeant and Officer Rhodes' direct supervisor. See Atts. 41, 107, pg. 43, lines 16-20.

<sup>77</sup> Att. 153, pgs. 89, 237. Officer Lisciandrello stated Officer Mordan was his partner on the date of the incident. See Att. 104, pg. 9, line 20 - pg. 10, line 5.

Officer Mordan observed Officer Lisciandrello exit the gangway with [REDACTED] firearm in his hand and pass the weapon to Sgt. Kruger, who cleared the weapon at that time.

- **Sgt. Karl Kruger**<sup>78</sup> provided a statement consistent with his BWC video, summarized above. Additionally, he confirmed that when he cleared [REDACTED] weapon, it was not in slide lock, did not contain a magazine, and there was no round in the chamber.

The supplementary reports and GPRs also summarize detectives' interviews with numerous civilian witnesses.<sup>79</sup> [REDACTED], [REDACTED], and [REDACTED] related essentially the same information to detectives that they subsequently provided to COPA. Detectives also located twelve eyewitnesses to the incident, several of whom heard two volleys of gunfire approximately ten to fifteen minutes apart. Finally, [REDACTED] of [REDACTED] [REDACTED] stated he was sitting in his front room when he saw three unknown Black men walk by his window. All three were in their twenties, and one was wearing a black hoodie. After the men passed the window, [REDACTED] heard someone yelling and approximately ten gunshots.

The **Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives National Tracing Center Report, Trace # T20190168402**<sup>80</sup>, documents that on May 21, 2016, [REDACTED] of Kansas City, MO purchased the Sig Sauer pistol from Frontier Justice, located at 800 NE Jones Industrial Dr., Lees Summit, Missouri.

The **Complaint at Law in the United States District Court for the Northern District of Illinois (19-CV-05296)**<sup>81</sup> alleges that on May 11, 2019, Officers Rhodes and Lisciandrello shot at [REDACTED] without justification, causing his death. On November 30, 2020, the Plaintiffs voluntarily dismissed their lawsuit.<sup>82</sup> As of the date of this report, it has not been refiled.

## VI. LEGAL STANDARD

### a. Use of Deadly Force

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>83</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>84</sup>

<sup>78</sup> Att. 153, pgs. 89-90, 235.

<sup>79</sup> Att. 153, pgs. 59-61, 101-102, 106, 195, 283-295.

<sup>80</sup> Att. 16.

<sup>81</sup> Att. 123.

<sup>82</sup> Att. 162.

<sup>83</sup> General Order G03-02(III)(B)(1) (effective October 16, 2017 – February 28, 2020).

<sup>84</sup> *Id.*; *Graham v. Connor*, 490 U.S. 386, 396 (1989).

The Department’s “highest priority is the sanctity of human life.”<sup>85</sup> Department policy dictates that the use of deadly force, which includes discharging a firearm at another person, 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>86</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>87</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>88</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>89</sup>

#### **b. Recovery of Evidence Following a Firearm Discharge Incident**

Department policy provides that immediately after a firearm discharge, the involved member will “ensure that any weapons or other items of evidentiary value are secured at the scene as found until recovered by Forensics Services Division personnel, unless public safety requires immediate recovery.”<sup>90</sup> If exigent circumstances require the immediate removal of a firearm, the recovering member will handle and secure the firearm in a manner that minimizes the risk of spoiling or degrading the evidence.<sup>91</sup> This includes wearing fresh rubber gloves and handling the firearm as minimally as possible.<sup>92</sup> Department policy further states that “[i]n the absence of exigent circumstances, a crime scene will be protected until it is completely processed for physical evidence. **Evidence will NOT be disturbed prior to processing, unless it is absolutely necessary to preserve life or to protect the evidence from loss or damage.**”<sup>93</sup>

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<sup>85</sup> G03-02 at (II)(A).

<sup>86</sup> *Id.* at (III)(C)(3).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at (III)(C)(2).

<sup>89</sup> *Id.* at (II)(D).

<sup>90</sup> General Order G03-02-03(V)(B)(6).

<sup>91</sup> Special Order S07-01-04(III)(B)(1).

<sup>92</sup> *Id.* at (III)(A)(1).

<sup>93</sup> General Order G04-02(III)(D) (emphasis in original).

### c. Body Worn Cameras (BWCs)

Officers have a mandatory, non-discretionary, duty to activate their BWCs whenever they are engaged in a law-enforcement-related activity.<sup>94</sup> Department policy requires members to activate their BWCs at the beginning of an incident and record the entire incident for “all law-enforcement-related activities.”<sup>95</sup> The relevant order provides a list of such activities, but emphasizes that an officer’s duty to activate his or her BWC is not limited to those enumerated activities.<sup>96</sup> The enumerated activities relevant to this case include, but are not limited to, investigatory stops, foot pursuits, arrests, use of force incidents, high-risk situations, seizure of evidence, and searches, including searches of people, items, vehicles, buildings, and places.<sup>97</sup> If circumstances prevent a member from activating his or her BWC at the beginning of an incident, the officer must activate the BWC as soon as practical.<sup>98</sup>

