

INDEPENDENT POLICE REVIEW AUTHORITY  
Log #1030377U #09-39

**INVESTIGATION**

**NUMBER:** Log #1030377/U #09-39

**INVOLVED  
OFFICER:**

“Officer A” (Chicago Police Officer); Male/Hispanic; 31 years old;  
On-Duty; In Plainclothes; Year of Appointment – 2001

**OFFICER’S  
INJURIES:**

None Reported.

**SUBJECT:**

“Subject 1”; Male/Hispanic; 25 years old

**SUBJECT’S  
INJURIES:**

Through and through gunshot wound to the right leg.

**DATE/TIME:**

22 September 2009; 1853 Hours

**LOCATION:**

XXXX N. Harding  
Beat 2524

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**SUMMARY OF INCIDENT:**

On 22 September 2009, at approximately 1853 hours, Subject 1 and his girlfriend [Domestic Violence Victim] were involved in a domestic disturbance in the basement of their home. Subject 1 chased [Domestic Violence Victim] out of the residence to the street. They continued to argue but went back inside their home. Their neighbor, Witness 1, checked to see if everything was okay. [Domestic Violence Victim] used Witness 1's cell phone to call 911 after seeing Subject 1 with a handgun. [Domestic Violence Victim] reported to the call-taker that Subject 1 had a gun and threatened to shoot police officers. Officers B and C responded. [Domestic Violence Victim] met them outside at their squad car and informed them of the situation. Officers B and C radioed for assistance, and specifically requested an officer with a "long gun." Officers A and D then responded. Officers A retrieved his rifle from the car and positioned himself at the southwest corner of Harding and Altgeld. Officers A saw Subject 1 in front of XXXX N. Harding holding a handgun in his hand. Subject 1 was repeatedly ordered to drop his gun, but he did not and he refused to speak with the officers. Subject 1 then pointed his gun at the officers and Officers A fired his rifle two times at Subject 1. Officers A's rifle jammed, but he was able to clear the round. Officers A fired a third time. One of Officers A's fired rounds struck a fence and a second struck Subject 1 on his leg. Three expended casings and one live round were recovered near Officers A's reported position at the southwest corner of Harding and Altgeld.

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Attempts to interview **Subject 1** in furtherance of this investigation were unsuccessful.

In a statement to the Roundtable Panel on 22 September 2009, **CPD Detective 1** stated that he accompanied Subject 1 in the ambulance to Illinois Masonic Hospital. Subject 1 was treated for a through-and-through gunshot wound to his right leg. After being read his Miranda warning, Subject 1 refused to make a statement to CPD Detective 1.

In a statement to the Roundtable Panel on 22 September 2009, **[Domestic Violence Victim]** stated that she and Subject 1 had been arguing all day because of his jealousy issues. **[Domestic Violence Victim]** left the apartment, intending to walk to a friend's home. Subject 1 followed **[Domestic Violence Victim]** as she walked east on Altgeld. Subject 1 stopped at the southeast corner of Harding and Altgeld and repeatedly punched the stop sign. **[Domestic Violence Victim]** and Subject 1 returned to their apartment and continued to argue. **[Domestic Violence Victim]** stated that during the argument Subject 1 pushed her, and she repeatedly struck him. **[Domestic Violence Victim]** stated that she became scared when he grabbed her. **[Domestic Violence Victim]** exited the apartment and saw her neighbor Witness 1. **[Domestic Violence Victim]** borrowed Witness 1's cell phone and called 911 and reported that she and Subject 1 were fighting and that he had a gun. **[Domestic Violence Victim]** turned to walk away from the apartment building and saw Subject 1 sitting on the front steps. **[Domestic Violence Victim]** saw Subject 1 with a black and silver gun on his right side. **[Domestic Violence Victim]** stated that she has seen Subject 1 with that gun before. **[Domestic Violence Victim]** stated that Witness 1 sat on the front steps with Subject 1 and she walked to the corner to wait for the police. A police car arrived and stopped at the northwest corner of Harding and Altgeld. Witness 1 walked over and he and **[Domestic Violence Victim]** spoke with the officers. They told the officers that Subject 1 had a gun. The officers told **[Domestic Violence Victim]** and Witness 1 to leave the area. **[Domestic Violence Victim]** saw several more officers arrive and heard them repeatedly yell, "Put it down!" **[Domestic Violence Victim]** and Witness 1 walked west on Altgeld. When they got to the alley between Harding and Pulaski, **[Domestic Violence Victim]** heard one or two gunshots. **[Domestic Violence Victim]** did not see the shooting.

