

INVESTIGATION

NUMBER: Log #1042469 / U # 11-02

INVOLVED

OFFICER #1: “Officer A” (Chicago Police Officer); Male/White; 38 years old; On-Duty; Full Uniform; Year of Appointment – 2006

OFFICER #1’S INJURIES: Minor Injury to the right knee

SUBJECT: #1 “Subject 1”; Male/Black; 15 years old

SUBJECT’S INJURIES: Gun shot wound to the right leg and left calf.

SUBJECT #2 “Subject 2”; Male/Black; 15 years old

SUBJECT’S INJURIES: Gun shot wound to the right scapula and the left hand.

SUBJECT #3 “Subject 3”; Male/Black; 15 years old

SUBJECT’S Gun shot wound to the right leg and left calf.

LOCATION: 4435 West Roosevelt Rd

DATE/TIME: 04 Jan 2011, 2245 hours

TIME OF IPRA NOTIFICATION: 0232 hours

INTRODUCTION:

On 04 January 2011, at approximately 2254 hours, Officer A and his partner Officer B were patrolling in a marked police vehicle after having received information about a Chevrolet Malibu whose occupants were allegedly selling narcotics and were in possession of a firearm. A short time later, Officer A observed a car matching the description of the suspect vehicle driving in reverse in an alley without illuminated headlights. Officer B, who was driving the squad car, pursued the vehicle. When the squad car entered the alley, the Chevrolet Malibu fled at a high rate of speed. Officer B activated the emergency equipment in an attempt to stop the Chevrolet Malibu and a chase ensued. Eventually, Officers A and B were able to stop the Gold Malibu by driving around in front of it to block its path forward. At the same time, Officer C and Officer D, who had been following behind in another squad car, pulled up behind the Chevrolet Malibu and blocked its path. Officer A got out of the squad car and approached the Gold Malibu. The driver of the Chevrolet Malibu backed the car into Officer C and D's police vehicle and then drove forward. The driver ignored verbal commands to stop and drove the car forward, striking Officer A and the rear of his squad car. According to Officer A, Subject 3, who was a passenger in the rear of the Gold Malibu, pointed a silver colored handgun at Officer A who fired his weapon several times at in response as the Chevrolet Malibu fled the scene. The officers pursued the car until it crashed at Fifth and Tripp Avenues. The officers recovered a chrome lighter that was designed in the shape of a semi-automatic pistol.

Allegations:

On 04 January 2011, at 2254 hours, Deputy Chief A, contacted the Independent Police Review Authority and reported that on 04 January 2011, at 2135 hours, in the vicinity of 4335 West Roosevelt Road, **Officer A**, discharged his weapon at Subject 3 striking him several times.

On 27 May 2014, IPRA Investigator 1 alleged that on 04 January 2011, at 2254 hours, in the vicinity of 4335 West Roosevelt Road, the accused **Officer A**:

1. used deadly force against Subject 3, Subject 2, Subject 4 and Subject 1 without justification, in violation of Rule 2, and General Order G03-02-03; and
2. that he discharged his weapon into a moving vehicle without justification, in violation of Rule 38.

APPLICABLE RULES AND LAW

Rule 2: Prohibits any action, conduct which impedes the Department's efforts to achieve its policy and goals, or brings discredit upon the Department.

Rule 38: Prohibits the unlawful or unnecessary use or display of a weapon.

General Order G03-02-03: Defines the situations in which the use of deadly force is permitted.

INVESTIGATION:

According to the **General Case Report (HT105623, dated 04 January 2011 and the Case Supplementary Report (HT105623, dated 15 July 2011)** , on 04 January 2011, at approximately 2254 hours, Officer A was working in full uniform, in a marked vehicle, assigned to Beat 4485A, Unit 153, with his partner, Officer B. Officer A was the passenger in the vehicle. Officer C and Officer D were driving behind Officer A and Officer B working Beat 4485B, in a marked vehicle. The officers were assigned to patrol the 010th District. Prior to going out on patrol, Officer A stated that Officer C told him and his partner that he had information regarding a Tan or Gold Chevrolet Malibu from the area of 13th Street and Kildare Avenue that four male blacks were selling drugs from the vehicle, and there was a gun in the air bag of the vehicle.

