

INDEPENDENT POLICE REVIEW AUTHORITY
Log#1018010/U#08-21

INVESTIGATION

NUMBER: Log # 1018010; U# 08-21

INVOLVED

OFFICER A: “Officer A” (Chicago Police Officer); Male/Hispanic; 30 years old;
On Duty; In Uniform; Year of Appointment - 2005

OFFICER A’s

INJURIES: None Reported

INVOLVED

OFFICER B: “Officer B” (Chicago Police Officer); Male/Hispanic; 35 years old;
On duty; In Uniform; Year of Appointment – 2006

OFFICER B’s

IINJURIES: None Report

INVOLVED

OFFICER C: “Officer C” (Chicago Police Officer); Male/Black; 26 years old;
On Duty; In Uniform; Year of Appointment – 2007

OFFICER C’s

INJURIES: None Reported

VICTIM/

OFFENDER 1: “Subject 1” – Male/Black; 49 years old

VICTIM/

OFFENDER’S

INJURIES: Multiple gunshot wounds. Pronounced dead at the scene. Fatal

DATE/TIME: 22 June 2008, 1912 Hours

LOCATION: XXXX S. Aberdeen
Beat 724

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Detective A related to the Roundtable panel that on 22 June 08, at approximately 1912 hours, Officers B and A were working Beat 744. (Att. # 5). The officers were assigned to a radio call of a domestic disturbance at XXXX S. Aberdeen involving a woman yelling in the background, "Send the police." Officers C and D, working Beat 772, heard the assignment, proceeded to the location to provide backup and arrived first. After Officers B and A arrived, the four uniformed officers were met by the complainant, Witness 1, who related that her boyfriend, Subject 1, was beating her. Witness 1 related that Subject 1 was in the west bedroom and that there was a .357 handgun in the bedroom. The officers proceeded to the bedroom where they observed Subject 1 sitting on the left side of the bed. As the officers entered the bedroom, no lights were illuminated, causing Officer C to use his flashlight.

Detective A continued that as Officer C entered the room and moved towards the right (south) side of the bed, Officers B and A were in the room's doorway and Officer D was in the (west) hallway outside of the bedroom. Subject 1 was smoking a cigarette. The officers directed him to show his hands. Officer C knelt on the bed with one knee and was about to handcuff Subject 1 when, without warning, Subject 1 stood up, drew a revolver from inside his jean jacket and discharged it at least once towards the bedroom door. Officer C, who was in fear for his life, discharged his weapon several times at Subject 1. After Officer C fired, he observed Subject 1 return to a sitting position on the bed but still holding the revolver. Officer C then dropped to the floor, used the mattress as cover and fired again at Subject 1.

Detective A said that Officer A was to the right of the bedroom doorway when Subject 1

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fired at him and Officer B. Officer A and B fired their weapons at Subject 1. Officer D was in the (west) hallway and did not discharge his weapon because he did not have a clear view. When the shooting began, Officer D proceeded east in the (north) hallway towards the back of the residence. Subject 1 was struck numerous times. The officers requested medical assistance. Ambulance #58 responded to the scene and the paramedics determined that Subject 1's wounds were fatal.

Witness 1 related to the Roundtable panel an account of the incident that included her observation that two officers fired their weapons into the bedroom through a hallway wall.

After Witness 1 provided her account, the Roundtable was concluded because it was determined that the shooting would be investigated for possible violations of the Police Department's order on the use of deadly force. The officers did not provide their accounts at the Roundtable.

Officers C, A and B all fired 9mm pistols. (Att. #5).

In an interview with IPRA on 23 June 08, **Witness 1** related that on 22 June 08, at approximately 1030 hours, she had breakfast with Subject 1 at the residence. (Att. #6). Later in the day¹, Witness 1 told Subject 1 to cover the toilet seat when he combed dye through his hair to avoid getting black specks on the seat. Subject 1 became "enraged," telling Witness 1, "All you do is nitpick. You gonna learn to keep your damn mouth closed." Subject 1 "smashed" a bowl of green beans in Witness 1's face and then slapped her face. Witness 1 fell against a couch and reached for a phone. Subject 1 grabbed the phone from her and told her she would not call anyone. Witness 1 went to the bathroom, locked the door and called 911 on her cell phone.

¹ Based on records from the Office of Emergency Management and Communications, the first call from the residence to 911 was at approximately 1910 hours. (Atts. #31-36, #118).

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Subject 1 unlocked the bathroom door and saw Witness 1 sitting on a raised toilet seat device. Subject 1 grabbed the toilet seat and threw it into the bathtub. Subject 1 said, "I should throw you in there with it." Witness 1 walked out of the bathroom and entered the back bedroom, locking the door behind her. Witness 1 dialed 911 again. Subject 1 entered the bedroom and pressed a button on Witness 1's phone to terminate the call. The phone then rang and Subject 1 answered it. Witness 1 yelled, "Send the police!" because she knew that the 911 operator had called back. Subject 1 hung up the phone and said, "If I'm going to jail, I'm going for more than just kicking your ass!"