In a statement to IPRA on 23 September 2009, **[Domestic Violence Victim]** stated that she and her boyfriend Subject 1 were involved in an argument that escalated into a physical altercation. **[Domestic Violence Victim]** called the police and plainclothes police officers responded. **[Domestic Violence Victim]** explained that Subject 1 was seated on the front porch and was holding a gun in his hand. **[Domestic Violence Victim]** heard the officers repeatedly order Subject 1 to put his gun down and asked if he needed to speak to someone. A few moments later **[Domestic Violence Victim]** heard two gunshots, but did not know where the gunshots originated. **[Domestic Violence Victim]** stated that she did not witness the shooting.

In a statement to the Roundtable Panel on 22 September 2009, **Witness 1** stated that he lives on the third floor of XXXX N. Harding. Witness 1 stated that on the day of the incident he was in his apartment when he heard a noise and looked out the window. Witness 1 saw Subject 1 and

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[Domestic Violence Victim] arguing across the street. Witness 1 stated that he also saw Subject 1 punching a stop sign. Subject 1 and [Domestic Violence Victim] then walked back to the apartment building and continued to argue on the front steps. Witness 1 went outside and greeted them. Witness 1 stated that he walked back and forth in front of the building while he spoke on his cell phone so that he could listen to Subject 1 and [Domestic Violence Victim]. Subject 1 and [Domestic Violence Victim] went inside the apartment building. Witness 1 then heard noises coming from the basement. Witness 1 knocked on the apartment door to see if they were okay, but [Domestic Violence Victim] came out of the apartment and asked him to call 911. Witness 1 sat on the front porch while [Domestic Violence Victim] walked away to speak to the 911 operator. Subject 1 came outside and then went back inside. Witness 1 stated that he knew that Subject 1 was retrieving a gun because he was angry that [Domestic Violence Victim] called 911. Subject 1 then came back outside and asked Witness 1 why he let [Domestic Violence Victim] use his cell phone. Subject 1 also lifted his shirt and showed Witness 1 the handgun in the front of his waistband. Subject 1 pulled his handgun from his waistband and told Witness 1 that he was going to “take two down” and that he would shoot the police when they arrived. Subject 1 then pointed the gun at Witness 1 and again asked him why he let [Domestic Violence Victim] use his cell phone. Subject 1 hit the gun against the ground, pulled the gun’s slide back, and ejected a bullet. Subject 1 then removed the gun’s magazine and inserted the ejected bullet into the magazine. Witness 1 then heard approaching sirens and walked away from the front porch. Witness 1 saw [Domestic Violence Victim] at the corner speaking with police officers and made motions to the officers to indicate that Subject 1 had a gun. The officers crossed the street and aimed their guns at Subject 1. Another officer exited a squad car, knelt down and pointed a rifle at Subject 1. Witness 1 stated that some officers ran down the alley. Officers told Witness 1 to walk away. Witness 1 walked west on Altgeld and as he approached the alley he heard a gunshot. Witness 1 continued to walk west when he heard two more gunshots. Witness 1 stated that he and [Domestic Violence Victim] then went inside the bar at Pulaski and Altgeld until the shooting stopped.

In a statement to IPRA on 23 September 2009, **Witness 1** stated he was in his shower when he heard a noise outside. Witness 1 looked out a window and saw his neighbors, [Domestic Violence Victim] and Subject 1, arguing on the sidewalk. Witness 1 saw Subject 1 punch a stop sign. [Domestic Violence Victim] and Subject 1 then walked to the front of their residence and continued to argue. Witness 1 then went to his bedroom in the back of the apartment, where he could no longer hear Subject 1 and [Domestic Violence Victim] argue. Witness 1 got dressed, went outside, and pretended to talk to someone on his cell phone so he could watch [Domestic Violence Victim] and Subject 1. [Domestic Violence Victim] and Subject 1 walked into their residence and continued to argue. Witness 1 sat on their front porch and listened to them argue. Witness 1 surmised that the argument escalated into a physical fight because he heard what sounded like furniture being stuck or shoved around. Witness 1 went to knock on their front door in an attempt to put a stop to the fight, but before he could [Domestic Violence Victim] came outside and asked him to call 911. Witness 1 dialed 911 and [Domestic Violence Victim] took his cell phone and told the call-taker she needed the police because her boyfriend was “beating her up.”<sup>1</sup> [Domestic Violence

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1 Transcript of Witness 1, P.11, Line 6.