According to the reports, as Officer B drove eastbound on 13th Street, Officer Walker observed a gold Chevrolet Malibu in the south alley of Roosevelt Road, driving in reverse with no lights. When Officer A and Officer B entered the alley, the Chevrolet Malibu fled from them at a high rate of speed. Officer B activated the emergency equipment in an attempt to stop the Chevrolet Malibu.

The Chevrolet Malibu turned northbound onto Kolin Avenue and then made a right turn onto eastbound Roosevelt Road. Officer B drove around to the driver's side of the Chevrolet Malibu and stopped to block its path. Officer C and Officer D pulled behind the Chevrolet Malibu. Officer A exited his vehicle, and stood at the rear of his police vehicle on the passenger side. The driver of the Chevrolet Malibu backed the car into Officer C and D's police vehicle and then drove forward. Officer A, who was still positioned at the rear passenger side of his police vehicle, drew his weapon and yelled, "Stop police!" The Chevrolet Malibu continued forward, striking Officer A's right knee and the rear bumper of his police vehicle. Simultaneously, according to Officer A, the rear passenger, now identified as Subject 3, pointed a silver colored handgun at Officer A. Officer A fired his weapon several times at Subject 3 as the Chevrolet Malibu fled the scene. The officers pursued the Malibu until it crashed at Fifth and Tripp Avenues. Officers B, C and D searched Subject 3 and Subject 2, who were wounded and remained inside the Chevrolet Malibu. Officer A positively identified Subject 3 as the offender that pointed a silver handgun at him.

According to the reports, Officers B, C and D provided accounts similar to that given by Officer A. According to Officer B, as he was exiting his vehicle, he observed

the Chevrolet Malibu accelerate in the direction of Officer A, who tried to jump out of the vehicle's path. The Chevrolet Malibu struck Officer A and the rear passenger side of Officer B's police vehicle. As Officer B got back into his vehicle, he heard several gunshots. The Chevrolet Malibu continued westbound onto Roosevelt Road and eventually crashed at Fifth and Tripp Avenues. The driver of the Malibu, identified as Subject 1, got out and fled on foot [give direction] Officer B chased Subject 1, on foot and apprehended him. While on the scene, Officer B heard that officers recovered a weapon from the Chevrolet Malibu.

Officer C stated that he was the passenger in the vehicle driven by Officer D. Officer C and Officer D were behind the vehicle driven by Officer B. Officer C stated he received information from an anonymous citizen who told him there was a tan or gold Chevrolet Malibu from 13th Street and Kildare Avenue that contained four Black males. According to the anonymous citizen, the men were selling drugs from the vehicle and possessed a gun in the air bag compartment.

Officer C and Officer D were driving behind Officer B and Officer A eastbound on 13th Street. Officer B reported over the police radio that he saw a Malibu in the south alley of Roosevelt Road that he believed was the subject of the earlier report. Officer B followed the Chevrolet Malibu, while Officer D followed behind Officer B. Officer B drove around the Chevrolet Malibu and curbed the vehicle at Kolin Avenue. Officer D stopped his vehicle behind the Chevrolet Malibu. The Chevrolet Malibu drove in reverse, striking Officer D's vehicle. Officer C then observed the Chevrolet Malibu accelerate forward, strike Officer A, who tried to jump out of the path of vehicle, then struck Officer A's vehicle. Officer A then fired at the rear passenger occupant. Officer D and Officer C pursued the Chevrolet Malibu, which struck their police vehicle on the passenger side twice before reaching Kostner Avenue. The Chevrolet Malibu crashed into a fence at Tripp and Fifth Avenues. The occupants of the vehicle exited and fled on foot. Officer C chased one subject, now identified as Subject 4, on foot while Officer D pursued using the police vehicle. The officers apprehended Subject 4 and returned to the scene at Fifth and Tripp Avenues. At the scene, CPD Sgt 1¹ handed Officer C what appeared to be a small, silver semi-automatic. Officer C found it to be a replica of a gun and placed it in his pocket until he was instructed by CPD Lieutenant 2 to turn it over to Crime Laboratory personnel.