Additionally, the order prohibits members from deactivating their cameras unless the entire incident has been recorded and the member is no longer engaged in a law-enforcement-related activity.<sup>99</sup> In circumstances involving an officer-involved shooting, the Department considers law-enforcement-related activity to be concluded when the highest-ranking on-scene Bureau of Patrol supervisor has determined the scene is secured.<sup>100</sup> The order notes, “The scene may be considered secure when all offenders are in custody or otherwise not in the area, medical aid has been requested/administered or CFD is on the scene, the involved officers have been identified, and the crime scene has been established.”<sup>101</sup>

### d. Standard of Proof

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

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

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<sup>94</sup> S03-14.III.A. There are specified exceptions within the order, none of which are applicable to this incident.

<sup>95</sup> *Id.* at (III)(A)(2).

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at (III)(B)(a).

<sup>100</sup> *Id.* at (III)(B)(a)(4).

<sup>101</sup> *Id.*

A **preponderance of evidence** is evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy.<sup>102</sup> 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.<sup>103</sup> 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.”<sup>104</sup>

## VII. LEGAL ANALYSIS

### a. Findings of Material Fact

#### i. ██████ was armed with the Sig Sauer pistol throughout the entire incident.

COPA finds there is clear and convincing evidence ██████ possessed the Sig Sauer pistol throughout the entire incident. Officer Rhodes stated he felt, then saw, the handle of a Sig Sauer pistol in ██████ jacket pocket at the beginning of their encounter. He then observed ██████ pull the pistol out of his jacket pocket and run with the weapon in his right hand. In addition to Officer Rhodes, COPA identified three civilian witnesses who observed ██████ holding a firearm during the foot pursuit. ██████ and ██████ both reported they saw ██████ with a firearm as he approached the northeast corner of Lawndale Avenue and 15<sup>th</sup> Street. Similarly, ██████ observed ██████ holding a large handgun in his right hand as he ran eastbound in the north alley of 15<sup>th</sup> Street.

Moreover, Officer Lisciandrello stated he observed ██████ holding a pistol in his right hand when he encountered ██████ in the south gangway alcove. After Officer Lisciandrello discharged his weapon, Officer Purdy observed him recover the Sig Sauer pistol from ██████. Indeed, Officer Purdy’s BWC video shows the weapon in ██████ right hand, and ██████ hand flopping down as Officer Lisciandrello recovers it.

Although ISP was unable to forensically link the firearm to ██████ through fingerprints or DNA,<sup>105</sup> COPA finds that the recovery of the weapon, coupled with the witness statements and Officer Purdy’s BWC video, is persuasive evidence that ██████ was armed with the Sig Sauer pistol throughout the entire incident, beginning when he encountered Officers Rhodes and David in the alley and ending when he was shot by Officer Lisciandrello.

<sup>102</sup> See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005) (a proposition is proved by a preponderance of the evidence when it has been found to be more probably true than not).

<sup>103</sup> See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016).

<sup>104</sup> *Id.* at ¶ 28.

<sup>105</sup> COPA notes that firearms commonly do not have suitable fingerprints or DNA to forensically link a firearm to a specific person, for a variety of reasons.

**ii. ██████ pointed his firearm at Officer Rhodes as he ran northbound on Lawndale Ave.**

Officer Rhodes told COPA that when ██████ reached the northeast corner of Lawndale Avenue and 15<sup>th</sup> Street, ██████ pulled a firearm out of his jacket pocket, brought the weapon to the front of his body, and racked the slide. Officer Rhodes drew his own weapon and continued running westbound on 15<sup>th</sup> Street in pursuit of ██████. When Officer Rhodes reached Lawndale Avenue, he saw ██████ slow down, turn to his right, and point the firearm in Officer Rhodes' direction.<sup>106</sup>

Officer Rhodes' account is corroborated by the eyewitness statements of ██████ and ██████. Both witnesses stated they observed ██████ point a firearm at Officer Rhodes when ██████ reached the fire hydrant on the northeast corner of 15<sup>th</sup> Street and Lawndale Avenue. In fact, ██████ and ██████ believed ██████ fired multiple shots at Officer Rhodes. COPA notes that there is no physical evidence, including shell casings, to indicate ██████ fired his weapon. It is possible the sisters observed ██████ pointing a firearm, heard gunshots, and assumed ██████ fired the shots. Regardless, ██████ and ██████ statements that they observed ██████ point a firearm at Officer Rhodes corroborate the officer's account.

Moreover, Officer Rhodes' statement to COPA is consistent with the statements he made in the immediate aftermath of the shooting. The radio transmissions and BWC videos capture Officer Rhodes repeatedly reporting ██████ pointed a firearm at him. Approximately thirty seconds after Officer Rhodes fired his last shot, he informed the dispatcher, "He pointed the gun at me squad."<sup>107</sup> Officer Rhodes' BWC video also records him repeatedly telling responding officers and Sgt. Gorzkowski that ██████ pointed a firearm at him.