Witness 1 stated that she then walked to the living room and sat in a chair with Subject 1 sitting on a couch across from her. When the officers arrived, Subject 1 stood up, looked out a window and walked to the first bedroom off the hallway (the bedroom where Subject 1 was eventually shot), after which she did not see him. Four male uniformed officers, two white and two black, entered the residence. Witness 1 told the officers that Subject 1 had just beaten her. Two officers walked to the back of the home. One officer asked Witness 1 if there were any weapons in the house, and she replied that there was a .357 Rossi in her bedroom. Witness 1 remained in the living room. Witness 1 saw two officers in a hallway, and one officer said, "There is a gun in the room," followed by another voice saying, "Show me your hands." Witness 1 heard one shot followed by several more. During the shooting, Witness 1 saw two of the officers sitting on their butts, in the hallway, with their arms in front of them, shooting through a wall of the bedroom where Subject 1 was located. Witness 1 left the residence as the officers fired. (Att. #6).

In a subsequent in-person conversation with IPRA on 20 July 08, Witness 1 provided

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additional information. (Att. #44). Witness 1 said that, after she yelled out to the 911 operator to send the police, Subject 1 choked her but released her. Subject 1 appeared sober.

Witness 1 said that three of the officers who arrived at the house were white and the fourth officer was black and named “[Unnamed].” One of the white male officers (Officer #1) wore a baseball cap with a “CPD” emblem on it. After the officers entered the house, Officer D moved toward the entrance to the bedroom where Subject 1 was located. Witness 1 stood in the hallway near her front door and saw Subject 1 standing in the bedroom. The four officers stood north of the entrance to the bedroom where Subject 1 was located. Two of the white officers (#1 and #2) told Subject 1 to show his hands. The third white officer (#3) asked Witness 1 if there were any guns in the house, and she told him about her .357 revolver that was in the bedroom. Officer #3 walked in the hallway toward the back of the house. Witness 1 did not see an officer enter the bedroom where Subject 1 was located, but before the first shot was fired, she saw an officer standing in that bedroom. She heard an officer say, “Show me your hands.” An officer also said, “Can you see his hand?” Witness 1 did not hear Subject 1 respond to the officers. She moved closer to the bedroom and called out Subject 1’s first name, but he did not reply.

Witness 1 related that she then heard a gunshot from what sounded like her .357 revolver and then heard four more similar shots, but she did not see Subject 1 fire his weapon. She heard “continuous fire” from other guns. After the shooting began, Witness 1 moved back and stood near her front door. She saw Officer #1 run from the doorway of the bedroom where Subject 1 was located into the north hallway. Officer #1 sat down with his back against the north wall of the house. His legs were outstretched and he fired at the wall on the north side of the bedroom where Subject 1 was located. Officer #1 held his gun at eye level. Another white male officer

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(Officer #2) ran from the doorway area of the bedroom where Subject 1 was located to the north hallway, sat on the floor with his back to the north wall of the house and fired at the outside wall of the bedroom. Witness 1 said it was possible that Officers #1 and #2 were firing their weapons as they ran to the north hallway from the entrance to the bedroom where Subject 1 was located.

Witness 1 ran out of her house through the front door while Officers #1 and #2 fired their weapons while seated. She ran to a home on the west side of Aberdeen where a police officer lived. She did not recall if any lights were on in the bedroom where Subject 1 was shot or in the hallway. Witness 1 did not know where Officer #3 and Officer D were while Officers #1 and #2 fired their weapons.

Witness 1 said that when her children later cleaned the house, they found a few more casings and a possible fired bullet. She said she would check to see if her children had thrown away the fired evidence. (Att. #44).

In a To-From-Subject report dated 22 June 2008, Assistant Deputy Superintendent M reported that during the shooting incident, Officer B, in addition to Officer D, sought cover by going down the hallway toward the back of the residence. ADS M said that Witness 1 related that one of the officers fired into the bedroom through a hallway wall. Forensic Services personnel made a preliminary determination that the trajectory of one of the discharges from the hallway into the bedroom and through the wall was upward and approximately 68 inches into the hallway east of the bedroom door. Subject 1 was pronounced dead on the scene at 2025 hours by Medical Examiner's Office Investigator K. (Att. #9).

The Tactical Response Reports from Officers A, B and C indicate that they were standing when they discharged their weapons. They were less than five feet from Subject 1 when

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the first shot was fired by each officer. Officer A fired four times; Officer B fired three times; and Officer C fired fourteen times. (Atts. #10, #12, #14).

In their **Battery Reports**, none of the officers reported being injured. (Atts. #11, #13, #15, #17).

Officer D's **Injury on Duty Report** indicates that when he dove out of the line of Subject 1's fire, Officer D struck his right arm on an unknown object, causing an abrasion to the arm. (Att. #100).

The **canvass** did not produce a witness. (Att. #37).

The summary of the disc from the **Office of Emergency Management and Communications** and the event queries indicate that at approximately 1910 hours, someone called 911, but the phone was hung up. After the call-taker called back, a male answered the phone, and what sounded like, "Police," was said in the background. The call-taker said there was a hang-up and then asked what was going on. A female voice, in the background, said "XXXX." The phone was apparently hung up again. A Zone dispatcher informed Unit 744 and other units in the 7th District about a call for help at the Subject 1 residence, XXXX S. Aberdeen. The dispatcher's words sounded as if the dispatcher said that a female, in the background of the call, yelled, "Send police!" The officers' weapon discharges were reported, and an ambulance was requested. (Atts. #31-36, Att. #118).