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Victim] also told the call-taker that Subject 1 had a gun and a warrant for his arrest, and that Subject 1 was threatening to shoot the police when they arrived. Witness 1 stated that Subject 1 came outside while [Domestic Violence Victim] was talking to the call-taker. [Domestic Violence Victim] walked away from him and Subject 1 went back inside and locked the door behind him. A few moments later Subject 1 exited the residence, lifted the front of shirt, and removes a semi-automatic pistol. Subject 1 then said, “Fuck that. I am going to wait for them. I swear to God, I am going to take two cops with me. If they are going to shoot at me, I am going to shoot them back.”<sup>2</sup> Witness 1 stated that Subject 1 sat on the stairs of the front porch and pulled the pistol’s slide back and ejected a cartridge from the chamber. Subject 1 removed the magazine from the pistol, inserted the ejected cartridge into the magazine, and then loaded the magazine into the pistol. Subject 1 then asked Witness 1, “Why you borrow her the phone?”<sup>3</sup> Witness 1 responded, “She don’t need to be with you anymore, you know? I know the way you are, you guys are always fighting.”<sup>4</sup> Subject 1 pointed his pistol at Witness 1 and again asked him why lent his phone to [Domestic Violence Victim]. Witness 1 stated that Subject 1 repeatedly threatened to shoot the police when they came. Witness 1 stated that [Domestic Violence Victim] walked to the corner of Harding and Altgeld where she spoke with the first plainclothes police officers that arrived. Witness 1 then exited the yard through the front gate and walked toward the same officers. Witness 1 said to the officers, “He’s got the gun. He already, you know, he’s ready. He’s ready to shoot anybody.”<sup>5</sup> The officers began to tell people to go inside their homes and to get away from the area. Several additional squad cars arrived and the officers took cover behind their cars and buildings. Witness 1 saw that some of the officers had their rifles pointed at Subject 1’s direction. Witness 1 could not see Subject 1 from the corner of Harding and Altgeld because a building obscured his view, but he did hear the officers repeatedly say to Subject 1, “Put the gun down.”<sup>6</sup> More police officers arrived and one officer escorted Witness 1 and [Domestic Violence Victim] to a bar at the corner of Pulaski and Altgeld. As they walked Witness 1 heard three gunshots. Witness 1 did not see where the gunshots came from, but assumed they came from different guns because they sounded different.

In a statement to the Roundtable Panel on 22 September 2009, **Witness 2** stated that he and his girlfriend, Witness 3, were talking with his friend, Witness 4, when he saw numerous officers arrive on the scene. Witness 2 stated that the officers had their guns drawn. Witness 2 saw one officer exit a squad car with a rifle strapped across his chest. Witness 4, Witness 2, and Witness 3 went inside Witness 4’s apartment located on the northeast corner of Harding and Altgeld, and looked out a window. Witness 2 saw the officer with the rifle run to the corner. Witness 2 also saw Subject 1 sitting on the porch across the street. Witness 2 stated that he saw Subject 1 holding a handgun. Witness 2 heard the officers yelling at Subject 1 to put his gun down and show them his hands. Witness 2 told Witness 3 to stay down and away from the window. Witness 2 then heard

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2 *Id.* at P. 14, lines 12-15.

3 *Id.* at P. 16, lines 3-4.

4 *Id.* at lines 5-7.

5 *Id.* at P. 20, lines 16-18.

6 *Id.* at P. 24, line 13.

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two gunshots, followed shortly by a third. The officers still shouted for Subject 1 to get on his stomach, but Subject 1 remained seated on the front porch.

