

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	August 15, 2015
Time of Incident:	7:48 p.m.
Location of Incident:	XXXX S. Dr. Martin Luther King, Jr. Drive (Street)
Date of COPA Notification:	August 15, 2015
Time of COPA Notification:	8:08 p.m.

On August 15, 2015, Officer A #XXXX and his partner, Officer B #XXXX (Beat XXXX), while on patrol in an unmarked police SUV, observed a vehicle near the intersection of XX<sup>th</sup> and Martin Luther King, Jr. Drive that matched the description of a reportedly stolen black Chevy Impala.<sup>2</sup> After confirming the license plate number, Officer B pulled in front of the Impala, which was stopped in the eastbound turn lane located at XX<sup>th</sup> and Dr. Martin Luther King, Jr. Drive, to prevent it from fleeing. Officers C #XXXX and Officer D #XXXX (Beat XXXX), who were working as a team with Officers A and B, but assigned a separate vehicle, stopped their vehicle, also an unmarked police vehicle, behind the subject vehicle. Officer A exited the passenger side of their unmarked police vehicle with his gun drawn and yelled for the occupants, now known as Involved Civilian 1 and Involved Civilian 2, to stop the vehicle and put their hands up. Involved Civilian 1, who was the driver, placed the vehicle in reverse, drove into Officers C's and D's police vehicle. Involved Civilian 1 then placed the vehicle into drive and attempted to move forward towards Officer A. At that moment, Officer A discharged his weapon at Involved Civilian 1 twice, striking Involved Civilian 1 once in the chest. The officers were then able to place Involved Civilian 1 and Civilian 2 into custody, at which time Involved Civilian 2 informed the officers that he was in possession of a firearm.

**INVOLVED PARTIES**

Involved Officer #1:	Officer A, #XXXX, employee ID #XXXX, Date of Appointment: XX/XX/2013, Police Officer, Unit of Assignment: XXX, Date of Birth: XX/XX/1986, Male, White.
Involved Civilian #1:	Involved Civilian 1, Date of Birth: XX/XX/1986, Male, Black.
Involved Civilian #2:	

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

<sup>2</sup> Attachments 27-30. Earlier in the day, the officers received a flash message from another patrol vehicle indicating that "they were flagged down" by the victim of a car theft that occurred the prior day, who saw his vehicle driven in the area by two unknown black males.

Involved Civilian 2, Date of Birth: XX/XX/1998, Male, Black.  
(Juvenile)

## II. ALLEGATIONS

Officer	Allegation	Finding
Officer A	It is alleged that on August 15, 2015, at approximately 7:48 p.m., while in the vicinity of XXXX S. Dr. Martin Luther King, Jr. Drive, Officer A violated the provisions of General Order G03-02-03, Section III (E) in that he fired at or into a moving vehicle when the vehicle was the only force used against him or another person.	Exonerated

## III. APPLICABLE RULES AND LAWS

### General Orders

- Chicago Police Department General Order, GO 03-02-03; Deadly Force

### Federal Law

- The Fourth Amendment to the United States Constitution.

### State Law

- Illinois State Statute, 720 ILCS 5/7-5 (1986)

## IV. INVESTIGATION<sup>3</sup>

### a. Interviews

#### *Civilian Interviews*

In an **interview with IPRA** on August 15, 2015, **Involved Civilian 3<sup>4</sup>** stated that he was on the corner of XX<sup>th</sup> Street and Dr. Martin Luther King, Jr. Drive when the incident occurred. Involved Civilian 3 stated that as he was getting on the bus, he heard one gun shot. When Involved Civilian 3 looked towards where he heard the gun shot, he heard and saw two additional gun shots. Involved Civilian 3 explained that he observed an officer at the driver's side of a black [Chevy] Impala pointing his firearm at an occupant of the vehicle. Involved Civilian 3 stated that after the shots, the officer opened the door of the vehicle, reached inside the vehicle, and appeared to punch the driver before he "threw 'em"<sup>5</sup> on the ground.<sup>6</sup> Involved Civilian 3 stated that he saw three

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

<sup>4</sup> Attachments 39, 40.

<sup>5</sup> Att. 40 at Pg.6, Ln.16.

<sup>6</sup> This statement was not corroborated by any other witnesses.

officers at the time of the incident. Involved Civilian 3 explained that one officer was at the driver's side while the other two were on the passenger's side of the vehicle. Involved Civilian 3 emphasized that the only officer he saw with his gun drawn was the officer near the driver's side door. Involved Civilian 3 stated that he did not see the officers pull over the Impala that was involved in the shooting.

On August 19, 2015, during a **canvass** of the area of incident, IPRA investigators spoke to **Involved Civilian 4**.<sup>7</sup> Involved Civilian 4 stated that on the date and time of the incident, she was pumping gas at the Marathon Gas Station.<sup>8</sup> Involved Civilian 4 explained that she observed two unmarked police vehicles pull over a dark colored vehicle on South Martin Luther King, Jr. Drive, near the southeast turning lane. Involved Civilian 4 reported that she observed an officer approach the driver side door of the subject's vehicle and she heard the officer order the driver out of the vehicle numerous times. Involved Civilian 4 stated that the driver placed his vehicle in reverse, striking the police vehicle behind him then the driver subsequently placed the vehicle in drive, striking the police vehicle in front of him. Involved Civilian 4 explained that at that point, she observed the officer fire his weapon twice into the subject's vehicle.

Multiple **attempts were made to locate and interview Involved Civilian 2**<sup>9</sup> IPRA personnel were unsuccessful in their efforts to interview Brown.

In a **preliminary statement**<sup>10</sup> taken from **Involved Civilian 1**<sup>11</sup> at Stroger Hospital by IPRA personnel, Involved Civilian 1 stated that he and his friend were driving when he suddenly saw the police behind him. Involved Civilian 1 stated that "a second later" there was a police vehicle in front of him and he placed his vehicle in reverse. Involved Civilian 1 explained that once he started driving backwards, an officer in front of his vehicle began to shoot at him. Involved Civilian 1 stated that he then "blacked out" and did not recall any events after that point.

Multiple **attempts were made to further interview Involved Civilian 1**. On February 5, 2016, representatives from the Cook County Public Defender's Office informed IPRA personnel that Involved Civilian 1 did not wish to provide a statement.<sup>12</sup>

### *Police Officer Interviews*

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<sup>7</sup> Attachments 46.

<sup>8</sup> Located at XXXX S. Martin Luther King Jr. Drive.

<sup>9</sup> Attachment 88.

<sup>10</sup> Attachment 43.