Forensic Services diagrams² depict the scene and location of Subject 1's body in relation to recovered fired evidence. The diagram of the south wall of the north hallway (which is the wall shared with the bedroom where Subject 1 was shot) includes five "bullet hole

² For clarity, the Forensic Services diagrams should be reviewed along with the Forensic Services photographs of the scene (Att. #105).

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locations” ranging from 32 inches to 49 inches from the floor and from 51 to 147 inches east of the west hallway that leads to the bedroom. The doorway of the bedroom where Subject 1 was shot was on the east side of this west hallway. The bed was located farther east into the room. The diagram of the north wall of the north hallway indicates there was a bullet hole 41 inches above the floor and 30 inches from the northeast corner of that hallway. (Atts. #18-20).

Forensic Services photos depict the scene inside the house; Subject 1’s body; fired evidence; the north wall of the bedroom where Subject 1 was shot, with four apparent bullet holes in that wall; the east wall of that same bedroom, with at least five apparent bullet holes; the north hallway’s south wall (the other side of the north wall of the bedroom) with at least four apparent bullet holes and either a fifth bullet hole or a bulge in the drywall at the east end of the south wall caused by a bullet fired inside the bedroom; an apparent bullet hole marker on the north wall of the north hallway near the doorway of the east bedroom; a bullet hole in the west wall of the east hallway; and apparent bullet damage to the furnace inside the utility room, which was across the west hallway and west of the bedroom where Subject 1 was shot. Yellow rods were inserted into some of the holes to estimate the trajectory of the bullets. (Att. #105).

The holes’ locations in the Forensic photos can be matched to the holes depicted in the Forensic Services diagrams. The yellow rod in the hole of the south wall that is 32 inches from the floor and 76 inches east of the west hallway is at an acute angle, downward toward the north hallway floor and pointing northwest-southeast. The yellow rod in the hole of the south wall that is 44 inches from the floor and 56 inches east of the west hallway is almost horizontal and is also pointing northwest-southeast. A yellow rod was also inserted into the hole in the utility room exterior wall, 50 inches from the floor, and the rod appears to be almost horizontal, pointing east-

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west.

The hole in the south wall (north hallway) that is 49 inches from the floor and 51 inches east of the west hallway does not appear to be through-and-through (based on photos of the interior bedroom wall showing no damage at the approximate corresponding location). There were two holes on the east end of the south wall. But no photos were taken of these with yellow rods placed in them. One of those two holes is 45 inches from the floor and 146 inches east of the west hallway. That hole is through-and-through, based on the photos of the interior bedroom wall. The second “hole” on the east end of the south wall is 32 inches from the floor and 147 inches east of the west hallway. That “hole” does not appear to be a hole, but appears to be a bulge in the drywall caused by a bullet fired from inside the bedroom (that bullet hole is visible in the interior bedroom photos). (Atts. #18-20, #105).

Evidence technician photos of the four officers depict Officers A, B and D wearing baseball-style Department caps with a star emblem on them. Officer C is not wearing a cap. Other photos depict Witness 1 with no obvious injury (scars from previous surgeries are depicted). (Atts. #40-43, #107).

The **Forensic Services scene video** does not depict the bullet holes in the south wall of the north hallway. (Att. #106).

The Detectives’ Case Supplementary Report, RD#HP-410758, indicates that the entrance to the home at XXXX S. Aberdeen is on the north side of the house. (Att. #71). The detectives observed that when they arrived, Subject 1 was lying on the bed, on his back, with his head pointed toward the south. His legs were bent at the knees and pointed north, with his feet on the floor. A chrome revolver was on the bed where Subject 1 was shot, east of Subject 1, near his

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right side.

The Case Supplementary Report includes accounts of the incident from Officers D, C, B and A that are consistent with the information presented at the Roundtable by Detective A.³ In addition, the Case Supplementary Report indicates that Officer B told the detectives that he saw Subject 1 fire the revolver one or two times at the officers. Officer B stepped back and lunged to the east, down the hallway, for cover and in doing so, reflexively fired his weapon, striking the bedroom wall twice.

The Case Supplementary Report includes an account of the incident from Witness 1 that is generally consistent with her Roundtable account and the information she related to IPRA. However, Witness 1 told the detectives she observed one officer shoot into the bedroom wall. In addition, the Case Supplementary Report indicates that Witness 1 refused medical treatment at the scene and at Area 1. Witness 1 told detectives that although most of her approximately eleven-year relationship with Subject 1 had been pleasant, he had verbally assaulted and threatened her during the previous eighteen months. Witness 1 felt that she “might have to kill him in self-defense” because of his erratic behavior. Subject 1 had been addicted to illegal narcotics and, before Witness 1 met him, would fight with police.

The Case Supplementary Report identified the off-duty officer whose house Witness 1 went to after leaving her house as [Unnamed Officer], assigned to the 4th District and residing at 6832 S. Aberdeen. During the detectives’ canvass, [Unnamed Officer] said a woman came up to his house “hysterical,” and said, “They shot him.” (Att. #71).