Finally, the physical evidence corroborates Officer Rhodes' account. As discussed above, COPA finds ██████ was armed with the Sig Sauer pistol at the time of the incident. Additionally, ETs recovered the Sig Sauer magazine from the street at approximately 1443 S. Lawndale Avenue, near the location where Officer Rhodes stated ██████ pointed the Sig Sauer pistol at him.

Taken together, COPA finds these facts constitute clear and convincing evidence that ██████ pointed his firearm at Officer Rhodes as he fled on Lawndale Avenue.

**b. Legal Analysis of the Allegations Against Officer Rhodes**

**i. There is clear and convincing evidence that Officer Rhodes' use of deadly force against ██████ complied with Department policy.**

COPA finds there is clear and convincing evidence that Officer Rhodes reasonably believed that ██████ posed an imminent threat. As to the first volley of shots, Officer Rhodes stated he discharged his weapon when ██████ pointed his firearm in the officer's direction. As discussed

<sup>106</sup> Although there is no video evidence that clearly captures ██████ actions in the moments before Officer Rhodes discharged his weapon, the third-party video from Frazier Prep. Academy shows ██████ briefly looking back at Officer Rhodes as he flees northbound on Lawndale Avenue. Officer Rhodes immediately ducks down and veers westbound across Lawndale Avenue, which suggests he perceived ██████ actions posed a threat.

<sup>107</sup> Att. 36 at 3:28:20 pm.

above, COPA finds there is clear and convincing evidence that ██████ pointed his firearm at Officer Rhodes as he fled northbound on Lawndale Avenue. As to the second volley of shots, Officer Rhodes stated he fired because ██████ started to pivot to the left, and it looked like ██████ was going to bring his right arm and gun across his body, towards the officer.<sup>108</sup> COPA acknowledges there were no independent eyewitnesses to this shooting; however, Officer Rhodes' statement is consistent with his BWC video, and COPA finds his explanation to be credible.<sup>109</sup> Therefore, COPA finds the evidence is clear and convincing that ██████ posed imminent threat of death or great bodily harm during both volleys, for the following reasons.

First, it was objectively reasonable for Officer Rhodes to believe ██████ actions were immediately likely to cause death or great bodily harm. In both instances, Officer Rhodes fired only after ██████ raised, or appeared to raise, his firearm to point at the officer. In the first instance, ██████ had racked the slide of his firearm moments before he pointed it at Officer Rhodes. Although ██████ never discharged his weapon, officers are not required to wait until they are fired upon before using deadly force to protect themselves.<sup>110</sup>

Second, as discussed above, COPA finds by a preponderance of the evidence that ██████ was armed throughout the encounter, and thus had the means to cause death or great bodily harm.<sup>111</sup>

Third, ██████ had the opportunity to cause death or great bodily harm. Both times Officer Rhodes discharged his weapon, he was exposed in the middle of the street, with no immediate access to cover. During the first discharge, Officer Rhodes attempted to seek cover as he ran westbound across Lawndale Avenue, but it was reasonable for him to believe deadly force was necessary to protect himself while seeking that cover. Additionally, in both instances, ██████ was close enough to Officer Rhodes that his potential gunfire could have struck the officer.

Moreover, Officer Rhodes reasonably believed that deadly force was necessary to prevent ██████ from escaping and that ██████ posed an imminent threat of death or great bodily harm unless arrested without delay. Both times Officer Rhodes discharged his weapon, an objectively reasonable officer would have believed that an armed ██████ was attempting to escape.

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<sup>108</sup> ██████ did not observe ██████ point the weapon at anyone behind him, and Officer Rhodes did not make that claim in his statement to COPA. This is slightly different than Officer Rhodes' statement to detectives, in which he reportedly stated that ██████ raised his weapon across his body and pointed it at him. COPA is unable to ascertain whether this discrepancy arises from the detectives' summarization of Officer Rhodes' statement, or whether Officer Rhodes provided different information to detectives than he did to COPA. Regardless, the evidence indicates ██████ was holding a firearm in his right hand, and Officer Rhodes discharged his weapon as ██████ started turning to the left.

<sup>109</sup> ██████ stated she did not see ██████ turn or look back as he approached the T of the alley. However, due to ██████ vantage point and/or the fact that she ducked before she heard the second volley of shots, she may not have seen ██████ turning, and her statement does not refute Officer Rhodes' account.

<sup>110</sup> See *Thompson v. Hubbard*, 257 F.3d 896 (8th Cir. 2001) (holding there is no requirement that an officer wait until a shot is fired in his or her direction before using deadly force).

<sup>111</sup> COPA acknowledges the magazine had fallen out of ██████ firearm before Officer Rhodes discharged his weapon in the alley; however, based on the location where the magazine was recovered, Officer Rhodes was likely seeking cover at the time the magazine fell, and there is no evidence he knew or should have known that ██████ had dropped the magazine. Therefore, Officer Rhodes reasonably believed ██████ firearm to be loaded and operable even if the discarded magazine rendered that to not be the case.