In a statement to Assistant State's Attorney A on 23 September 2009, **Witness 2** stated that on the night of the incident he and his girlfriend, Witness 3, were visiting his friend, Witness 4. While standing outside Witness 4's apartment building Witness 2 saw an unmarked squad car pull up. A plainclothes, male officer exited the squad car with his gun drawn. The officer was looking in the direction of a house at XXXX N. Harding. Witness 2 saw a Hispanic male with long hair holding a gun in his hand and pacing back and forth from the front stair case to the fence. Witness 2 and his friends went inside Witness 4's apartment building. Witness 2 stated that he went to the landing between the first and second floors and looked out the window. Witness 2 saw approximately twenty police officers outside and the Hispanic male sitting on the front porch. Witness 2 heard the officers repeatedly yell at the man to put the gun down and show his hands. Witness 2 saw the Hispanic man hold his gun up and wave it back and forth. Witness 2 saw the Hispanic male pointed his gun at the officers. Witness 2 then heard two gunshots fired close together, a pause, and then a third gunshot. The officers approached the Hispanic male and forced him to the ground. Witness 2 did not see which officer, or officers, fired at the Hispanic male.

Attempts to contact Witness 2 in furtherance of this investigation were unsuccessful.

In a statement to IPRA on 23 September 2009, **Witness 3** stated that she and her boyfriend, Witness 2, were visiting their friend, Witness 4. As they stood outside Witness 4's building Witness 3 saw several police cars pull up. Witness 3 stated that when they saw the officers exit their squad cars with their weapons drawn she and her friends went into the apartment building. A few moments later Witness 3 heard police officers yell, "Put your hands up, Put the gun down." Witness 3 then heard two gunshots, followed shortly by a third gunshot. Witness 3 stated that she and her friends remained inside the apartment building, and therefore did not witness the shooting.

In a statement to IPRA on 22 September 2009, **Witness 4** stated that while sitting outside his apartment building with friends (NKA Witness 2 and Witness 3) when he saw an unmarked squad car pull up. Two plainclothes officers exited the squad car and spoke to a heavy-set woman who was pointing at XXXX N. Harding. Witness 4 did not hear what the woman said to the police officers. Witness 4 stated that one of the officers went to the south corner and hid behind the squad car. Approximately thirty seconds later a Hispanic male (NKA Subject 1) exited the home on Harding. Witness 4 heard the officers ask Subject 1 if he wanted to talk, but Subject 1 said no. Subject 1 was holding a chrome-colored handgun. Subject 1 repeatedly refused to follow the officers' instructions to put the gun down and show his hands. Additional police officers began to arrive and tell people to go inside their homes. Witness 4 stated that he and his friends went inside and locked the door behind him. Witness 4 went to the second floor hallway and looked out the window, but his view was obscured by a tree. Witness 4 heard a gunshot followed by a second gunshot approximately five seconds later. Witness 4 stated that he could not see where the gunshots were coming from.

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The related **Department Reports** stated that Subject 1 pushed [Domestic Violence Victim] while displaying a gun at XXXX N. Harding. Officers arrived on the scene and were approached by [Domestic Violence Victim], who stated that her boyfriend (Subject 1) was in front of the building with a gun. The officers approached and repeatedly ordered Subject 1 to drop his gun but he refused. Subject 1 then pointed his gun at Officers A and D. In fear for his safety and the safety of others on the scene, Officers A fired his M4-Carbine weapon three times, striking Subject 1 in his right calf. Subject 1 dropped to the ground a blue steel, semi-automatic handgun. Subject 1 was placed into custody and transported to Illinois Masonic Hospital for treatment. Subject 1 was subsequently charged with two counts of Aggravated Assault to a PO with a Firearm, one count of Domestic Battery, and for a Warrant.<sup>7</sup> Subject 1's firearm, a Hi-Point Model C, 9mm semi-automatic pistol, was recovered with one live cartridge in the chamber and five live cartridges in the magazine.

The **Office of Emergency Management and Communication ("OEMC")** documented that on 22 September 2009, at 1851 hours, [Domestic Violence Victim] telephoned 911 and reported that her boyfriend, Subject 1, hit her and that he has a gun. [Domestic Violence Victim] also stated that Subject 1 threatened to shoot the police if they come in the house.

At 1856 hours, Beat 2562E radioed OEMC that they had a visual of Subject 1 on the front porch of XXXX N. Harding and that he was holding a weapon in his hand. At 1900 hours, as additional police units began to arrive at the location of incident, Beat 2562E warned the other units, via radio, to back off because Subject 1 was raising his gun. At 1903 hours, it was reported that Subject 1 had been shot in the leg, taken into custody, and that EMS was requested.