The **Crime Scene Processing Report #48531** indicates that the .357 Rossi revolver

³ Officer A did not tell detectives that he fired through the bedroom wall from the hallway. Officer A said he called in a “10-1” over Zone 6 following the shooting.

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contained three loaded cartridges and three spent casings. (Att. #26). The .357 revolver was recovered on the bed Subject 1 was on when he was shot, on his right side. An unloaded Iver Johnson revolver, of “unknown caliber,” a holster and six live .38-caliber rounds were in a green case recovered from under the mattress in the bedroom where the shooting occurred. A straight razor with a three-inch blade was recovered from one of Subject 1’s pants pockets. Nine fired 9mm casings and seven bullets/bullet fragments were recovered from the bedroom where Subject 1 was shot. Five fired 9mm casings were recovered from the west hallway (outside the bedroom where Subject 1 was shot). Five fired 9mm casings were recovered from the north hallway (on the north side of the bedroom where Subject 1 was shot) and two bullets/bullet fragments were recovered from the east hallway (on the east side of the bedroom where Subject 1 was shot). No fired bullet was recovered from the utility room or from the damaged furnace there. A gunshot residue kit was administered to Subject 1.

The same Crime Scene Processing Report indicates that Officer C’s Sig Sauer Model P229 pistol had a 14 (13+1) round capacity. The magazine was empty, and a cartridge was in the chamber when the weapon was recovered. Officer A’s S&W Model 5943 pistol had a 16 (15+1) round capacity. The magazine contained 11 cartridges, and a cartridge was in the chamber when the weapon was recovered. Officer B’ Sig Sauer Model P229 pistol had a 14 (13+1) round capacity. The magazine contained 10 cartridges, and a cartridge was in the chamber when the weapon was recovered. (Att. #26).

The **Crime Scene Processing Report #48532** indicates that Subject 1’s clothing and a bullet envelope were received by Forensic Services following the post-mortem.⁴ (Att. #27).

A report from the Illinois State Police (“ISP”) Division of Forensic Services dated 09

⁴ Four bullets and one lead fragment were recovered during the post-mortem.

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Sept 08, indicates that no latent impressions suitable for comparison were found on the .357 revolver or on the cartridges or casings found in the weapon. (Att. #74).

An **ISP report** dated 09 Sept 08 contains the results of the examination of the gunshot residue test on Subject 1. The report indicates that he discharged a firearm, contacted a primer gunshot residue-related item or had both hands in the environment of a discharged firearm. (Att. #75).

An **ISP report** dated 22 Oct 08 contains the results of the examination of the gunshot residue testing on Subject 1's jacket cuffs. The report indicates that the jacket cuffs contacted a primer gunshot residue-related item or were in the environment of a discharged firearm. (Att. #76).

An **ISP report** dated 02 Oct 08, indicates that a total of twenty-two fired casings and ten recovered bullets and eight fragments (including the bullets and fragment recovered during the post-mortem) were examined. (Att. #49). The .357 revolver was examined, found to be in firing condition and test fired. The three .38-cal. casings recovered from the .357 revolver were fired from that revolver. One recovered bullet and a bullet jacket fragment were found to have been fired from the .357 revolver. Two fired bullet fragments recovered from the grips of the .357 revolver could not be identified or eliminated as having been fired from the same firearm or from the .357 revolver or from Officers B's or Officer C's 9mm pistols. The two bullet fragments from the .357's grips were not fired from Officer A's pistol.

The **ISP report** continues that the three officers' pistols were examined, found to be in firing condition and test fired. Twelve 9mm casings and seven recovered fired bullets were found to have been fired from Officer C's weapon. Four casings, one bullet and one bullet fragment

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were found to have been fired from Officer A's weapon. Three 9mm casings and one fired bullet were found to have been fired from Officer B's weapon. Four fragments were either not suitable for comparison or were not able to be identified as having been fired from a specific weapon.

⁵(Att. #49).

The **CPD Property Inventory** reports, marked by ISP with ISP exhibit numbers, indicate that eight of the casings fired from Officer C's weapon were recovered in the bedroom where Subject 1 was shot (Atts. #83-94); one casing was recovered in the north hallway outside the bedroom where Subject 1 was shot and three casings were recovered in the west hallway outside that bedroom. Three of the recovered seven bullets fired from Officer C's weapon were recovered during the autopsy; one bullet was recovered in the east hall outside the bedroom where Subject 1 was shot; two bullets were recovered from the bed in that bedroom; and one bullet was recovered from the top of a dresser in that bedroom.

The Property Inventory reports indicate that one of the casings fired from Officer A's weapon was recovered inside the bedroom where Subject 1 was shot; two of the casings were recovered lying on the floor of the north hallway outside that bedroom; one casing was recovered lying on the floor of the west hallway. The bullet fragment was recovered from the floor in the east hallway of the house. The recovered bullet fired from Officer A's weapon was recovered during the autopsy.

The Property Inventory reports indicate that two of the casings fired from Officer B's weapon were recovered in the north hallway outside the bedroom where Subject 1 was shot. The third casing was recovered from the west hallway outside the bedroom. The recovered bullet that

⁵ The capacities of the officers' weapons and the number of casings recovered indicate that Officer A's and Officer B's weapons were fully loaded (A, 15+1; B, 13+1). If Officer C's weapon was fully loaded, one of his fired casings was not recovered (13+1 capacity; 12 casings recovered; magazine empty, one round in chamber).