Officer D's account of the events was similar to that of his partner, Officer C. Officer D stated that as he attempted to exit his vehicle at Kolin Avenue and Roosevelt Road, the Chevrolet Malibu backed into his vehicle. The Chevrolet Malibu then drove forward at Officer A, striking him and his vehicle as Officer A attempted to get out of the path of the vehicle. Officer D observed Officer A discharge his weapon in the direction of the rear passenger seated in the Chevrolet Malibu.

CPD Lieutenant 1 stated he arrived at Fifth and Tripp Avenues and observed officers secure and handcuff Subject 2 and Subject 3. CPD Lieutenant 1 observed an

¹ CPD Sgt 1 is now a Lieutenant and will be referred to by his current rank throughout this Summary Report.

officer search Subject 3 and recover what appeared to be a small silver semi-automatic handgun from Subject 3's waistband. That officer handed the item, which turned out to be a lighter in the shape of a pistol, to CPD Lieutenant 1, who in turn gave it to Officer C to secure.

The Detective Supplementary Report documents that Subject 1 (aka Nickname) told detectives that he obtained the Chevrolet Malibu from a "hype" for three rocks.² Subject 1 told detectives that Subject 3, whom Subject 1 referred to by the nickname "Nickname", had a chrome lighter shaped like a gun that was used when they smoked weed (marijuana). Subject 1 acknowledged that, when the police vehicle blocked their path, Subject 1 drove toward the officer and then to the left, striking the police vehicle. As he was driving towards the police vehicle, the officer fired at them.

The subject, Subject 4 told detectives that he was in the rear passenger seat behind the driver of the Chevrolet Malibu when a police vehicle pulled up behind the vehicle. Subject 1, whom Subject 4 referred to by the nickname "Nickname," continued to drive. A police vehicle cut them off at Roosevelt Road and Kolin Avenue. Subject 1 placed the vehicle in reverse and struck something. An officer stood in front of the Chevrolet Malibu and Subject 1 accelerated forward towards the officer who jumped to the side. The Chevrolet Malibu struck a police vehicle and Subject 4 heard shots fired.

The Detective's Supplementary Report documents that Subject 3 told the detectives that, when Subject 1 ran into the rear of the police vehicle, an officer at the side of the Chevrolet Malibu shot him and the passenger in the front (Subject 2). Subject 3 told the detectives that he had a lighter in the shape of a gun on his lap.

Doctors informed the detectives that Subject 2 was in surgery and could not be interviewed.

A detective contacted the registered owner of the Chevrolet Malibu, [Vehicle Owner]. [Vehicle Owner] stated that she left the vehicle with her boyfriend, [Vehicle Owner's Boyfriend], who had possibly given the vehicle away for drugs.

Subject 1 (age 15) and Subject 3 (age 15) were referred to Cook County Juvenile Court. Subject 2 and Subject 4 were not charged.

The **Arrest Reports# 18049717, dated, 04 January 2011** of Subject 1 and Subject 3 documents essentially the same information as provided in the General Offense Case and Supplementary reports. Subject 3 was charged with Aggravated Battery to a Peace Officer and Resisting Arrest. Subject 1 was charged with four counts of Aggravated Battery to a peace Officer and various traffic violations.³

According to the **Tactical Response Reports** submitted by Officers A, B, C and D document, Subject 1 failed to follow verbal commands, fled, and utilized a vehicle as a

² The vehicle had been obtained from a drug user for three rocks of crack cocaine.

³ Negligent Driving; headlights Taillights required and no driver's license.

weapon against the police. The officers responded with their presence. Officer A added that he observed a handgun in the vehicle and responded with verbal commands, and the use of his firearm. Officer A discharged five rounds from his weapon.