Additionally, when Officer Rhodes fired in the alley, he knew that [REDACTED] had already pointed his firearm at him.<sup>112</sup> Thus, it was objectively reasonable for Officer Rhodes to believe that [REDACTED] would pose a threat to him, his partner, and any other officers who may have been responding to the scene. Similarly, because the incident occurred in a residential area on a Saturday afternoon, it was objectively reasonable for Officer Rhodes to believe [REDACTED] would pose an imminent threat to civilians as he attempted to escape.

Finally, COPA finds it was objectively reasonable for Officer Rhodes to believe that deadly force was a necessary last resort. [REDACTED] racked and pointed his firearm at Officer Rhodes when the officer was in a location where he had no cover. As a result, Officer Rhodes had to fire as he ran across Lawndale Avenue in search of cover. The second volley of shots presents a closer call as to whether Officer Rhodes could have sought cover, given that he only saw [REDACTED] *beginning* to raise his firearm. However, in light of the fact that [REDACTED] likely would have made good his escape had Officer Rhodes not discharged his weapon, thus posing a risk to responding officers and civilians, it was objectively reasonable for Officer Rhodes to believe that deadly force was a necessary last resort in that moment.

Therefore, the evidence is clear and convincing that it was objectively reasonable for Officer Rhodes to believe that [REDACTED] posed an imminent threat of death or great bodily harm, and that deadly force was a necessary last resort. COPA finds Allegation #1 against Officer Rhodes is **Exonerated**.

**ii. There is clear and convincing evidence that Officer Rhodes was not inattentive to duty when he discharged his firearm.**

COPA finds that Officer Rhodes was not inattentive to duty and he did not discharge his firearm without taking reasonable precautions to ensure that people other than [REDACTED] would be struck. [REDACTED]'s complaint to COPA indicated that one of Officer Rhodes' bullets struck the front door of her residence at [REDACTED]. (See Appendix A). Officer David's BWC video also captures [REDACTED] and three of her friends complaining about the bullet strike, and all four individuals later repeated their claims to COPA. On May 22, 2019, ETs recovered a fired bullet from the inside of [REDACTED] front door; however, ISP conclusively determined the bullet was *not* fired by Officer Rhodes' weapon, Officer Lisciandrello's weapon, or the Sig Sauer pistol. ISP's report constitutes clear and convincing evidence that Officer Rhodes did not unintentionally strike the front door of [REDACTED].

Additionally, COPA verified Officer Rhodes' statement that [REDACTED] was the only person in his line of fire when he discharged his weapon. Officer Rhodes' BWC video and the third-party video from Frazier Prep. Academy reveal there were no other people or moving vehicles in Officer Rhodes' line of fire. This is true when he fired northbound on the 1400 block of S. Lawndale Avenue as well as when he fired eastbound in the north alley of 15<sup>th</sup> Street. Therefore, COPA finds Allegation #2 against Officer Rhodes is **Unfounded**.

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<sup>112</sup> While Officer Rhodes initially did not report shots fired at police, he later indicated to Sgt. Gorzkowski that he was unsure if [REDACTED] had fired at him during the foot pursuit.

**c. Legal Analysis of the Allegations Against Officer Lisciandrello****i. There is insufficient evidence to prove that Officer Lisciandrello's use of deadly force complied with Department policy.**

COPA finds there is insufficient evidence to prove, by clear and convincing evidence, that Officer Lisciandrello's use of deadly force complied with Department policy.

According to Officer Lisciandrello, when he encountered ██████ in the alcove, ██████ made eye contact with him and immediately pointed his firearm in the officer's direction. Officer Lisciandrello discharged his weapon six times, then used the alcove wall as cover and yelled for ██████ to drop the gun. Several seconds later, Officer Lisciandrello leaned forward into the alcove a second time and saw that ██████ was still pointing the weapon at him. Officer Lisciandrello fired three more times, until he saw ██████ right hand and firearm fall to the ground.

If Officer Lisciandrello's account is materially accurate, his firearm discharge complied with Department policy. ██████ presented an imminent risk of death or great bodily harm to Officer Lisciandrello if ██████ pointed what reasonably appeared to be a loaded firearm at the officer,<sup>113</sup> and deadly force was reasonably necessary to eliminate the threat. As discussed above, COPA finds ██████ was armed with the Sig Sauer pistol throughout the incident. COPA's analysis, therefore, focuses on whether ██████ pointed the firearm at Officer Lisciandrello when the officer fired both volleys of shots. For the reasons set forth below, COPA finds there is insufficient evidence to prove or disprove ██████ actions during the encounter in the alcove.

First, as discussed below, Officer Lisciandrello's BWC was not activated during the incident and did not record the shooting. Additionally, no other video or audio evidence captured the incident.