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was fired from Officer B's weapon was recovered from the bedroom where Subject 1 was located, near the foot of the bed.

The Property Inventory reports indicate that the .357 revolver came back "clear" but with an expired registration to "Witness 1." The Property Inventory reports indicate that one bullet fired from the .357 revolver was recovered from the door casing, hinge side, of the door for the bedroom where Subject 1 was shot. The recovered bullet jacket fragment fired from the .357 revolver was recovered from the floor behind the door of the bedroom where Subject 1 was shot. (Atts. #83-94).

The **Report of Postmortem Examination** indicates that one bullet was recovered from Subject 1's clothing. Three other bullets and one fragment were recovered during the autopsy. Subject 1 sustained multiple gunshot wounds, including to his head, chest, left arm and right hand. The toxicologic analysis was negative for alcohol and other narcotics. The cause of death was multiple gunshot wounds and the manner of death was homicide. (Att. #48).

In a **statement to IPRA on 18 Feb 09, witness Officer D**, who is black, related that when he entered XXXX S. Aberdeen, he was wearing a Police Department-approved baseball cap, as depicted in Attachment #43. (Att. #99). Witness 1 informed Officer D that there was a .357 handgun in the house, and he thought it could possibly be in the bedroom where Subject 1 was located. Officer D said that as he approached that bedroom, he and the other officers had their guns drawn for officer safety. No lights were on. Officer C was the first officer to reach the bedroom. Officers B and A were behind Officer C, and Officer D was last. Officer C had his flashlight out and turned it on when he entered the bedroom. While still outside the bedroom, Officer A was in front of and to the right of Officer D, who was next to a wall that was to his

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right. Officer B was in front of and to the left of Officer D. No officer attempted to turn on a bedroom light. Subject 1 was sitting on the bed, smoking, facing to the left. Officers asked Subject 1 to show his hands. Subject 1 might have asked for Witness 1 and might have said her name. Subject 1 did not show his hands. Officer C tried to talk with Subject 1.

Officer D continued that he saw Subject 1 rise, reach into his blue jean jacket with his right hand and brandish a weapon. Officer D heard a shot and then more shots. Subject 1 was illuminated by Officer C's flashlight when Subject 1 fired. Officer D saw a muzzle flash from Subject 1's direction. Officer D knew he had officers in front of him, which obstructed his line of fire. Officer D dropped to the floor and crawled east down the north hallway to a rear bedroom while his weapon was still drawn. Officer D did not see Officers C, A and B fire their weapons. Officer D did not observe what Officer B did after the first shot was fired, but both Officer D and Officer B were in the hallway together and ended up in the rear bedroom together. Officer D and Officer B may have bumped each other as Officer D crawled in the hallway. While Officer D crawled along the floor to the rear bedroom, he heard shots fired. When asked if he heard shots being fired in the north hallway, Officer D said he did not know from what direction the shots were coming. Officer B was on the floor as both he and Officer D reached the rear bedroom. Officer D did not see Officer B or Officer A fire their weapons while they were in the north hallway, and Officer D did not see any officer in a sitting position in the north hallway. While crawling in the north hallway, Officer D was never in a sitting position.

Officer D continued that after he reached the rear bedroom, he looked into the (north) hallway and saw Officer A, who was standing and possibly radioing, "shots fired." Officer D did not remember if there was any light on in the north hallway. Officer C came out in the hallway

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and asked if he (Officer C) was hit. Officer D said he and the other officers did not remain inside the house long, leaving it when other units arrived. He did not see anyone move any fired evidence inside the house. He did not see apparent bullet holes in the south wall of the north hallway. He did not know how the apparent bullet holes in the south wall were created. Officer D did not observe any spent casings as he crawled on the hallway floor. From what he could see, no officer was in the line of fire of any other officer during the incident. Officer D did not hear any officer shout a warning to other officers. Officer D completed his injury report for a possible carpet burn on his arm. (Att. #99).

In a **statement to IPRA on 11 Feb 09, accused Officer C**, who is black, did not recall if he was wearing any kind of cap or hat at the time of the incident. (Att. #78). He related that after entering the house and speaking to Witness 1, he looked down the hallway and noticed “a lot of movement” in the bedroom where Subject 1 was eventually shot. The light went out in the bedroom. After Witness 1 said she had a gun in the bedroom, all of the officers took out flashlights and drew their weapons. Officer C saw Subject 1 sitting on the bed, smoking. Officer D called out to Officer C to make sure he (Officer C) could see Subject 1’s hands. Officer C yelled out that he could.

Officer C continued that he entered the bedroom where Subject 1 was located and walked behind the bed as Officer A and B stood close to the doorway and Officer D stood behind them. The officers tried to talk to Subject 1, asking him to come out in the hallway. Subject 1 yelled over the officers’ voices to Witness 1, saying, “Why are you doing this? Why are you going to do this to me?” Officer C holstered his weapon and told the other officers to “stay on him.” Officer C put his right knee on the bed to climb onto it, behind Subject 1. Subject 1 must have

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felt the bed move because he stood up and stuck his right hand inside the left side of his jacket.