<sup>11</sup> Involved Civilian 1 informed IPRA personnel that he did not feel comfortable providing a statement with "all the people around" and agreed to provide a statement once he left the hospital. The information contained in this section was documented in a To/From subject report. Furthermore, on June 18, 2018, COPA personnel made contact Involved Civilian 1's attorney to ask for consent to interview Involved Civilian 1. On June 26, 2018, Involved Civilian 1's attorney denied COPA consent to interview Involved Civilian 1. Involved Civilian 1's attorney also stated that his position may change once the civil litigation resolves.

<sup>12</sup> Attachment 24.

In an **interview with IPRA** on January 27, 2016, **Involved Officer A, #XXXX**,<sup>13</sup> stated that on the date of incident, he was on-duty in plain clothes. He and his partner, Involved Officer B, were driving southbound on Dr. Martin Luther King, Jr. Drive in an unmarked Ford Explorer when they recognized the license plate of a stolen vehicle.<sup>14</sup> As they drove behind this vehicle, they used the in-car Portable Data Terminal (PDT) to verify that the vehicle was stolen. Officer A explained that Officer B informed Officer D and Officer C, who were in an unmarked vehicle behind them, that the Chevy Impala was stolen. Officer A explained that all four officers were working as a team.

Officer A stated that there was a gap between the Impala and the vehicle in front of it, so once he and Officer B informed Officer D and Officer C that the Impala was stolen, Officer B drove into the gap in front of the Impala, then placed their police vehicle in park. Officer D and Officer C pulled behind the Impala. After Officer B hit the emergency button on the PDT, Officer A got out of the vehicle with his weapon drawn and yelled to the occupants of the Impala to, “Stop, stop the car. Put your hands up.”<sup>15</sup> Officer A then observed the driver, now known to be Involved Civilian 1, reverse the Impala, slamming into Officer D’s and Officer C’s vehicle. Officer A stated that he positioned himself in front of the Impala, slightly towards the passenger side of the vehicle but still in front, because of the way his vehicle was placed and the fact that there was standing traffic to the left side of him. Officer A explained that after Involved Civilian 1 reversed the Impala and struck the other police vehicle, Involved Civilian 1 shifted the Impala into drive, turned the wheel to the right, and attempted to drive forward in Officer A’s direction. Officer A stated that when he observed the Impala lunge forward, he fired two rounds because he believed he was going to be run over. Officer A added that he stopped firing his weapon because he believed the threat to be eliminated at that point because the vehicle had stopped moving. Next, Officer A stated that Officer B placed the driver into custody while Officer D attempted to secure the passenger of the vehicle. Officer A stated that after he fired the two shots, he heard Officer B calling his name and asking for help because he was “struggling”<sup>16</sup> with the passenger. Officer A explained that he also heard the passenger screaming that he had a gun. At that point, Officer A went to assist Officer D, at which time Officer D handed him a firearm. Officer A stated that he checked the firearm to make sure there were no bullets in it, he placed it in his pocket and eventually gave it to a sergeant.

Officer A emphasized that he did not have any other place to move or stand when the vehicle was coming towards him because of the layout of the scene.

In an **interview with IPRA** on August 31, 2015, **Witness Officer B, #XXXX**<sup>17</sup>, stated that on August 15, 2015, he was on-duty in plain clothes and driving an unmarked Ford Explorer. Officer B stated that earlier in their shift, dispatch informed units in the XXX<sup>th</sup> district of a vehicle that was stolen the day prior. Officer Paoletti and his partner, Officer Barnes, saw a black Chevy Impala that matched the description of the stolen vehicle and ran the license plate on the PDT which confirmed that it was the stolen vehicle. Officer Paoletti explained that he informed Officer Morlock and Officer Ozmina, who were patrolling with them that day in a different vehicle, that

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<sup>13</sup> Attachments 85, 86.

<sup>14</sup> Officer B stated that earlier during their tour of duty, they learned thru OEMC that a patrol vehicle was waved down by the victim of a stolen vehicle, who reported to the officers that his vehicle was stolen the day before and that on the date he flagged down the officers, he observed two black males driving his vehicle in the “area.”

<sup>15</sup> Att.86 at Pg.15, Ln. 14-15.

<sup>16</sup> *Id.* at Pg. 21, Ln. 11.

<sup>17</sup> Attachments 61, 62.

he and Officer Barnes saw the stolen vehicle. While at the intersection of 79<sup>th</sup> and Dr. Martin Luther King, Jr. Drive, Officer Paoletti pulled in front of the stolen Impala to initiate a traffic stop and prevent the Impala from fleeing. Officer Paoletti explained that he then exited the vehicle with his weapon drawn and gave verbal commands to the driver, now known to be Jerome Buchanan, to place the vehicle in park. Officer Paoletti explained that Buchanan subsequently placed the Impala in reverse and slammed into the other police vehicle behind it. Officer Paoletti stated that he saw Buchanan reach down to manipulate the center gearshift. The subject then looked at Officer Barnes and turned the wheel to the right in the direction of Officer Barnes. At that point, the Impala lurched forward and Officer Paoletti heard Officer Barnes fire two shots. Officer Paoletti stated that he and Officer Ozmina got the driver out of the vehicle and handcuffed him. Officer Paoletti stated that while placing the driver in custody, he heard Officer Morlock and the passenger, now known to be Brown, struggling. He then heard Brown say that he had a firearm. Officer Paoletti reached through the driver's side and grabbed Brown's hands and lifted his shirt, revealing a firearm in Brown's waistband. Officer Paoletti stated that the firearm was recovered and Brown was subsequently placed under arrest. Officer Paoletti added that he placed the Impala in park after both subjects were in custody, adding that the vehicle was in neutral.

Officer Paoletti explained that the way he positioned his vehicle during the traffic stop was to mitigate or prevent a chase, given the time of day. Officer Paoletti added that he did not want the vehicle to flee and put anyone at unnecessary risk. Officer Paoletti explained that the tactical maneuver of pulling in front of the vehicle to initiate a stop is something he has done in the past but did not learn in training.

In an **interview with IPRA** on August 24, 2015, **Witness Officer Jonathan Morlock**,<sup>18</sup> **#15358**, stated that on the date of incident, he and his partner, Officer Ozmina, were working patrol in an unmarked CPD vehicle (Beat 606C) as part of a four-man team, along with Officer Barnes and Officer Paoletti (Beat 606A). Officers Barnes and Paoletti were driving in a separate unmarked CPD vehicle. Officer Morlock stated that earlier during their tour, they were informed by a message over dispatch of a vehicle, a Chevy Impala, that was reported stolen. Officer Morlock stated that Beat 606A observed a vehicle that matched the description of the stolen vehicle traveling southbound at approximately 78<sup>th</sup> and Dr. Martin Luther King, Jr. Drive. Beat 606A ran the plate through the PDT and confirmed that it was the vehicle in question and they proceeded to conduct a traffic stop while at the eastbound turn lane.