Second, COPA has not identified any independent witnesses to the shooting. Although Officer Lisciandrello was surrounded by other officers who could have provided backup, he made the decision to walk away from them and enter the rear yard and north gangway of 1423 S. Lawndale Avenue alone. Thus, no other officers witnessed the shooting. There were also no civilian witnesses to the incident, and ██████ died from his gunshot wounds. As a result, Officer Lisciandrello is the only surviving eyewitness to his encounter with ██████

Third, COPA cannot verify certain aspects of Officer Lisciandrello's account, specifically that Officer Lisciandrello gave ██████ verbal commands and that ██████ continued to point his firearm during the officer's second volley of shots. Regarding the verbal commands, COPA notes that numerous responding officers' BWC videos capture the audio from Officer Lisciandrello's gunshots. Some of these officers were standing in front of 1421 S. Lawndale Avenue when the shooting occurred, and their BWC videos recorded the gunshots from a close distance; however, the videos do not capture any yelling or verbal commands during the pause between Officer

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<sup>113</sup> The fact that the Sig Sauer pistol was unloaded is irrelevant, as Officer Lisciandrello did not know this during the incident. In fact, he told COPA he erroneously believed that ██████ had returned fire. Without an opportunity to closely inspect the pistol, Officer Lisciandrello would not have known the pistol did not contain a magazine or a round in the chamber.

Lisciandrello's volleys. Similarly, none of the officers interviewed by detectives reported hearing Officer Lisciandrello yell any commands to ██████

Moreover, COPA is unable to corroborate Officer Lisciandrello's statement that ██████ was still pointing the gun at him during the officer's second volley of shots. The medical examiner determined ██████ sustained four gunshot wounds to the head, three of which would have been incapacitating. It is possible that ██████ sustained all three of these gunshot wounds when Officer Lisciandrello fired his final three shots; however, it is also possible, if not probable, that ██████ sustained at least one of these wounds during Officer Lisciandrello's first volley of shots. Without video or independent testimonial corroboration, COPA cannot evaluate the veracity of Officer Lisciandrello's statement that ██████ was still pointing the gun when Officer Lisciandrello fired the final three shots.

COPA recognizes that some of the available evidence corroborates Officer Lisciandrello's account of the incident. For example, BWC video from the first responding officer shows the firearm in ██████ right hand at the time Officer Lisciandrello recovered it. Additionally, the trajectory of the gunshot wound to ██████ right arm is consistent with ██████ pointing his weapon at Officer Lisciandrello. The bullet entered ██████ outer elbow and exited near his armpit, indicating his right arm was raised and extended at the time he was shot.<sup>114</sup> Finally, Officer Lisciandrello provided consistent accounts of ██████ actions. Approximately three minutes after Officer Lisciandrello discharged his weapon, he is captured on BWC telling other officers, "As soon as I pied [the alcove], he upped the gun."<sup>115</sup> He subsequently repeated similar accounts to both detectives and COPA.

On balance, however, COPA finds this evidence is insufficient to prove or disprove that ██████ pointed his weapon at Officer Lisciandrello, particularly during the officer's second volley of shots. Without additional evidence, COPA cannot determine whether ██████ reasonably appeared to present an imminent risk of death or great bodily harm to Officer Lisciandrello, and whether deadly force was reasonably necessary to eliminate the threat. Therefore, there is insufficient evidence to prove, by a preponderance of the evidence, that Officer Lisciandrello violated Department policy by discharging his weapon at or in the direction of ██████ or to prove by clear and convincing evidence that his actions complied with Department policy.

**ii. There is clear and convincing evidence that exigent circumstances existed justifying Officer Lisciandrello's recovery of ██████ firearm.**

COPA finds that Officer Lisciandrello did not improperly recover ██████ weapon after the shooting. Officer Lisciandrello stated he recovered the firearm because he did not believe it was safe to leave it unsecured. ██████ was still clenching the weapon in his right hand, and Officer Lisciandrello could not tell where ██████ was shot or if he was alive. Officer Lisciandrello acknowledged he recovered the weapon with his bare hand. However, he asked for a glove as soon

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<sup>114</sup> ISP was unable to determine whether Officer Lisciandrello or Officer Rhodes fired this shot, which entered the outside of ██████ right elbow and exited the inside of his right arm, near the armpit. However, the lack of a blood trail along ██████ flight path from Officer Rhodes, coupled with ██████ apparent ability to jump multiple fences during the foot pursuit, corroborates Officer Lisciandrello's statement that he fired the shot that struck ██████ right arm.

<sup>115</sup> Att. 129, Hageline BWC video at 3:45:53 pm.

as Sgt. Kruger arrived at the scene, and he used it to transfer the weapon to Sgt. Kruger. Officer Lisciandrello stated he did not want anyone else to touch the weapon, and he made every effort to ensure the preservation of evidence and chain of custody.

Two factors support Officer Lisciandrello's decision to immediately recover [REDACTED] weapon. First, [REDACTED] condition immediately after the shooting was unknown. Officer Purdy, who was the first responding officer at the scene, corroborated Officer Lisciandrello's statement that he could not tell where [REDACTED] was shot or if he was alive. The officers' BWC videos show [REDACTED] slumped over in a seated position. He appears to be unresponsive but the extent of his injuries is unclear, as he is wearing a baseball cap that covers the gunshot wounds to his head. As a result of this uncertainty, Officer Lisciandrello assessed that [REDACTED] continued to pose a threat while armed. Officer Purdy agreed with this decision, stating exigent circumstances existed requiring the immediate recovery of [REDACTED] weapon.