Officer C jumped off the bed and took out his weapon again. He and the other officers yelled, "Let me see your hands! Let me see your hands!" Officer C saw a big flash from inside Subject 1's jacket and heard a loud gunshot. Officer C believed that the shot was fired at his partners. Officer C returned fire, striking Subject 1, who was holding a handgun in his right hand. Officer C dove to the floor and used the edge of the bed as partial cover, but then raised himself and fired again. Officer C said, "We all" radioed "10-1," and he requested an ambulance.

Officer C also said that after the shooting, he observed Subject 1's gun on the bed next to Subject 1's right leg. Officer C did not recall if he shined his flashlight directly on Subject 1 before Subject 1 fired. Officer C said he was never outside the bedroom where Subject 1 was shot when he (Officer C) fired and had no idea how one of his casings was recovered in the north hallway. He did not know where his casings landed. He did not see any officer fire his weapon while outside the bedroom where Subject 1 was shot and did not see Officers A or B move from that bedroom's doorway while firing. Officer C's shots could have hit the north and east bedroom walls. He did not see anyone move any fired evidence following the shooting. (Att. #78).

In a **statement to IPRA on 20 Feb 09, accused Officer B**, who is Hispanic, related that when he entered the house, he was wearing a Chicago Police baseball cap as depicted in Attachment #41. (Att. #102). He did not recall if Officer A was wearing any kind of cap or hat.

Officer B continued that he did not recall there being a light on in the north hallway of the house, which led to the bedroom where Subject 1 was located. Subject 1 was sitting on the bed and smoking a cigarette. Subject 1 was not holding a gun. Officer B did not recall if a light

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was on in the west hallway outside of the bedroom where Subject 1 was located or inside that bedroom. Officer B did not have his flashlight in his hand, but he had his weapon drawn. He was directly behind Officer A as Officer C reached the bedroom where Subject 1 was located. Officer C said something while he was in that bedroom, but Officer B did not hear Subject 1 say anything to Officer C. Subject 1 said something to Witness 1. Officer B was standing on the north side of the doorway of the bedroom where Subject 1 was located while Officer A was on the south side of the doorway. Officer B saw Subject 1 reach into the left side of his coat pocket and retrieve a chrome revolver. Officer B was approximately five feet from Subject 1 when Subject 1 drew his weapon. Officer B saw a muzzle flash from Subject 1's gun, which was pointed in his direction, but did not hear a gunshot.

Officer B continued that when he saw the muzzle flash from Subject 1's weapon, he heard several shots and took cover by crawling down the north hallway toward the east (rear) bedroom. Officer B said it was possible that he fired his weapon while still standing on the north side of the doorway of the bedroom where Subject 1 was located. As he crawled down the north hallway, Officer B "unintentionally" fired his weapon two or three times by "inadvertently" squeezing his weapon's trigger. He said it was accurate that he "reflexively" fired his weapon. He was not sure where he was positioned along the hallway when his weapon discharged. Officer B did not recall if his gun was pointed upward when he fired at the south wall. Officer B was not trying to shoot Subject 1 when his weapon fired as he crawled down the hallway. Officer B said he never sat in the north hallway, with his back to the north wall in that hallway. After the incident, Officer B learned that he had fired his weapon twice, and the rounds went through the wall. When shown his TRR during his statement, Officer B said that based on that report, he

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fired his weapon three times. Officer B did not recall how many of his rounds hit the south wall in the north hallway. His TRR's reference to using his sights when firing referred to his "first shot" while he was at the doorway of the bedroom where Subject 1 was located. Only his (Officer B's) finger pressing the trigger caused his weapon to discharge.

Officer B also related that when he was crawling in the north hallway, he heard shots being fired but was not sure if they were being fired in that hallway. Officer D was directly in front of him, also crawling to the east bedroom. When Officer B reached the east bedroom, he looked back down the hallway and saw Officer A, who was still near the doorway of the bedroom where Subject 1 was located. Officer B did not recall whether Officer A was standing, sitting or crawling at that point. Officer B also related that he did not see Officers A, C or D in a sitting position in the north hallway during the incident. Officer B did not see Officers C or A fire their weapons at any time. Officer B did not see anyone move any fired evidence. He did not know how some of the casings from Officer A's weapon and Officer C's weapon came to be located in the north hallway. Officer B could not explain why there were "five" apparent bullet holes in the south wall of the north hallway if only two of his bullets struck the south wall. After the shooting ended, Officer B entered the bedroom where Subject 1 was located and observed the chrome gun on Subject 1's right side. (Att. #102).

In a **statement to IPRA on 17 Feb 09, accused Officer A**, who is Hispanic, related that when he entered the home, he was wearing a CPD baseball cap, as depicted in Attachment #40. (Att. #96). Officer A recalled that he was behind Officer C as the officers walked toward the bedroom where Subject 1 was located. Officer A saw a shadow in the bedroom where Subject 1 was located and then the lights went dim. Officer A did not remember if a light was on

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in the bedroom where Subject 1 was located when he first approached that room. Officer A took a position on the right side of the bedroom doorway, with Officer B on the left side. No light was on in the bedroom at that time. Subject 1 was sitting on the bed, smoking, facing north. Officer C had entered the room and spoken to Subject 1, identifying himself as a police officer and asking Subject 1 how he was doing. Officer A did not recall what Subject 1 replied. Officer C told Subject 1 to show his hands, an order that the other officers repeated. Subject 1 did not comply with the order.