Officer Battery and Injury on Duty Witness Reports submitted by Officers A, B, C and D document that the officers were injured during a gang-related traffic stop. The officers were struck in and out of their vehicles by the subject's vehicle and sustained minor injuries. A replica gun was pointed at Officer A.

In an **audio-recorded interview** taken on 11 December 2013, at Cook County Jail, the **witness Subject 1** stated that on 04 January 2011, at approximately 2130 hours, he and three friends; Subject 4, Subject 2 and Subject 3, were in a Chevrolet Malibu they rented from a "hype."⁴ Subject 1 was driving in the vicinity of Kolin Avenue and Roosevelt Road when he noticed a police vehicle behind him with its emergency lights and siren activated, and a second police vehicle, also with its lights and siren activated, in front of him blocking his vehicle. Officer A and Officer B then exited their vehicles with their weapons drawn. The officers yelled for everyone in the vehicle to put their hands up. According to Subject 1, his passengers yelled at him "Go, go, go!" Subject 1 then drove toward the police vehicle stopped in front of him. Suddenly, the officers discharged their weapons. Subject 1 stated that he did not know which officer discharged a weapon, but he believed that shots came from behind him. Subject 1 slumped down and forward onto the steering wheel when he began to drive off. Subject 1 drove northbound past the police vehicles. According to Subject 1, Subject 3⁵ and Subject 2 then told him that they had been shot.⁶ As he continued to drive northbound, a third police vehicle arrived on the scene and struck Subject 1's vehicle several times on the driver's side.⁷ Subject 1 crashed at Fifth Avenue, exited the vehicle, and attempted to run away; but he tripped, fell, and officers apprehended him. Subject 1 did not observe anyone in the rear seat with an object that resembled a gun.

On 05 January 2011, IPRA investigators, while at the Chicago Police Department Area 4 Headquarters, attempted to obtain an interview from Subject 4. However, due to his age at the time (16 YOA), and with no parent present Subject 4 could not be interviewed.

On 05 January 2011, while at Area 4 Detective Division of the Chicago Police Department, detectives informed IPRA investigators that Subject 3 resided at XXX N. Kolin on the 2nd floor with a telephone number of XXX-XXX-XXXX. IPRA investigators contacted Subject 3's mother, [Mother of Subject 3], and were told the family had been advised by their attorney not to give interviews. [Mother of Subject 3] did not provide the attorney's name.

⁴ "Hype" is street terminology for a drug abuser.

⁵ Subject 3 was seated in the rear passenger seat behind the front passenger.

⁶ In his statement Subject 1 could not provide information on the direction from which the officers fired their weapons.

⁷ In his statement, Subject 1 could not provide information on the police vehicle that struck his vehicle.

On 07 January 2011, IPRA investigators attempted to locate and interview Subject 4. Detectives provided investigators with a telephone number and a last known address (XXX-XXX-XXXX, XXX West Van Buren), which was said to be associated with [Mother of Subject 4], the parent of Subject 4. Investigators attempted to contact [Mother of Subject 4] by telephone, but the telephone number was not a valid number. Investigators also made a personal visit to the address at XXX West Van Buren. Residents at that location did not know a [Subject 3's Last Name] family or a [Mother of Subject 4's Last name] family. Investigators obtained a second address from department reports and went to XXX S. Komesky Avenue, but found that Subject 4 did not live there.

On 09 May 2016, additional attempts to locate Subject 4 were unsuccessful. The last known address for Subject 4 appears to be an abandoned building with no working doorbells, no functioning mailboxes, and no name identifiers. Additional attempts to locate Subject 3 resulted in the information that he is currently incarcerated at the East Moline Correctional Center. Additional attempts to locate Subject 2 were successful. However, Subject 2 has retained the services of Attorney A. Attorney A refused to allow Subject 2 to be interviewed.

A **canvass** was conducted in the 1200 block of South Kolin Avenue. No eyewitnesses were located.