**Evidence Technician Photographs** of Subject 1 depict him lying on what appears to be a hospital gurney with a blood-stained bandage on his right leg. The photographs also depicted the location of incident, and a dark-colored, semi-automatic handgun on the sidewalk in front of the front porch at XXXX N. Harding.

The **Chicago Fire Department's Ambulance Report** documented that on 22 September 2009, at approximately 1906, CFD Ambulance #48 was dispatched to Pulaski and Altgeld regarding a gunshot victim. Ambulance #48 arrived at 1915 hours and treated Subject 1 for a gunshot wound to his right leg. At 1931 hours, Ambulance #48 departed the scene and transported Subject 1 to Illinois Masonic Hospital.

**Medical Records** obtained from Illinois Masonic Hospital stated that Subject 1 was admitted into the emergency room with a gunshot wound to his lower right leg. Subject 1's gunshot wound was surgically treated. Subject 1 was released in good condition into the custody of Cook County Corrections. The gunshot wound subsequently healed without signs of infection.

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<sup>7</sup> Subject 1 pled guilty to felony Aggravated Assault of an Officer with a Firearm on 16 NOV 2009.

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A **canvass** of the location of incident did not produce any additional witnesses or information.<sup>8</sup>

A report from the **Illinois State Police (ISP) Division of Forensic Services** dated 13 October 2009, indicated that the rifle belonging to Officers A was test fired and found to be in firing condition. The ISP report also indicates that the three recovered expended casings submitted for comparison were fired from Officers A's rifle.

A report from the **ISP Report** dated 22 April 2010 indicated that Subject 1's firearm was examined and found to be in firing condition. Subject 1's firearm was loaded with six 9mm live cartridges.

A report from the **ISP Report** dated 16 March 2010, indicated that examination of Subject 1's firearm revealed no latent impressions suitable for comparison.

In separate statements to the Roundtable Panel and the IPRA, **Officer A** stated that on the day of the incident he was working with Officers D, G, and H. Officers A stated that they monitored a radio call of a man with a gun and heard officers on the scene request a long gun. When Officers A arrived he saw officers on the northeast and southeast corners of Harding and Altgeld. Officers A stated that other officers told them to get out of the way. Officers A stated that they parked their car on Harding, north of Altgeld. Officers A exited the squad car and retrieved his rifle from the trunk. Officers A then approached an officer standing on the southeast corner who pointed to Subject 1. Officers A stated that Subject 1 was sitting on the ground across the street. Officers A looked back at the other officers to confirm that Subject 1 was the man with a gun. When Officers A looked back at Subject 1, he saw Subject 1 waving a chrome handgun. Officers were telling citizens to clear the area and go inside. Officers A and other officers yelled "drop the gun" repeatedly. Subject 1 continued to wave his handgun and pointed in Officers A's direction. Officers A discharged his rifle twice at Subject 1 before it jammed. Officers A was able to clear the jam and then saw Subject 1 pointing his handgun at other officers. Officers A discharged another round at Subject 1. Subject 1 threw his gun into the air and slumped to the ground. Officers A and the other officers approached Subject 1. Officers A saw the chrome handgun on the ground two to three feet from Subject 1. Subject 1 was placed into custody and Officers A heard one of the other officers radio for an ambulance.

In a statement to CPD Detective 2 on 22 September 2009, and the IPRA **Officer B** stated that he and his partner, Officer C, responded to the call of a person with a gun. When they arrived they met with [Domestic Violence Victim] who pointed out the offender (NKA Subject 1) and reported that Subject 1 was armed with a handgun. [Domestic Violence Victim] also informed Officers B and C that Subject 1 was threatening to kill the police. Officer B positioned himself on the southeast corner of Harding and Altgeld where he saw Subject 1 on the front porch of XXXX N. Harding with

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<sup>8</sup> Additional witnesses who heard the shots fired were identified in a CPD Supplemental Report; due to the totality of the circumstances, IPRA decided to not seek additional statements from them.