Officer A said he saw Officer C, who was on one knee on the bed, try to go toward Subject 1, who stood up, reached inside his jacket and fired a shot in Officer A's direction. Officer A returned fire. After reviewing his TRR during his statement, Officer A said he fired four times. To the best of his knowledge, he fired only while standing on the right side of the bedroom doorway. He had a clear view of Subject 1 when he fired at him. Officer A did not see Officer C fire his weapon. Officer A did not know if Subject 1 fired more than once. Subject 1 had said something before firing his shot, but Officer A did not know what was said. Subject 1 held his gun in his right hand.

Officer A continued that after he returned fire, he sought covering and shielding by going to the north of the entrance to the bedroom where Subject 1 was located, to the back (east) area of the house. Officer A did not discharge his weapon at any time while seeking cover. He did not see Officer B fire his weapon while Officer B was not on the left side of the bedroom doorway. Officer A did not know where Officer B moved as he (Officer A) sought cover. Officer A did not see Officer B or any other officer sitting on the floor of the north hallway and firing his weapon toward the south wall. Officer A denied that he sat on the floor in the north hallway and fired his

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weapon toward the south wall. He did not see Officer C fire his weapon while outside the bedroom where Subject 1 was located. He did not know how apparent bullet holes came to be in the south wall of the north hallway.

Officer A related that he did not see anyone move any fired evidence following the shooting. He did not know how fired casings, including two of his, came to be in the north hallway. Following the shooting, Officer A saw Subject 1's gun on his right side. (Att. #96).

In a **statement to IPRA on 24 Feb 09, witness Officer [Unnamed Officer]** related that he was asleep in his residence on Aberdeen at the time of the incident. His neighbor, Witness 1, knocked on his door. She was upset, crying and yelling. Witness 1 said, "They shot him. They shot him." [Unnamed Officer] retrieved his weapon and went outside, where unidentified officers approached him and restrained him until they learned he was an officer. Witness 1 did not tell [Unnamed Officer] an account of what happened inside her home until days later. [Unnamed Officer] did not recall Witness 1 telling him that any of the involved officers fired into the outside wall of the room where Subject 1 was located. (Att. #103).

[Unnamed Individual], as special administrator of Subject 1's estate, filed a wrongful death lawsuit against the City of Chicago and unknown officers. The suit alleged that Subject 1 was not armed with a gun at the time of the incident. On 14 Sept 10, the lawsuit was voluntarily dismissed with leave to be re-filed. (Att. #52).

General Order 03-02-03, Section III, C, prohibits officers from "firing into buildings or through doors, windows, or other openings when the person lawfully fired at is not clearly visible." (Att. #126).

CONCLUSION AND FINDINGS:

The Reporting Investigator recommends a finding of **SUSTAINED** for Allegation #1 that **Officer B** violated General Order 03-02-03 by firing into the south wall of the north hallway, where Subject 1 was not visible. Officer B admitted that he fired up to three times into the south wall without seeing his target. In firing at the south wall, Officer B not only could not see at whom he was firing, but he endangered Officer C, who was in the bedroom along with Subject 1.

There were extraordinary circumstances present that mitigate Officer B's infraction. Officer B was under fire from Subject 1 at the time the incident began, and he was crawling in the hallway for cover. Officer B stated that he fired into the south wall unintentionally and inadvertently and that he never sat against the north hallway wall. Officer B was forthcoming about firing his weapon while in the north hallway. Regardless of why Officer B fired, he was in violation of the General Order when he fired.

The Reporting Investigator recommends a finding of **NOT SUSTAINED** for Allegation #1 that **Officer A** violated General Order 03-02-03, Section III, C. The available evidence does not prove or disprove that Officer A fired at the south wall.

On one hand, two of Officer A's fired cartridge casings were recovered in the north hallway, and Witness 1 told IPRA that she saw two officers fire at the south wall. Four apparent bullet holes were in the south wall (the fifth "hole" might be a hole covered partly by drywall, but it appears to be a bulge in the drywall that corresponded with a bullet hole on the bedroom side of the wall). Officer B fired only three times.

On the other hand, Officer A said he believed he fired only while in the bedroom

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doorway, and fired evidence at least partially supports that contention and accounts for up to two of Officer A's four fired bullets. One of Officer A's fired bullets was recovered during the autopsy, and a fragment from one of his bullets was recovered in the east hallway, apparently deposited there through the bullet hole located in the wall of the hallway adjoining the bedroom where Subject 1 was located. In addition, Officer A denied that he fired while in the north hallway or while seeking cover.

In addition, the locations of the holes and of the fired evidence do not prove or disprove which officers' bullets caused the holes in the south wall. No fired bullets or fragments were recovered from the south wall, so it was not possible to link an officer's weapon discharge to a specific hole.⁶ Regarding Officer A's fired casings, their presence in the north hallway does not necessarily mean that he fired them while there because one of Officer C's casings was recovered in that same location, and there is no evidence that Officer C fired while in the north hallway.