Medical records of **Subject 2** obtained from Mount Sinai Hospital document that he sustained a single gunshot wound to the upper back of his left hand, in that his middle finger was partially amputated. Doctors removed a bullet from Subject 2's thenar eminence (the palm of the hand).

Medical records from Mount Sinai Hospital of **Subject 3**, who was seated in the rear passenger side seat of Subject 1's vehicle, document that Subject 3 sustained gunshots wounds to his right knee and left calf. The radiology report regarding images of his right knee reflects there were small metallic opacities, which were probably small bullet fragments. The radiology report regarding images of Subject 3's left calf reflects a fracture of the femur, with multiple bullet fragments. Subject 3 told hospital personnel that he hit a police vehicle on purpose with his car.

The **Alcohol and Drug Testing** of Officer A documented that his blood alcohol content was .000.

Department Vehicle Traffic Crash and Damage Report document that vehicle #7273 (Beat 4485A) operated by Officer B sustained damage to the right side rear taillight. Vehicle #7961 (Beat 4485B) operated by Officer D sustained damage to the front passenger side and rear end damage.

Crime Scene Processing report documents that officers recovered five expended shell casings and a cigarette lighter in the shape of a pistol. Evidence Technicians

recovered fired one bullet from the trunk and one from the front passenger seat of the Malibu.

Evidence Technician photographs depict images of damage to Chicago Police vehicles #7961 (Beat 4485B) and #7273 (Beat 4485A) and to the Chevrolet Malibu. There are images of recovered evidence, which included shell casings, broken auto glass shards, and a small, silver pistol-shaped cigarette lighter. Additional photographs depict images of a powdery substance on the right knee of Officer A's pant leg.



-(Att #20)

Video images obtained from Sumner Math and Science Academy, located at 4320 West 5th Avenue; and the red light camera located on West Roosevelt Road and Kostner, did not capture the incident.

OEMC reports document that Beat 4485B reported that they were in pursuit of a vehicle occupied by four black males in the area. OEMC Reports also document that there were reports of shots fired in the area of 4400 West Roosevelt Road/1171 S. Kostner at approximately 2135 hours. Officers radioed the apprehension of two offenders and requested an ambulance at the scene.

Chicago Fire Department Run Sheets document that CFD personnel found Subject 3 lying on the grass at 718 South Tripp Avenue with gunshot wounds to both legs. A second report documents that an unknown black male, now identified as Subject 2, was found at the same location with gunshots to the right scapula and left hand. Chicago Fire personnel transported both subjects to Mount Sinai Hospital.

Illinois State Police (ISP) report dated 16 February 2011 documented that Inventory #12213561; five Winchester 40 Smith & Wesson fired cartridge cases recovered from the scene were all fired from Officer A's semi-automatic weapon. There were 11 unfired cartridges in the magazine and the chamber of the weapon, which had a capacity of 16 rounds. Fired bullets located in the front seat area of the Chevrolet Malibu could not be identified or eliminated as having been fired from Officer A's weapon. The report further documents that the fired bullet recovered from the trunk of the Chevrolet

Malibu could not be identified or eliminated as having been fired from Officer A's firearm.

Illinois State Police (ISP) report dated 18 December 2012, documented there were no latent fingerprint impressions suitable for comparison on the chrome replica handgun lighter.

Medical records obtained from **University of Illinois** document that Officer A informed hospital staff that a vehicle "grazed" his right knee. He complained of feeling stiffness in his neck and knee pain. Doctors diagnosed Officer A with a knee contusion and cervical strain.

In **Complaint at Law Case No: 14 L003797**, in the United States District Court for the Northern District of Illinois, the plaintiff, Subject 2, alleged in essence, that Chicago Police Officers A, B, C and D willfully and wantonly shot at and injured him.