Second, the speed with which Officer Lisciandrello recovered the weapon is consistent with his belief that it was unsafe to leave the weapon as found. Officer Purdy's BWC video shows that Officer Lisciandrello recovered the weapon at 3:43:03 pm, approximately twelve seconds after he fired the last shot. It was one of the first things Officer Lisciandrello did after he discharged his weapon.

Given this short time frame and Officer Lisciandrello's uncertainty regarding [REDACTED] condition, COPA finds that Officer Lisciandrello's decision to recover the weapon falls within the public safety exception to the Department's policy regarding the preservation of evidence. In this case, the removal of the weapon from [REDACTED] hand was "absolutely necessary to preserve life."<sup>116</sup> Therefore, COPA finds that Allegation #2 against Officer Lisciandrello is **Exonerated**.

**iii. Officer Lisciandrello improperly deactivated and failed to properly reactivate his BWC.**

COPA finds that Officer Lisciandrello was engaged in law-enforcement-related activity the entire time he was on-scene in the vicinity of 1421 S. Lawndale Avenue, and Department policy required him to have his camera activated. The preponderance of the evidence shows that Officer Lisciandrello improperly deactivated his BWC, and without adequate approval. Moreover, Officer Lisciandrello failed to timely reactivate his camera, both when he searched for [REDACTED] in the rear yard of 1423 S. Lawndale Avenue and after he discharged his firearm.

First, the preponderance of the evidence establishes that Officer Lisciandrello prematurely deactivated his BWC at 3:41:58 pm, when he was standing in front of 1421 S. Lawndale Avenue with Officers Bowery and Luke. Officer Lisciandrello stated he deactivated his camera because Officer Bowery told him the scene was secure, and he agreed with Officer Bowery's assessment. Department policy is clear, however, that in circumstances involving an officer-involved shooting, only the highest-ranking on-scene Bureau of Patrol supervisor can make the determination that the scene is secure for BWC purposes. Officer Lisciandrello did not wait for such a supervisor to

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<sup>116</sup> General Order G04-02(III)(D) (emphasis omitted).

determine the scene was secure.<sup>117</sup> As a result, Officer Lisciandrello's BWC deactivation violated Special Order 03-14.

Second, the preponderance of the evidence establishes that Officer Lisciandrello did not timely reactivate his BWC. Officer Lisciandrello failed to reactivate his BWC until 3:44:08 pm, approximately two minutes and ten seconds after he initially turned it off, and one minute and twenty seconds after he discharged his weapon. Officer Lisciandrello maintained that he was not required to reactivate his BWC when he entered the yard and gangway of 1423 S. Lawndale Avenue. He emphasized that more than fifteen minutes had passed since the original shots fired call, he believed the area was secure, and he had no expectation he would encounter [REDACTED]. Officer Lisciandrello stated he was simply doing his due diligence in checking the area.

Officer Lisciandrello's "due diligence" explanation is belied by his own contemporaneous statements and actions. Approximately two minutes before the shooting, BWC video captures Officer Luke informing Officer Lisciandrello of [REDACTED] apparent flight path. Officer Lisciandrello responds by pointing in the direction of 1421 S. Lawndale Avenue, and stating, "So he's probably in one of these yards."<sup>118</sup> This statement reveals that Officer Lisciandrello knew he might locate [REDACTED] if he searched the nearby yards. Officer Lisciandrello's awareness is further reflected in his decision to draw his weapon before he entered the south gangway of 1423 S. Lawndale Avenue, and to use his weapon to clear the south gangway alcove. COPA finds that the objective evidence establishes that Officer Lisciandrello was: (1) engaged in an active search for [REDACTED]<sup>119</sup>; and (2) in a high-risk situation.<sup>120</sup> Pursuant to Special Order 03-14, these are law-enforcement-related activities that required Officer Lisciandrello to activate his BWC.

COPA recognizes that when Officer Lisciandrello encountered [REDACTED] his first priority was preservation of life. However, Officer Lisciandrello did not immediately activate his BWC after he discharged his weapon and the threat was eliminated. He waited for approximately eighty seconds, until Sgt. Kruger instructed him to turn on his camera.

Officer Lisciandrello's failure to comply with the BWC directive challenged COPA's ability to comprehensively collect objective evidence that corroborates the officer's account of the incident. COPA has no video that captures Officer Lisciandrello's firearm discharge, and thus lacks objective evidence that may have addressed questions regarding [REDACTED] actions during the encounter, including whether [REDACTED] pointed his firearm at Officer Lisciandrello and ignored verbal commands to drop the weapon. Officer Lisciandrello's failure to timely reactivate his BWC effectively ensured that the only surviving account of the incident would be the one he provided.