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a chrome-colored semiautomatic handgun. Officer B radioed dispatch and requested an officer with a long gun (rifle). Officer B explained that he requested an officer with a rifle because of the tactical advantage the rifle provided. Officer B stated that he repeatedly ordered Subject 1 to drop his gun, but Subject 1 failed to comply, and instead continued to wave and point the gun. Additional officers arrived and Officer B provided them with Subject 1's description, location, and the fact that he was armed with a handgun. Officer B stated that Subject 1 pointed his gun at Officers A and D, and in return Officers A discharged his rifle twice at Subject 1. After the second discharge Officers A's rifle jammed. Officers A was able to clear the jam and discharged the rifle a third time at Subject 1, who was still pointing his handgun at Officers A and D. Officer B stated that he saw Subject 1's gun fly into the air and heard it hit the ground. Officer B approached Subject 1, placed him into custody, and immediately radioed for an ambulance. Officer B stated that Subject 1's gun was on the ground approximately two to three feet from where Subject 1 fell. Officer B stated that Subject 1 sustained a gunshot wound to one of his legs.

In a statement to IPRA on 24 April 2013, **Officer C** stated that when they arrived at the location of incident they were met by [Domestic Violence Victim]. [Domestic Violence Victim] told Officers B and C that Subject 1 was on the front porch and that he had a gun. Officer B remained with [Domestic Violence Victim] while Officer C walked toward the front porch. Officer C saw Subject 1 standing on the front porch. Officer C stated that he was standing across the street from Subject 1's home when he saw him holding a gun in his hand. Officer C stated that he took cover behind a tree across the street from Subject 1. Subject 1 then walked toward the front gate while still holding the gun in his hand. Officer C stated that Subject 1 began to point his gun and yell at the officers and other citizens on the street. Officer C saw a woman in a mini-van with three small children parked in front of a nearby home. Officer C helped the woman get her children into her home and then took cover behind the same tree across the street from Subject 1. Officer C radioed other responding units to not approach on Harding because Subject 1 had a gun. Subject 1's attention was drawn to the other officers at the end of the block and Officer C was able to run to the corner of Harding and Altgeld and take cover behind a building. From the corner of that building Officer C watched as Subject 1 continued to yell and point his gun at the officers. Subject 1 was repeatedly ordered to put his gun down and show his hands, but instead he approached the wrought-iron front gate and continued to point it at the officers. Officers A, who had retrieved his rifle from their squad car, discharged his rifle once at Subject 1 from a kneeling position. Officer C stated that he believed he heard the first round Officers A fired strike the wrought-iron gate. Officers A then fired a second time and his rifle jammed. Officers A cleared the jam and fired at third time and struck Subject 1, who fell to the ground. Several officers rushed to Subject 1 and secured him and his gun, which was on the ground. Officer C stated that Subject 1 had been shot in the leg, but he could not recall which leg. The scene was secured and an ambulance was immediately requested.

In a statement to IPRA, **Officer E** stated that she and her partner, Officer F, responded to the man with a gun call. Once they arrived they positioned themselves in the alley several houses from XXXX N. Harding. Officer E stated that she did not see the shooting, or what transpired between Subject 1 and the officers before he was shot. Officer E stated that she only heard the gunshots.

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In separate statements to the Roundtable Panel and the IPRA, **Officer D** stated that he was working with Officer A when they monitored a radio call from a tactical unit, NKA Officers B and C, requesting assistance and a long gun because of a person, NKA Subject 1, sitting on a porch with a gun. Officers A and D responded because Officers A is authorized to use a rifle and they thought they could provide assistance. When they arrived they spoke to tactical officers who pointed to Subject 1 and explained that Subject 1 threatened to kill police officers. Officer D stated that he saw Subject 1 holding a chrome semi-automatic handgun. Officer D stated that he repeatedly ordered Subject 1 to put his gun down and to show his hands. Officer D positioned himself at southeast corner of Harding and Altgeld and took cover behind a vehicle while Officers A took cover behind a building at that same corner. Officer D saw Subject 1 continue to wave his handgun around as officers repeatedly announced their office and ordered him to show his hands. Subject 1 pointed his handgun in Officers A's direction. Officers A then fired twice. Officers A's rifle jammed, but he was able to clear it. Subject 1 still held the handgun and Officers A fired a third time. Officer D stated that he saw Subject 1's gun fly in the air and Subject 1 fell. Subject 1 was then placed into custody. Officer D stated that Subject 1's gun was one to three feet from him.