In an **audio-recorded** interview taken on 07 January 2011, at IPRA, the **witness, Officer B**, stated he was working with Officer A, who was the passenger officer assigned to Beat 4485A. On 04 January 2011, at 2135 hours, the officers observed a tan colored Chevrolet Malibu driving in reverse in the vicinity of 13th Street and Tripp Avenue. Officer B activated their vehicle's emergency equipment and attempted to curb the vehicle, but the driver refused to pull over. At Roosevelt Road and Kolin Avenue, Officer B was able to get in front of the Chevrolet Malibu and stop his vehicle perpendicular to the Malibu. Simultaneously, Officer C and Officer D, working in Beat 4485B, stopped their vehicle behind the Chevrolet Malibu. Officer B began to exit the vehicle as Officer A exited the passenger side of the police vehicle, with his weapon drawn, announced his office, and ordered the driver of the Chevrolet Malibu to stop. The driver placed the vehicle in reverse and struck Officer C and Officer D's vehicle. Officer B observed the driver of the Chevrolet Malibu place the vehicle into gear and advance toward Officer A, who was standing between the two vehicles. Officer A jumped out of the way of the Chevrolet Malibu. Simultaneously, Officer B jumped into his police vehicle, and heard several gunshots, but he did not observe who fired the shots or where the gunshots originated. He felt the Chevrolet Malibu strike his police vehicle. Officer B put his vehicle into drive, executed a U-turn, and picked up Officer A. They along with Beat 4485B pursued the Chevrolet Malibu until it crashed. Two subjects exited the Chevrolet Malibu and fled on foot. Officer B pursued the driver, Subject 1, apprehended him and placed him into custody. Officer A secured the passengers inside the Chevrolet Malibu. Officer B did not observe a weapon at the scene and had no knowledge of an officer having recovered the pistol-shaped cigarette lighter.

In an **audio-recorded interview** taken on 04 January 2011, at IPRA, **witness, Officer D, #15304**, stated essentially the same information as documented in the General Offense Case and Supplemental Reports. Officer D observed Officer A exit his vehicle, announce his office and order the driver of the Chevrolet Malibu to stop. He observed the Chevrolet Malibu accelerate forward, strike Officer A on the right leg, and strike the front end of police vehicle, Beat 4485A. Officer D did not recall if Officer A lost his balance.

He observed Officer A discharge his weapon three times at the Chevrolet Malibu. Officer D did not observe anyone in the Chevrolet Malibu display a gun. The Chevrolet Malibu fled the area and the officers gave chase. During the vehicle pursuit, the Chevrolet Malibu struck vehicles in the area and crashed into a chain link fence. The occupants exited the vehicle and fled on foot. Officer D pursued one subject in the police vehicle while Officer C pursued another subject on foot. Officer C subsequently handcuffed the subject that he pursued. Officer D learned later that two subjects in the Chevrolet Malibu had been shot. He also learned that officers recovered a replica of a pistol from the scene.

In an **audio-recorded interview** taken on 05 January 2011, at IPRA, witness, **Officer C**, stated essentially the same information as reported in the General Offense Case and Supplemental Reports.

In an **audio-recorded interview** taken on 27 January 2011, at IPRA, **witness, CPD Lieutenant 1**, stated essentially the same information as reported in submitted General Offense Case and Supplemental Reports.

In an **audio-recorded interview** taken on 06 January 2011, and a subsequent interview on 21 May 2014, at IPRA, **Officer A**, stated essentially the same information as reported in submitted General Offense Case and Supplemental Reports.

Officer A further stated, “The car was coming fast at me at the moment and I was trying to back peddle and try to get out of the way as I was shooting at the driver to eliminate the threat of being struck by the vehicle. . So as soon as I was back peddling and I was shooting to eliminate the threat, it brushed my knee and it probably, since it was coming so fast, my shots....It was all in a matter of milliseconds.”⁸ ... So the shots fired would have been more on an angle. And I also observed the guy with the gun and I continued shooting.”⁹

In **court depositions** taken on 30 April 2014, at 30 North LaSalle, Officer B, Officer D and Officer A, provided consistent accounts of the incident as documented in their formal IPRA statements and Chicago Police Department interviews.