Officer Morlock explained that Officer Barnes' vehicle pulled in front of the Impala, while Officer Ozmina positioned their vehicle behind the Impala. Officer Morlock stated that Officer Barnes exited his vehicle and started yelling, "hands, hands, hands."<sup>19</sup> Officer Morlock proceeded towards the passenger's side, Officer Paoletti moved towards the driver's side, while Officer Barnes positioned himself at the front of the Impala, and Officer Ozmina remained in his vehicle, in the event the subjects fled. Officer Morlock explained that as the officers were giving verbal commands to the driver, now known to be Jerome Buchanan, to show his hands, Buchanan placed his vehicle in reverse and slammed into the front of Officer Morlock's vehicle. Subsequently, Buchanan placed the Impala in drive, turned the wheel, and started to drive towards Officer Barnes. Officer Morlock stated that he then heard two (2) gunshots.

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<sup>18</sup> Attachments 47, 48.

<sup>19</sup> Att. 48 at Pg.12, Ln. 12-13.

Officer Morlock stated that he was standing by the passenger door of the Impala the entire time of the incident. Officer Morlock stated that as he exited his police vehicle and approached the Impala he saw the front passenger, now known to be Brown, “digging”<sup>20</sup> in his waistband. Officer Morlock reported that when he opened the door, Brown informed him that he had a gun. Subsequently, Officer Morlock recovered a firearm from Brown’s front waistband and gave it to Officer Barnes to clear and make safe, while Officer Morlock apprehended Brown. Officer Morlock added that if Officer Barnes did not fire his weapon, the Impala probably would have struck Officer Barnes.

Officer Morlock explained that the manner which they stopped the vehicle was a tactical maneuver that he has used prior to the date of the incident, but a not a maneuver that he learned from any departmental training.

In an **interview with IPRA** on August 24, 2015, **Witness Officer Wayne Ozmina, #6579**,<sup>21</sup> stated that on the date of incident, he and his partner, Officer Morlock were working Beat 606C, in tandem with Officer Barnes and Officer Paoletti (Beat 606A). Officer Ozmina stated that Beat 606A identified a Chevy Impala in the left turn lane at 78<sup>th</sup> and Dr. Martin Luther King Jr. Drive that had been reported stolen earlier that day. Officer Ozmina explained that they were all traveling southbound on Dr. Martin Luther King, Jr. Dr. when they observed the Impala in the eastbound turn lane. Officer Ozmina explained that Beat 606A positioned their vehicle in front of the Impala, at an angle, while he positioned his vehicle behind the Impala. Officer Ozmina stated that this maneuver used to curb the Impala was not learned at the police academy. Officer Ozmina stated that Officers Morlock, Barnes, and Paoletti exited their respective vehicles while he remained in his vehicle in case the subjects attempted to flee. Officer Ozmina stated that Officer Paoletti was near the rear bumper of the Impala, while officer Morlock was near the passenger side, and Officer Barnes was directly in front of the Impala.

Officer Ozmina reported hearing the officers saying “hands, hands”<sup>22</sup> and subsequently saw the reverse lights of the Impala activate. Officer Ozmina stated that the Impala reversed and struck his vehicle. He observed the Impala make a “jerking”<sup>23</sup> movement, as if the driver was “doin’ somethin’ with the wheel and the pedals, the gas.”<sup>24</sup> Officer Ozmina stated that the Impala moved forward and he then heard two gunshots coming from in front of him. He then saw Officer Paoletti run to the driver’s side of the Impala and open the door. Officer Ozmina exited his vehicle and helped with placing the driver, now known to be Jerome Buchanan, in handcuffs. Officer Ozmina stated that he and Officer Paoletti escorted Buchanan to the ground and placed him under arrest. Once the driver was placed in custody, Officer Ozmina stated that he learned that Officer Barnes was the one who fired the shots.

When asked to explain if his vehicle could have pushed the Impala forward after it struck his vehicle, Officer Ozmina stated that although his vehicle was still in drive, he did not strike the impala or cause it to move forward. Officer Ozmina explained that after the subject struck his vehicle and subsequently moved forward, his vehicle may have remained intact with the Impala and moved forward with it when he placed his vehicle in park.

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<sup>20</sup> Att. 48 at Pg.20, Ln. 28.

<sup>21</sup> Attachments 49, 50.

<sup>22</sup> Att. 50 at Pg. 12, Ln. 7.

<sup>23</sup> Att. 50 at Pg. 17, Ln. 26.

<sup>24</sup> *Id.* at Pg. 17, Ln. 29-30.

## b. Digital Evidence

**Police Observation Device (POD) 7252<sup>25</sup>**, located at 401 E. 79<sup>th</sup> Street, captured a portion of the incident. The POD appears to be located at the southeast corner 79<sup>th</sup> Street and Dr. Martin Luther King, Jr. Drive, depicting the north and east corners of the street. There is a Marathon Gas Station located at the northwest corner. The recording starts at 7:30 p.m. and ends at 8:45 p.m.

At approximately 7:48:00 p.m., the video depicts multiple vehicles stopped at a red light on the south bound lanes of traffic (top right-hand corner of video). At approximately 7:48:10 p.m., a dark colored vehicle stops at the eastbound turn lane, facing south. A second vehicle, now known to be the stolen black Chevy Impala, stops approximately one (1) car length behind the first vehicle in the eastbound turn lane. At approximately 7:48:27 p.m., a grey colored SUV, now known to be the vehicle assigned to Beat 606A arrives and stops at a southwest angle, in front of the Impala. Three (3) vehicles are stopped at the red light in the southbound lane just west of the eastbound turn lane, including a silver sedan that is directly to the west of the Impala.

Immediately after Beat 606A arrives, two officers, now known as Officers Barnes and Paoletti, are observed exiting their vehicle. As soon as officer Barnes approaches the Impala, it reverses. At approximately 7:48:30 p.m., Officer Barnes is observed in front of and facing the Impala. Officer Barnes appears to be boxed in by the vehicles surrounding him. An officer, now known to be Officer Morlock, comes into camera view and stands at the passenger side of the Impala, with his weapon drawn. Officer Barnes appears to move a few steps back and to his left, with his weapon drawn at the Impala. At approximately 7:48:35 p.m., the Impala moves forward and Officer Barnes subsequently discharges his firearm twice towards the Impala. The Impala comes to a stop. Officer Morlock then moves closer towards the passenger side, opens the door and is observed interacting with the passenger. Officer Morlock appears to hand Officer Barnes an item, at which time Officer Barnes moves towards the rear passenger side of the Impala. Officer Morlock escorts a person out of the front passenger side. At approximately 7:50 p.m., marked CPD vehicles begin to arrive on scene.