In a statement to IPRA on 23 May 2013, **Officer F** stated that on the day of the incident he and his partner, Officer E, responded to the call of man with a gun at the location of incident. Officer F stated that when they arrived they had to park nearly a block away because numerous other police vehicles blocked the street. Officer F stated that when he and Officer E exited their squad car he immediately heard another officer yell, "He's on the porch! He has a gun! Take cover!"<sup>9</sup> Officer F stated that although he saw Subject 1 in the front of his building, he did not see Subject 1 holding a gun. Because there were numerous officers in the front of the building, Officers E and F ran through the alley to the rear of the building. Officer F stated that he scaled the back fence and entered the backyard of the building next door to Subject 1's building. Officer F stated that he ran up the back stairs of the building with the intention of obtaining a better vantage point. As Officer F ran up the stairs he heard a loud pop or bang. Officer F continued running up the stairs and heard a second pop. When he reached the third floor he heard someone on the police radio say, "He's down."<sup>10</sup> Officer F stated that he then proceeded down the stairs and to the front of the building. Officer F stated that he never approached Subject 1, and never saw him with a gun.

In a statement to CPD Detective 2 on 22 September 2009, **Officer G**<sup>11</sup> stated that he and his partners, Officers A, D, and H, responded to a man with a gun call and the request for a long gun. When they arrived they spoke with plainclothes officers who informed them that Subject 1 was armed with a handgun and was threatening to kill the police. Officer G took cover behind a parked vehicle on the northeast corner of Harding and Altgeld. Officer G saw Subject 1 on the front porch waving a chrome semi-automatic handgun. Officer G stated he ordered Subject 1 to drop his gun, but Subject 1 refused to do so. Officer G relocated to the southeast corner and saw Subject 1 point his handgun at Officers A and D. Officer G stated that Officers A fired his rifle twice at Subject 1

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9 Transcript of Officer F, P. 7, Lines 13-14.

10 *Id.* at P. 11, Line 11.

11 Based on the totality of the circumstances IPRA decided not to seek additional statements from Officers G and H.

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before it jammed. Subject 1 continued to point his handgun at the officers. Officers A was able to clear the jam and fire once more at Subject 1. Officer G saw Subject 1's handgun fly into the air and heard it when it landed on the ground. Subject 1 was then taken into custody and an ambulance was immediately requested. Officer G stated that he saw Subject 1's handgun on the ground lying approximately three feet from him.

In a statement to CPD Detective 2 on 22 September 2009, **Officer H** stated that he and his partners, Officers A, D, and G, responded to a man with a gun call and the request for a long gun. When they arrived they spoke with plainclothes officers who informed them that Subject 1 was armed with a handgun and was threatening to kill the police. Officer H stated that he took cover behind a parked vehicle on the northeast corner. Officer H stated that he ordered Subject 1 to put his gun down, but Subject 1 refused to comply. Officer H stated that he heard two gunshots, a pause, and then a third gunshot. Officer H stated that they approached Subject 1 and placed him into custody. Officer H stated that he saw Subject 1's handgun on the ground lying approximately three feet from him.

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**CONCLUSION AND FINDING:**

This investigation found that Officers A's use of deadly force was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, III.:

- A. "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 involved the infliction, threatened infliction, or threatened use of physical force like to cause death or great bodily harm;
    - b. attempted to escape by use of a deadly weapon or;
    - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

Officers A's actions met the requirements of the Department's deadly force policy. Officers A provided separate and consistent accounts of the incident, that Subject 1 pointed a semi-automatic handgun at several officers who responded to the domestic disturbance he was involved in with his girlfriend [Domestic Violence Victim]. Fearing for his safety, and the safety of the other officers and citizens on the street, Officers A discharged his rifle at Subject 1.

Officers A's account that Subject 1 had a handgun is corroborated Subject 1's girlfriend [Domestic Violence Victim], and his neighbor Witness 1. [Domestic Violence Victim] called 911 to report that Subject 1 had a gun and was threatening to shoot the police when they arrived. Witness 1 stated that Subject 1 showed him the gun and held it in his hand when the police arrived. Furthermore, independent witnesses Witness 2 and Witness 4 separately stated that they witnessed Subject 1 holding a handgun in his hand during the incident.

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Witness officers, and involved officer Officers A, provided consistent and corroborative accounts of the incident, that Subject 1 was armed with a semi-automatic handgun, refused to comply with the officers' orders to drop the gun, and instead repeatedly pointed it at them.

The gun, a semi-automatic pistol, was recovered from the ground near where Subject 1 fell after being shot.