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<sup>117</sup> Officer Lisciandrello stated a supervisor is not always available to authorize BWC deactivations, particularly in this type of situation, where the scene was spread over a block and a half and he was an assisting unit from another district. However, Officer Lisciandrello was not required to wait for a supervisor to personally authorize his BWC deactivation. The highest-ranking Bureau of Patrol supervisor will typically announce, via radio, that all members at a scene may deactivate their cameras. In this case, Beat 1000X authorized BWC deactivations at 3:48:30 pm. Officer Lisciandrello did not wait for this authorization.

<sup>118</sup> Att. 38 at 3:40:22 pm.

<sup>119</sup> Indeed, whether Officer Lisciandrello was "searching" for [REDACTED] or simply doing his "due diligence" to ensure [REDACTED] was not present, the officer was still engaged in a law-enforcement-related activity that required him to activate his BWC.

<sup>120</sup> See Special Order 03-14(III)(A)(2)(j), (o).

Therefore, COPA finds that Officer Lisciandrello improperly deactivated and failed to timely reactivate his BWC in violation of Special Order 03-14, and Allegation #3 is **Sustained** as a violation of Department rules 2, 3, 6, and 10.

**VIII. CONCLUSION**

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

<b>Officer</b>	<b>Allegation</b>	<b>Finding/ Recommendation</b>
Officer Robert Rhodes #12625	<p>It is alleged by the Civilian Office of Police Accountability that on or about May 11, 2019, at approximately 3:28 pm, at or near 1439 S. Lawndale:</p> <ol style="list-style-type: none"> <li>1. Officer Rhodes discharged his firearm at or in the direction of [REDACTED] [REDACTED] in violation of G03-02.</li> <li>2. Officer Rhodes was inattentive to duty in that he discharged his firearm at or in the direction of [REDACTED] [REDACTED] without taking reasonable precautions to ensure that people other than [REDACTED] would not be struck.</li> </ol>	<p>EXONERATED</p> <p>UNFOUNDED</p>
Officer Joseph Lisciandrello #19362	<p>It is alleged by the Civilian Office of Police Accountability that on or about May 11, 2019, at approximately 3:42 pm, at or near 1421 S. Lawndale:</p> <ol style="list-style-type: none"> <li>1. Officer Lisciandrello discharged his firearm at or in the direction of [REDACTED] [REDACTED] in violation of G03-02.</li> <li>2. Officer Lisciandrello failed to ensure that the firearm he recovered from [REDACTED] was secured at the scene, as found, until the arrival of Forensic Services Division personnel, in violation of G03-02-03(V)(B).</li> <li>3. Officer Lisciandrello improperly deactivated and/or failed to properly re-activate his BWC while engaged in law-enforcement activities, in violation of S03-14, "Body Worn Cameras."</li> </ol>	<p>NOT SUSTAINED</p> <p>EXONERATED</p> <p>SUSTAINED</p>

**IX. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**a. Officer Joseph Lisciandrello #19362**

**i. Complimentary and Disciplinary History**

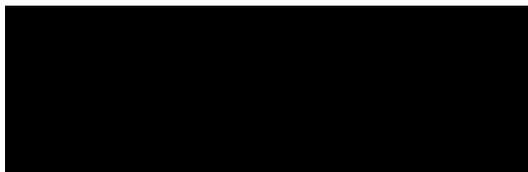
Officer Lisciandrello has received one 2019 Crime Reduction Award, two Attendance Recognition Awards, three Complimentary Letters, seven Department Commendations, two Emblems of Recognition—Physical Fitness, 78 Honorable Mentions, one Life Saving Award, one Military Service Award, one Problem Solving Award, one Recognition/Outside Governmental Agency Award, and two Special Commendations. He has no sustained CR numbers and one SPAR, which he received on November 5, 2020 for failure to perform assigned tasks. Officer Lisciandrello was not disciplined as a result of that incident.

**ii. Recommended Penalty**

As discussed above, Officer Lisciandrello’s selective BWC activation was contrary to Department policy. Furthermore, Officer Lisciandrello’s failure to completely record the incident substantially impacted COPA’s ability to determine exactly what happened in the alcove and prevented COPA from reaching a positive finding with respect to the fatal shooting. Equally important, this lack of clearly invites doubt, public scrutiny, and undermines transparency, the public’s interest in police accountability, and the █████ family’s interest in knowing exactly how and why █████ died. In this instance, what originated as a simple policy violation manifested into lack of understanding as to why it was necessary for Officer Liciansrello to take █████ life. Additionally, Officer Lisciandrello never claimed he forgot to activate his BWC; he simply did not believe the rules applied to his situation. His ignorant misunderstanding of simple Department policy was undoubtedly wrong.

Accordingly, COPA find this to be an egregious BWC violation. For these reasons, COPA recommends a minimum of a 180-day SUSPENSION, up to and including SEPARATION from the Department.