The **Office of Emergency Management and Communication (OEMC) Event Queries and Police Radio Transmissions<sup>26</sup>** were collected and made part of this case file. The following is a summary of the relevant audio recordings:

- At approximately 20:25:25, an individual who identified herself as Janet Snow called 911 to report hearing gunfire near 79<sup>th</sup> and Martin Luther King Drive.
- Police Radio transmissions document shots fired by the police at 7851 S. Martin Luther King Drive. Officers also requested EMS for a person shot.

**Evidence Technician Photographs and Video<sup>27</sup>** depict the scene and recovered evidence.<sup>28</sup> The photographs depict two bullet holes in the middle of the front windshield.

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<sup>25</sup> Attachment 21.

<sup>26</sup> Attachments 16, 17, 18.

<sup>27</sup> Attachment 59.

<sup>28</sup> The photographs depict the Impala and the Explorer touching bumper to bumper.

### c. Physical Evidence

**Medical Records from John H. Stroger Jr. Hospital**<sup>29</sup> document that Jerome Buchanan sustained a non-fatal gunshot wound to the chest. Medical Records document that Buchanan retained a dominant bullet fragment within the paraspinal soft tissues at the level of T3 with a small retained fragment within the anterior soft tissues of the right chest wall. The trajectory of the bullet was listed as anterior to posterior.

### d. Documentary Evidence

A **Tactical Response Report (TRR)** completed by **Officer Barnes**<sup>30</sup> documents that Buchanan did not follow verbal direction and used force likely to cause death or great bodily harm by using his vehicle as a weapon. Officer Barnes discharged his firearm two (2) times.

The **Officer's Battery Report (OBR)** completed by **Officer Barnes**<sup>31</sup> documents that he was responding to a traffic stop on August 15, 2015, at approximately 7:48 p.m., near 7856 S Dr. Martin Luther King, Jr. Drive. The subject, Buchanan, attempted to strike Officer Barnes with a vehicle. Officer Barnes did not sustain any injuries.

**PDT messages**<sup>32</sup> obtained document an inquiry made by Beat 606C, at approximately 7:56 p.m., on the status of the subject vehicle. PDT response confirmed the vehicle to be registered to Linell Bradley and listed as stolen.

**Chicago Police Department Crime Scene Processing Report**<sup>33</sup> / **Inventory Sheets**<sup>34</sup> document the recovery and inventory of items located on the scene, as well as the recovery of Officer Barnes' firearm. Inventory No. 13507668 documents that one (1) fired bullet was retrieved from the front, middle air vent of the offender's vehicle. Inventory No. 13507667 documents that two (2) expended shell casings: WIN 9mm Luger +P fired cartridge cases (CSM 1 & 2) were recovered from the street. Inventory No. 1350757 documents that one (1) Black in color Glock 17, Gen 4, 9mm semi-automatic pistol, 4 ½ inch barrel; serial number TX815, 17 WIN 9mm Luger bullets, and one (1) Glock Magazine were recovered from Officer Barnes.

The **Detective Supplementary Reports**<sup>35</sup> document the details surrounding the incident. The reports also detail a canvass and interviews taken as part of this investigation. The following summarizes, not verbatim, information gathered during the canvass and during interviews with CPD detectives:

**Stephen Fletcher:** Fletcher, who resides at 7818 S. Dr. Martin Luther King, Jr. Drive, stated that he was in front of his house when he heard two (2) gunshots. Fletcher then walked towards the scene. Fletcher did not witness the shooting.

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<sup>29</sup> Attachment 75.

<sup>30</sup> Attachment 8.

<sup>31</sup> Attachment 9.

<sup>32</sup> Attachment 99.

<sup>33</sup> Attachment 25.

<sup>34</sup> Attachments 26, 100.

<sup>35</sup> Attachments 28-30, 67-70.

**Barbara Larry:** Larry, who resides at 7843 S. Dr. Martin Luther King, Jr. Drive, stated that she was on the steps of her house when she heard police yell, “Halt” then she heard two (2) gunshots.

**Arlene Richard:** Richard, who resides at 7844 S. Dr. Martin Luther King, Jr. Drive, stated that she was in her bedroom when she heard two (2) gunshots.

**Melissa Jennings:** On August 16, 2015, CPD detectives interviewed Jennings at Area South. Ms. Jennings stated that on the date of the incident, she was pumping gas at the Marathon Gas Station located at 79<sup>th</sup> Street and Dr. Martin Luther King, Jr. Drive. She was parked at pump #4, with her vehicle facing west. Ms. Jennings stated that she was pumping gas, looking eastbound when she observed two (2) CPD SUVs block-in a black vehicle. Ms. Jennings explained that she saw civilian dressed police officers wearing police vests get out of their vehicles with their guns drawn. Ms. Jennings stated that she saw the “tall” police officer standing in front of the black vehicle yelling, “Get out of your car!”

Ms. Jennings then observed the black vehicle reverse and strike the CPD SUV that was behind it. Ms. Jennings stated that the black vehicle then drove forward towards the “tall” police officer. Ms. Jennings stated that the ‘tall’ officer fired his weapon twice. Ms. Jennings stated that the black vehicle hit the front CPD SUV and stopped. Ms. Jennings added that the incident happened very fast.

**Linell Bradley:** On August 15, 2015, Mr. Bradley was interviewed by CPD detectives. Bradley stated that on August 14, 2015, he drove to a store located at 75<sup>th</sup> Street and Langley Avenue. Upon exiting his vehicle, Bradley saw a black male, with hazel colored eyes, standing outside, wearing a red shirt. Bradley stated that he left the keys in his vehicle unattended while he ran into the store. When Bradley returned, he saw the same black male driving away in his vehicle. Bradley provided a description of the offender as having a light complexion, approximately 5’6” to 5’7”, with hazel eyes. The vehicle theft was reported under RD #HY-381942.

Bradley stated that on August 15, 2015, he saw his vehicle being driven around in the neighborhood, at about 74<sup>th</sup> Street and Champlain Avenue, at approximately 5:45 p.m. Bradley stated that he flagged down two officers and informed them about his stolen vehicle being driven around the neighborhood.