Even though the locations of the holes in the south wall and of the fired evidence do not conclusively indicate which officers' shots caused the holes, it is reasonable to conclude that only three of the four holes in the south wall were caused by Officer B and/or Officer A. As already described, the hole (#1, for this report) that was 49 inches from the floor and 51 inches east of the west hallway apparently was not through-and-through and was presumably caused by

⁶ Nineteen 9mm casings that were fired from the three officers' weapons were recovered. As many as three rounds were fired by Subject 1. Of those possible twenty-two fired bullets, ten bullets and eight fragments were recovered. Nine of the recovered bullets and one fragment were found to have been fired from the officers' weapons. One recovered bullet and one fragment were found to have been fired from Subject 1's revolver. Other bullets fired by the officers and possibly by Subject 1 were not accounted for.

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a bullet fired in the north hallway. The hole (#2) that was 44 inches from the floor and 56 inches east of the bedroom door had a northwest-southeast direction (toward where Subject 1 was located in the bedroom) and was almost horizontal. The hole (#3) that was 32 inches from the floor and 76 inches east of the bedroom door was angled downward toward the hallway floor and also had a northwest-southeast direction. Even though it is not certain whose discharges caused these three holes, their locations are consistent with Officer B firing three times while moving and crawling east through the hallway, as he admitted doing. A bullet fired by Officer B was recovered inside the bedroom near the foot of the bed, which was in the line of his fire.

Regarding the fourth bullet hole in the south wall, the fired evidence supports a conclusion that it was made by one of Officer C's shots from inside the bedroom and not by Officer A or Officer B firing in the north hallway. The fourth bullet hole was 45 inches from the floor and 146 inches east of the west hallway. The fourth bullet hole was through-and-through and was approximately in-line with the bullet hole in the north wall of the north hallway, which was 41 inches from the floor and 30 inches west of the northeast corner of the hallway. The possible northeast direction of the fourth bullet hole is consistent with Officer C's line of fire inside the bedroom and not consistent with either Officer B or Officer A firing from the north hallway. The apparent bulge in the drywall of the south wall approximately corresponded with an apparent bullet hole on the bedroom side of the south wall, which was also in Officer C's line of fire.

As to Subject 1's fired bullets, the evidence does not reasonably support a conclusion that any of his three bullets caused any of the holes in the south wall. One of Subject 1's bullets was recovered from the bedroom door casing; a bullet jacket fragment from one of his bullets was

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recovered from the floor behind the bedroom door; and the third bullet was apparently the one that was fired through the wall of the utility room (in line with Subject 1's direction of fire) and was not recovered.

Witness 1's account that a second officer fired at the south wall is not substantial enough to sustain the allegation against Officer A. First, Witness 1 told the detectives that one officer fired at the wall, while she told IPRA that two officers fired. Witness 1 also told IPRA that it was possible that the two officers fired their weapons as they ran from Subject 1's bedroom entrance to the north hallway. Second, Witness 1 described three of the officers as "white," even though two were black and two were Hispanic.⁷ Third, Witness 1 apparently did not observe all of the activity in the north hallway because Officer D was the first officer who sought cover there, but she said she did not know where he or the third "white" officer were when the other two "white" officers fired in the hallway. Which "white" officer Witness 1 was referring to as the second one who fired while in the north hallway was not positively identified.

The Reporting Investigator recommends a finding of **UNFOUNDED** for Allegation #1 that **Officer C** violated General Order 03-02-03, Section III, C.

Even though one of the cartridge casings recovered in the north hallway had been fired by Officer C, Officer C said he fired only while inside the bedroom where Subject 1 was located. Officers A, B and D did not see Officer C fire while outside the bedroom. Witness 1 did not identify Officer C as one of the officers she said fired while in the north hallway.

This investigation found that Officers C, A and B properly drew their weapons when Witness 1 stated that her .357 revolver was in the bedroom where Subject 1 was located. Subject

⁷ It is acknowledged that Officers B and A, who are Hispanic, could be described as "white," based on their complexions as depicted in the ET photos.

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1 did not comply with the officers' orders to show his hands. The preponderance of the evidence indicates that Subject 1 fired the .357 revolver in the direction of Witness 1 and Officer A and B. The .357 revolver was recovered next to Subject 1's right side, which is consistent with the officers' accounts that he used his right hand to draw the weapon. Three spent casings were in the revolver cylinder. One of the bullets and a bullet jacket fragment fired from the revolver were recovered, respectively, in the bedroom door casing and from the floor behind the bedroom door, west of Subject 1's position on the bed. One bullet entered the utility room. Subject 1 tested positive for gunshot residue.

Officer C fired at Subject 1 after he began firing the revolver. Officer C used deadly force to prevent death or great bodily harm to himself, the other officers and Witness 1, in compliance with the General Order.

FINDINGS:

Accused #1 Officer A

Allegation #1 **Not Sustained**

Accused #2 Officer B

Allegation #1 **Sustained** - Violation of Rule 6, "Disobedience of an order or directive, whether written or oral," in that on 22 June 08, at approximately 1912 hours, at XXXX S. Aberdeen, Officer B, while on-duty, violated provisions of General Order 03-02-03, Section II, C, in that he fired his weapon into a wall behind which the subject Subject 1 was not clearly visible.

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Accused #3

Officer C

Allegation #1

Unfounded