Approved:



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Andrea Kersten  
*Interim Chief Administrator*

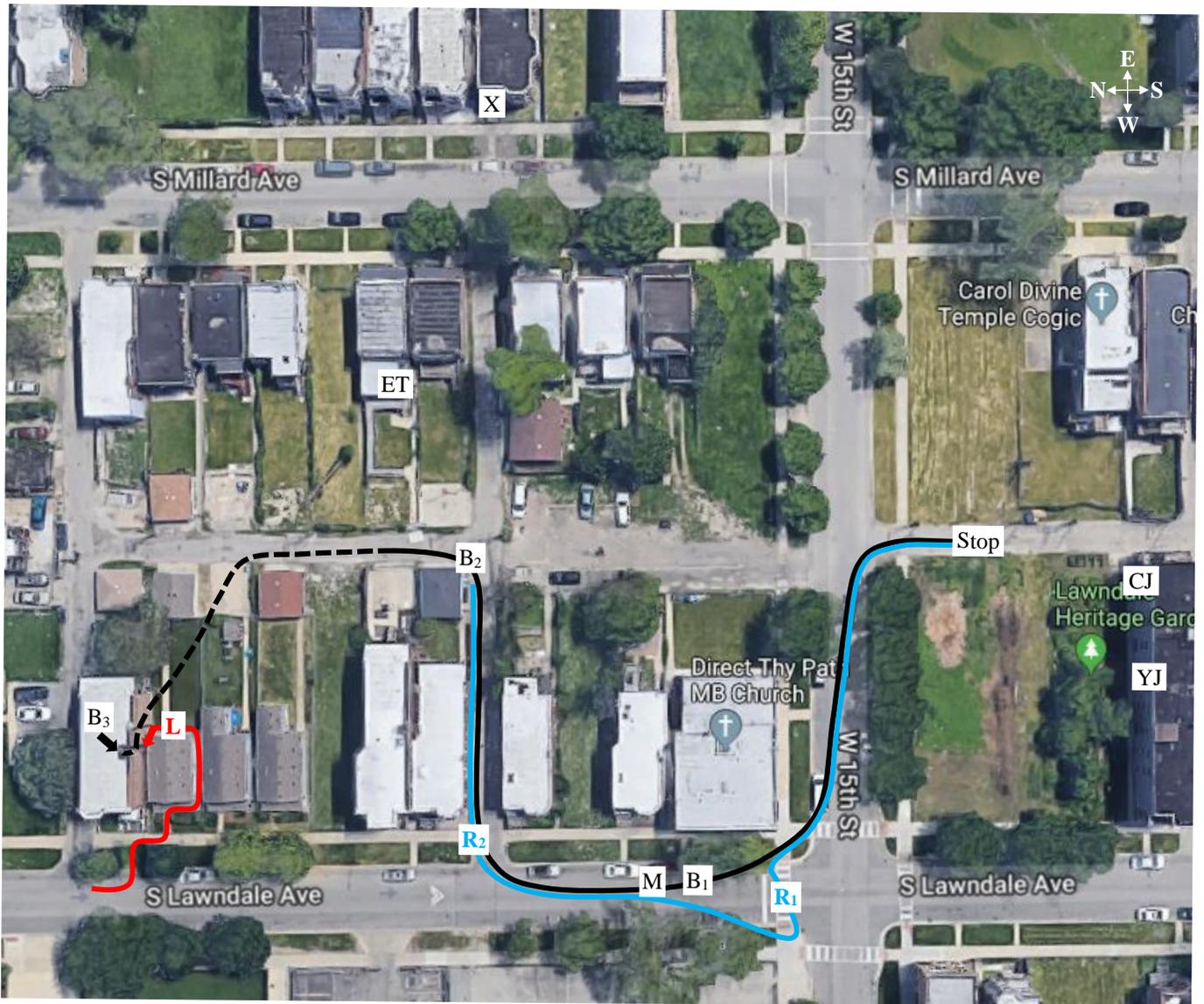
5/24/2021

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Date

Appendix A

Diagram of the Shooting Scenes and Path of the Foot Pursuit



—— Flight path of ██████████    
 —— Path of Officer Rhodes    
 —— Path of Officer Lisciandrello

- Stop: Location where Beat 1063D encountered ██████████
- R<sub>1</sub>: First location where Officer Rhodes fired
- B<sub>1</sub>: Location of ██████████ the 1<sup>st</sup> time Officer Rhodes fired
- R<sub>2</sub>: Second location where Officer Rhodes fired
- B<sub>2</sub>: Location of ██████████ the 2<sup>nd</sup> time Officer Rhodes fired
- L: Location where Officer Lisciandrello fired
- B<sub>3</sub>: Location of the alcove where ██████████ was fatally shot

- YJ: Location of witness ██████████
- CJ: Location of witness ██████████
- ET: Location of witness ██████████
- M: Location of the recovered magazine
- X: Bullet strike at 1439 S. Millard Ave.

**Appendix B**

Assigned Investigative Staff

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<b>Squad#:</b>	6
<b>Supervising Investigator:</b>	Steffany Hreno <sup>121</sup>
<b>Deputy Chief Administrator:</b>	Matthew Haynam

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<sup>121</sup> At the time of the incident, SI Hreno was a major case specialist at COPA. She investigated the incident under the supervision of SI Robert Coleman and SI Sherry Daun.