Bradley stated that he and a friend then drove around the neighborhood and saw his vehicle in an alley, on the 7900 block, between Langley and Champlain Avenues. Bradley explained that he saw the offender backing his vehicle into either a garage or a cement pad. Bradley stated that the offender looked in his direction, exited the vehicle, and went into a yard or gangway. The offender then returned to the alley where he pointed a chrome colored handgun at him and fired in his direction twice. Bradley stated that there were two individuals in his stolen vehicle and added that the male who stole his vehicle was the same person who shot at him.

Bradley informed the officers that they had the “right guy.” Bradley then told the officers that he was not going to cooperate and walked away. It was later learned that Bradley did not inform the officers who spoke with him on the date that his vehicle was stolen that Buchanan fired the weapon at him.

**Jerome Buchanan:** On August 15, 2015, Jerome Buchanan was interviewed by CPD detectives at Stroger Hospital. Buchanan stated that on August 14, 2015, he was around 77<sup>th</sup> Street and Champlain Avenue, visiting his daughter. On August 15, 2015, Buchanan went to his grandmother's house at 79<sup>th</sup> Street and Langley Avenue. After being at his grandmother's house for a few hours, Buchanan left to walk to a nearby corner store. While walking to the store, Buchanan saw his friend "KJ", now known to be Brown and Brown's girlfriend, "Terra." Buchanan stated that "Terra" pulled up next to him in a gray Impala. Buchanan stated that he had never seen the vehicle before and that Brown told him that it was his mother's vehicle.

Buchanan stated that Brown moved to the back seat and allowed him to sit in the front passenger seat. Buchanan added that Brown was intoxicated. Buchanan stated that "Terra" drove herself home, at which time Buchanan moved to the driver's seat and Brown moved to the front passenger seat. Buchanan explained that he then drove the Impala until he and Brown were stopped by the police.

Buchanan stated that he knew the officers were the police because they were wearing bullet proof vests. Buchanan stated that the police officer in front of the Impala yelled out, "Put up your hands!" Buchanan stated the Impala was not in park but he had his foot on the brake pedal. Buchanan added that his foot slipped off the brake pedal, at which time the police shot. Buchanan denied placing the vehicle in reverse during the incident. Additionally, Buchanan stated that he had never seen the Impala until about twenty minutes before the police stopped them. Furthermore, Buchanan denied having knowledge that Brown was in possession of a firearm until the police stopped them.

**Kavonte Brown:** On August 15, 2015, Brown was interviewed by CPD detectives, in the presence of his mother, at Area South. Brown asked to speak with a lawyer, at which time interview was terminated. Brown was tested for gunshot residue.

**Jerome Buchanan:** On August 16, 2015, Jerome Buchanan was interviewed by CPD detectives, in the presence of Assistant State's Attorney Ramone Moore, at Stroger Hospital. Initially, Buchanan provided the same account that he provided detectives the day prior. Detectives then informed Buchanan that the victim of the vehicle theft, Linell Bradley, identified him and that video captured him reverse then drive the vehicle towards the officer. Buchanan stated that he knew Bradley because his cousin used to date him. Buchanan explained that Bradley used to hit his cousin and she eventually broke up with him. Buchanan stated that on Friday, August 14, 2015, he was standing outside of a store located at 75<sup>th</sup> Street and Langley Avenue when Bradley arrived in a Chevrolet Impala. Buchanan stated that Bradley left his vehicle running while he went into the store. Buchanan stated that he entered Bradley's vehicle and drove away. Buchanan stated that he wanted to "get back at Bradley for his domestics" with his cousin. Buchanan then drove the vehicle to his girlfriend's house and parked it there for the day.

On August 15, 2015, Buchanan left his girlfriend's house at approximately 2:00 p.m. He then drove to pick-up Brown, who he referred to as "KJ", at 69<sup>th</sup> Street and Aberdeen Avenue. Buchanan explained that he was driving on Dr. Martin Luther King, Jr. Drive, approaching 79<sup>th</sup> Street when the light turned red. Buchanan stated that he was in the left turn lane when he saw police vehicles behind him. Buchanan stated that one of the police vehicles pulled in front of him and two police officers exited their vehicle with their guns drawn, yelling at him to place his vehicle in park. Buchanan stated that the second vehicle pulled up behind him.

Buchanan stated that he panicked and put his vehicle in reverse, striking the police vehicle behind him. Buchanan stated that he then drove his vehicle forward, at which time the police officer in front of him shot him. Buchanan stated that he then blacked out.

Buchanan stated that he constantly had his hands up in the air, from the time the officers exited their vehicle to when he was shot. The detectives challenged this and asked Buchanan how he was able to put the vehicle in reverse and then forward if his hands were in the air. Buchanan did not respond. Additionally, Buchanan denied having knowledge that Brown was in possession of a firearm.

**Captain Paul Kane, #84:** On August 15, 2015, Cpt. Kane provided the detectives an account consistent with the information provided to IPRA personnel during the walk-thru and during the involved officers' statements to both detectives and IPRA.<sup>36</sup>

**Officers Joey Buckley, #4821 and Michael Lopez, #15559 (Beat 633):** Detectives documented that while Officers Buckley and Lopez were transporting Brown to Area South, Brown stated that his friend, who is known as "Bones," was just giving him a ride. Brown said that when he saw the gun in the vehicle, he told "Bones" to take him home, to which "Bones" replied by saying everything was "cool man."<sup>37</sup>

**Officer James Paoletti:** Officer Paoletti provided a statement to detectives consistent with the statement he provided to IPRA personnel.

**Officer Jeremy Barnes:** Officer Barnes provided a statement to detectives consistent with the statement he provided IPRA personnel. Officer Barnes stated that after Buchanan hit the front of Beat 606C's vehicle, he continued to yell verbal commands at Buchanan. At that point, Buchanan turned the front wheels slightly to the right, placed the vehicle in drive and drove forward towards him. Officer Barnes added that he was trapped between his vehicle and the Chevy Impala. Fearing that he was going to be struck by the Impala, Officer Barnes fired twice through the front windshield, striking Buchanan in the chest.

**Officer Wayne Ozmina:** Officer Ozmina provided a statement to detectives consistent with the statement he provided to IPRA personnel.

**Officer Jonathan Morlock:** Officer Morlock provided a statement to detectives consistent with the statement he provided to IPRA personnel.

According to the **Detective Supplementary Report, Progress-Violent (Scene)**. Evidence Technician Rodriguez recovered Officer Barnes' handgun on August 16, 2015, at approximately 0001 hours. Officer Barnes' firearm, a Glock 9mm semi-automatic pistol, Model 17, Gen 4, serial number TXV815 contained sixteen (16) live 9mm rounds in the magazine and one (1) live round in the chamber. The magazine capacity for the firearm is 18 live rounds.

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<sup>36</sup> The walk-thru and the statements referenced here occurred after Cpt. Kane spoke with detectives.

<sup>37</sup> Attachment 67, page 15.

Detective Report documents that Buchanan sustained one (1) GWS to the upper right chest. The bullet remained lodged.

**Illinois State Police (ISP) Forensic Science Laboratory Reports**<sup>38</sup> document the examination of the recovered ballistic evidence in comparison to the firearm belonging to Officer Barnes. It was determined that the shell casings recovered at the scene of this event were fired from Officer Barnes' Glock 17, Gen 4, 9mm semi-automatic pistol; Serial Number TX815. It was also determined that one (1) fired bullet registered under Inventory Number 13507668 was fired from Officer Barnes' firearm. The reports also document that the firearm and magazine recovered from Brown did not reveal any latent impressions suitable for comparison.

#### e. Additional Evidence

On August 15, 2016, **Buchanan pled guilty**<sup>39</sup> to one (1) count of Receive/Poss/Sell Stolen Vehicle and two (2) counts of Agg Aslt/Op Motor Veh/PC and was sentenced to four (4) years in the Illinois Department of Corrections (IDOC) under Case 15CR1447201.

**On August 11, 2017, Civil Suit #17 C 5885**<sup>40</sup> was filed on behalf of Buchanan. The suit alleges that Officer Barnes used excessive force against Buchanan. As of the date of this report, the suit is still pending. The R/I obtained the deposition transcripts for Buchanan, Officer Morlock, Officer Paoletti, and Officer Ozmina. The following are summaries, not verbatim, of their testimony.

On April 24, 2018, **Jerome Buchanan** gave a **deposition**<sup>41</sup> relating to the above civil suit. Buchanan stated that on morning of August 14, 2015, he was exiting a store on 75<sup>th</sup> Street and Langley Avenue. Linell Bradley was walking into the store and as they passed by each other, Buchanan bumped into Bradley. They exchanged words in which Bradley said, "something slick"<sup>42</sup> but he [Buchanan] did not hear what Bradley said but saw his facial expression. Buchannan denied that he knew Bradley as a male who dated his cousin, Dawana Stewart. Buchannan then continued out of the store and noticed Bradley's vehicle parked and running.

Buchanan then decided to take the vehicle in effort to teach him [Bradley] a lesson on how "To be nicer. You don't have to be mad or mean about everything."<sup>43</sup> He departed the area in the black Chevy Impala and visited his girlfriend's mother's home, located near 77<sup>th</sup> Street and Champlain Avenue, where he remained for the day. Buchanan stated that he departed that residence on August 15<sup>th</sup> and visited his friend "Nick" Nicholas Smith's house on 79<sup>th</sup> Street and Vernon Avenue, where he stayed for a few hours. In the early evening hours, he left to pick-up Brown near 69<sup>th</sup> Street and Aberdeen Avenue. Buchanan stated that he met Brown approximately six (6) years ago through mutual friends.

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<sup>38</sup> Attachments 73-74.

<sup>39</sup> Attachment 95.

<sup>40</sup> Attachments 96-97.

<sup>41</sup> Attachment 103.

<sup>42</sup> Attachment 103 at Pg. 27, Ln. 14.

<sup>43</sup> *Id.* at Pg. 29, Ln. 6-7.

Buchanan stated that he drove down 69<sup>th</sup> Street traveling east to Martin Luther King, Jr. Drive. While stopped in the eastbound turn lane at 79<sup>th</sup> Street and Martin Luther King, Jr. Drive, a police SUV pulled in front of Buchanan and cut him off in a diagonal manner. A second SUV pulled up behind him. Buchanan explained that the officers<sup>44</sup> “jumped out” screaming with their weapons drawn. Buchanan stated that he placed his vehicle in reverse, hit the vehicle behind him, then placed his vehicle in drive and let it “coast a little bit.” Shortly thereafter, Buchanan realized that he was boxed in, with nowhere to go. Buchanan stated that he then slammed on the brakes, placed his vehicle in park, and surrendered by placing his hands up. When asked why he placed the vehicle in reverse then in drive, Buchanan stated that he wanted to “get away” because he was in a stolen vehicle.

Buchanan explained that when he placed his vehicle in reverse, at least two officers were in front of his vehicle moving, spreading out and yelling. He stated that he did not hear what the police were yelling because the windows were rolled up. Buchanan stated that once he placed his vehicle in drive, the vehicle moved approximately three (3) feet. Buchanan explained that he then placed the vehicle in park because there was nowhere for him to go. Buchanan said that he put his hands up for about seven to ten seconds before hearing a gunshot. Buchanan stated that he was shot once in the chest.

Buchanan agreed that had he not stopped his vehicle, it would have struck Officer Barnes. Buchanan stated that after the shooting, everything went black until he woke up in a bed at Stroger Hospital. Buchanan stated that he remained in the hospital for approximately two (2) weeks and underwent surgery for the bullet that remains lodged in his back, near his spine.

Buchanan stated that he did not recall speaking with detectives on August 15, and 16, 2017. Buchanan also denied telling detectives that he knew Bradley from dating his cousin, Dawana Stewart. Buchanan stated that the first week at the hospital was a “blur” because he was taking a lot of medications for his injuries and he slept a lot. Once he was released from Stroger Hospital, Buchanan was transferred to Cook County jail where he received treatment at Cermak Hospital.

Buchanan confirmed that he plead guilty to being in possession of a stolen motor vehicle and aggravated assault to Officers Barnes and Ozmina and transferred to the Illinois Department of Corrections where he served time from August 2016 through June of 2017.

On April 25, 2018, **Officer Jonathan Morlock** gave a **deposition**<sup>45</sup> relating to the above civil suit. Officer Morlock provided a statement consistent with the statement he provided to IPRA on August 24, 2015 and with the statement made to CPD detectives.

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<sup>44</sup> Buchanan stated that he assumed they were the police because as they drove past his vehicle he was able to see inside of their vehicle and he observed them to be “white.” Buchanan stated that when the officers jumped out with their guns drawn, it confirmed his belief that they were the police.

<sup>45</sup> Attachment 104.

On April 27, 2018, **Officer James Paoletti** gave a **deposition**<sup>46</sup> relating to the above civil suit. Officer Paoletti provided a statement consistent with the statement he provided to IPRA on August 31, 2015 and with the statement made to CPD detectives. Officer Paoletti added that upon exiting his vehicle, he drew his weapon because it is known that occupants of stolen vehicles are usually armed. When he approached the vehicle, it immediately reversed, striking Officer Ozmina's vehicle. Officer Paoletti then approached the driver side window and told Buchanan to park the car. The window was closed at that time, but Officer Paoletti believed Buchanan heard his demands. Buchanan looked at Officer Barnes and shifted the gear, lurching toward him and at that point heard two-gun shots.

Officer Paoletti stated that he and Officer Ozmina then got the driver out of the vehicle and handcuffed him. Officer Paoletti stated that while placing the driver in custody, he heard Officer Morlock and the passenger struggling and then heard the passenger say that he had a firearm. Officer Paoletti reached through the driver's side and grabbed the passenger's hands and lifted his shirt to reveal the firearm in his waistband. Officer Paoletti stated that the firearm was recovered, and they placed the passenger under arrest.

On April 27, 2018, **Officer Wayne Ozmina** gave a **deposition**<sup>47</sup> relating to the above civil suit. Officer Ozmina provided a statement consistent with the statement he provided to IPRA on August 24, 2015 and with the statement made to CPD detectives. Officer Ozmina added that after the shooting, when he felt it was safe to exit his vehicle, he approached Buchanan's vehicle and opened the driver's side door. Officer Ozmina explained that he saw Buchanan's hands-up, surrendering, but he did not pay attention to what Buchanan's hands were doing while he [Officer Ozmina] was inside of his vehicle. Officer Ozmina stated that Buchanan kept his hands up and while being "patted down," he [Buchanan] said that he was shot. Additionally, Officer Ozmina stated that he was not sure how his and Buchanan's vehicle remained intact because his foot never pressed on the accelerator.

## V. ANALYSIS

The applicable Chicago Police Department's General Order is 03-02-03, II,<sup>48</sup> which states: A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
  - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;

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<sup>46</sup> Attachment 106.

<sup>47</sup> Attachment 105.

<sup>48</sup> This report references the version of General Order 03-02-03 II in effect on the date of the incident. The Department subsequently amended its use of force directives.

- b. is attempting to escape by use of a deadly weapon or; otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

Additionally, General Order G03-02-03 Deadly Force, Section III, (E) applies. This section of General Order G03-02-03 prohibits Department members from firing at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person. Finally, General Order 03-02-03, Section IV, titled “Affirmation of Protection of Life Policy” states that “[s]worn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.”

The use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the State statute states that:

...a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

Determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment’s objective reasonableness standard. The question is whether the officer’s actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer’s use of force is reasonable: (1) “the severity of the crime at issue;” (2) “whether the suspect poses an immediate threat to the safety of the officers or others;” and (3) “whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer’s actions must be grounded in the perspective of “a reasonable officer on the scene, rather than with the 20/20 vision of hindsight” and “allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

**a. Buchanan Presented an Imminent Threat of Death or Great Bodily Harm to Officer Barnes**

There is a preponderance of evidence showing that Officer Barnes reasonably believed that deadly force was necessary to prevent Buchanan from causing death or great bodily harm to

himself. Officer Barnes was aware that the Chevy Impala Buchanan was driving was stolen.<sup>49</sup> With this knowledge, Officers Barnes and his four-man team conducted a traffic stop of the vehicle to confront the occupants.

Officer Barnes' statement to IPRA was materially corroborated by his fellow officers' statements, independent witness Melissa Jennings' statements, the POD video footage, and Buchanan's own statements to detectives. The evidence demonstrates that upon exiting his vehicle, Officer Barnes proceeded to the front of the Impala, towards the front passenger side and gave Buchanan and Brown commands to show their hands and stop the vehicle. Officer Barnes then observed Buchanan place the vehicle in reverse, strike Officer Ozmina's vehicle, then place the vehicle in drive. Furthermore, Officer Barnes saw Buchanan turn the wheel to the right and attempt to drive forward in his direction. Indeed, Buchanan ultimately admitted to driving towards Officer Barnes.<sup>50</sup> The POD footage confirms that the Buchanan had begun to drive forward directly towards Officer Barnes when Officer Barnes opened fire. The POD footage demonstrates that Buchanan began driving towards Officer Barnes at 7:48:35 p.m. and that Officer Barnes had discharged both shots before 7:48:37. Given Officer Barnes' proximity to Buchanan's vehicle and the fact that he had no clear avenue of escape, he did not have the time and opportunity to further assess Buchanan's actions and intentions to determine whether Buchanan would voluntarily stop the vehicle.<sup>51</sup> Under the totality of the circumstances, it was objectively reasonable for Officer Barnes to believe that Buchanan's vehicle posed an imminent risk of death or great bodily harm to him.

#### **b. Buchanan's Vehicle was the Only Force Used Against Officer Barnes**

Although a firearm was recovered from Brown, the passenger of the Impala, after he was placed into custody, there is no evidence that Officer Barnes knew about the weapon prior to discharging his weapon or that Brown displayed the firearm in any manner. There is also no evidence that Buchanan possessed a firearm or any other weapon during the incident. Thus, the evidence demonstrates that Buchanan's only use of force against Officer Barnes was the Chevy Impala he was driving.

#### **c. Conforming to General Order G03-02-03(III)(E) Prohibition on Firing at or Into a Moving Vehicle Would Have Unreasonably Endangered Officer Barnes**

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<sup>49</sup> Officer Barnes did not know any other material information about Buchanan, Brown, or the Chevy Impala.

<sup>50</sup> Buchanan's deposition testimony was substantially different from his statement to police detectives. Buchanan still admitted to driving towards Officer Barnes but asserted that he had placed his vehicle in park and had raised both of his hands for seven to ten seconds before hearing Officer Barnes' shots. However, the POD footage conclusively contradicts this part of Buchanan's statement as less than two seconds total elapse from the time Buchanan's vehicle starts moving forward and the time Officer Barnes' discharges his second shot. Buchanan may be conflating putting his hands up after Officer Barnes finished discharging his firearm. Other parts of Buchanan's deposition testimony also were contradicted by other credible evidence. For example, Buchanan denied knowing Bradley despite admitting that he knew Bradley to police detectives. Finally, although certainly not dispositive, COPA notes that Buchanan pled guilty to aggravated assault on Officer Barnes.

<sup>51</sup> The evidence suggests that Buchanan was not traveling at a high rate of speed at the time Officer Barnes discharged his weapon. However, even an automobile traveling slowly threatened Officer Barnes with death or great bodily harm especially because Officer Barnes would have likely been propelled either into the silver sedan directly behind him or underneath it. Moreover, even if Buchanan had just stopped the vehicle or was of stopping the vehicle at the exact moment Officer Barnes discharged his firearm, Officer Barnes did not have a reasonable opportunity to perceive this and react to it.

CPD General Order 03-02-03 must be interpreted sequentially and as a whole. Section III of General Order 03-02-03 unambiguously and explicitly prohibits officers from “[f]iring at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person.”<sup>52</sup> In other words, even when the use of deadly force is otherwise justified and permitted pursuant to Section II of General Order 03-02-03, Section III still prohibits officers from firing at or into a moving vehicle when the vehicle itself is the only force used against the officer or another person. Finally, Section IV of General Order 03-02-03 provides that officers shall not *unreasonably* endanger themselves or another person in order to comply with the prohibitions contained in Section III.<sup>53</sup> In other words, CPD officers do not have to comply with Section III of General Order 03-02-03’s prohibitions when the failure to use their firearm would unreasonably endanger the officer or another person.

The exception to the prohibition on firing into moving vehicles contained in Section IV of General Order 03-02-03 must be read in context of General 03-02-03 as a whole.<sup>54</sup> Unlike Section II which permits the use of deadly force when the officer *reasonably* believes deadly force is necessary to prevent death or great bodily harm to the sworn member or to another person, Section IV applies only when the officer’s failure to use deadly force would *unreasonably* endanger the officer or a third party.<sup>55</sup> This inverted phrasing is not accidental and it is a tenant of statutory interpretation that “[e]ach word, clause, and sentence should be given effect so as not to be rendered superfluous.” *Chicago Teacher’s Union, Local No. 1. v. Board of Education of the City of Chicago*, 2012 IL 112566, ¶ 15. Furthermore, the Superintendent specifically modified General Order 03-02-03 earlier in 2015 to remove language that permitted officers to fire into a moving vehicle simply to prevent death or seriously bodily injury to an officer or another person.<sup>56</sup>

To apply the exception to the prohibition on firing at or into a moving vehicle broadly would make the prohibition entirely meaningless. The use of a vehicle as force inevitably puts officers and civilians at risk of death or great bodily harm. The exception would swallow the rule. COPA will not interpret General Order 03-02-03 to make the prohibition on firing at or into a moving vehicle superfluous.<sup>57</sup> Read in context, the exception applies narrowly to cases where specific, unusual facts and circumstances demonstrate that complying with the prohibition would *unreasonably* endanger the officer or another person.

Nonetheless, the situation that confronted Officer Barnes is a case where specific, unusual facts and circumstances demonstrate that Officer Barnes would have unreasonably endangered himself by not firing into Buchanan’s vehicle. First and most importantly, Officer Barnes had no

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<sup>52</sup> General Order 03-02-03(III)(E).

<sup>53</sup> *Id.*

<sup>54</sup> See *Kraft, Inc. v. Edgar*, 138 Ill. 2d 178, 188 (1990) (“[I]n ascertaining the meaning of a statute, the statute should be read as a whole with all relevant parts considered.”). Courts apply the same rules of construction to administrative rules and regulations as they do to statutes. *Hetzer v. State Police Merit Board*, 49 Ill. App. 3d 1045, 1047 (1977).

<sup>55</sup> Notably, Section IV also does not include any language that tracks the second prong of Section II which permits officers to use deadly force to prevent an arrest from being defeated by resistance or escape under specified circumstances.

<sup>56</sup> Compare CPD General Order 03-02-03 (effective date 10 February 2015) to CPD General Order 03-02-03 (effective date 1 October 2002).

<sup>57</sup> See *Kraft, Inc.*, 138 Ill. 2d at 188 (“A statute should be construed so that no word or phrase is rendered superfluous or meaningless.”).

realistic possibility of moving out of the way of Buchanan's vehicle or finding protective cover.<sup>58</sup> Department members are required to move out of the way of a vehicle when the vehicle is the only force used against the officer. However, Officer Barnes emphasized in his interviews with IPRA investigators and detectives that the layout of the scene prevented him from moving out of the way of Buchanan's vehicle. Officer Barnes' statements are corroborated by the POD footage. The POD footage clearly shows that Officer Barnes was surrounded by his own police vehicle, a silver sedan, Buchanan's vehicle, and Officer Paoletti. Therefore, Officer Barnes had no possible way of avoiding Buchanan's vehicle if it continued to drive towards him. Moreover, the incident occurred in the middle of an intersection with a significant amount of a traffic. Second, had Buchanan's vehicle hit Officer Barnes, he likely would have been trapped either between or underneath the civilian vehicle that was directly behind him, which only increased the danger Buchanan's vehicle posed to him. Finally, Officer Barnes had to make split-second judgment under circumstances that were particularly tense, uncertain, and rapidly evolving. Officer Barnes had no opportunity to provide further commands to Buchanan or attempt to deescalate the situation because of his proximity to Buchanan's vehicle.



Figure 1- POD 7252 at the moment Officer Barnes discharges his firearm (see center/right)

Under the totality of the circumstances confronting him, Officer Barnes was within policy and did not violate any Department directives when he fired into Buchanan's vehicle. Importantly,

<sup>58</sup> COPA notes that the "Box-In" vehicle tactic used by Officer Paoletti and Officer Ozmina contributed to both Officer Barnes and Buchanan having no unobstructed avenue of escape. Indeed, Officers Paoletti and Officer Ozmina stated they used this tactic to prevent the Impala's escape. COPA's predecessor, IPRA, sent an advisory letter to the Department on August 8, 2016, noting that the "Box-In" tactic often places officers at risk. See August 8, 2016, Advisory Letter Regarding Use of "Box-In" Vehicle Tactic, available at <http://www.chicagocopa.org/wp-content/uploads/2017/10/Advisory-Letter-Regarding-Box-in-Vehicle-Tactic.pdf>. IPRA recommended that the Department expressly prohibit use of the tactic even during traffic stops. However, the use of the tactic during a traffic stop, although questionable, was not clearly against Department policy on August 15, 2015.

Officer Barnes had a clear line of sight on the driver of the vehicle, Buchanan, and only discharged his firearm two times at Buchanan. Accordingly, Officer Barnes’ use of force was reasonable, and therefore the allegation made against him is Exonerated.

**VI. CONCLUSION**

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

Officer	Allegation	Finding
Officer Jeremy Barnes	It is alleged that on August 15, 2015, at approximately 7:48 p.m., while in the vicinity of 7856 S. Dr. Martin Luther King, Jr. Drive, the accused violated the provisions of General Order G03-02-03, Section III (E) in that he fired at or into a moving vehicle when the vehicle was the only force used against him or another person.	Exonerated

Approved:

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Sydney R. Roberts  
*Chief Administrator*

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Date

Appendix A

Assigned Investigative Staff

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<b>Squad#:</b>	Squad 1
<b>Major Case Specialist:</b>	Chantall Morley
<b>Supervising Investigator:</b>	Mark Javier
<b>Deputy Chief Administrator:</b>	Andrea Kersten