⁸ Att # 86, Page 21, line 3-5,10-14,23-23

⁹ Att # 86, Page 21, line 22, 23, Att #86, line 1.

Conclusion:

The reporting investigator recommends that **Allegation #1**, that **Officer A**, disobeyed the Chicago Police Department's policy of Deadly Force without justification be EXONERATED. Based on the totality of the facts and circumstances, the R/I finds that an officer with similar training and experience as Officer A would reasonably believe that Subject 3 posed an immediate threat to his or her safety. The R/I finds that the use of deadly force by **Officer A** is, therefore, objectively reasonable and **Within Policy** as outlined by the Use of Force Model; the Illinois State statute; and the Chicago Police Department's General Order 03-02-03, III, which states:

- 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 involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay."
- B. Firing at or into a moving vehicle is authorized to prevent death or bodily harm to the sworn member or another person. When confronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle's path.

Officer A's actions were in accordance with the CPD directive regarding the use of deadly force. Officer A faced imminent risk of great bodily harm or death when Subject 1 drove the car in his direction. According to Officer A, he began firing at the vehicle driven by Subject 1 after Subject 1 backed the vehicle into the squad car to the rear, then drove forward to Officer A. The department's Deadly Force policy, as outlined in G03-02-03, in effect at the time of the incident, provided that firing at or into a moving vehicle was "only authorized to prevent death or great bodily harm to the sworn member

or another person.” Additionally, the police required that “when fronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle’s path.” Considering the totality of circumstances here, Officer A reasonably believed that he was threatened with death or great bodily harm when the car came at him. First, the circumstances suggest that Subject 1 and his passengers were intent on defeating arrest by the officers. Subject 1 drove in a reckless manner in an effort to prevent being stopped by the police. Then, once the police blocked the path of the vehicle in front and behind, Subject 1 still backed the car into one squad car, then drove forward in the direction of Officer A. It is undisputed that Subject 1 was intent on defeating the police stop. In his statement to IPRA, Subject 1 stated that, when the police vehicles blocked his vehicle in front and back, and the officers exited with their weapons drawn, the passengers in his car yelled at him, “Go, go, go” and he drove forward in an attempt to defeat apprehension. This is consistent with Officer A’s belief that the manner in which the car was being driven at him placed him in imminent risk of physical harm. Moreover, the fact that Officer A was actually struck by Subject 1’s vehicle shows that Officer A did not have sufficient time to move out of the vehicle’s path to protect himself. Further, Officer A stated he made efforts to remove himself from the path of the car. Under these circumstances, there was no time to consider other tactical options because, when Officer A discharged his weapon, the car was traveling at a high rate of speed in a reckless manner. Therefore, Officer A’s discharge of his firearm at the vehicle as it was moving in his direction at high speed was reasonable under the circumstances.

The evidence shows that Officer A continued to fire his weapon as the vehicle traveled in front of him and past him. Based on a totality of circumstances, Officer A’s discharge of his firearm at the moving vehicle as it proceeded past him was also reasonable under the circumstances. The evidence suggests that Officer A observed Subject 3, who was sitting in a rear passenger seat, with what Officer A reasonably believed to be a pistol at him. It is undisputed that Subject 3 possessed a gun-shaped cigarette lighter that any officer with Officer A’s training and experience would reasonably believe to be a firearm. In his statement to Chicago Police Detectives, although Subject 3 denied pointing the gun-shaped lighter at Officer A, he did not deny that he possessed the item. A photo of the gun-shaped cigarette lighter shows that the item looked very much like a real firearm. Although the incident took place during the evening hours, the windows of the car were clear glass and it is possible, if not likely, that, with normal street lighting the gun-shaped cigarette lighter was visible to the Officer from outside the car, particularly if the item was pointed in his direction as his account suggests. There is no sufficient basis to discredit Officer A’s statement about what he saw.

Based on the circumstances, Officer A was justified in firing his weapon at the car driven by Subject 1 when it came at him and justified in continuing to fire his weapon after he observed Subject 3 wielding the gun-shaped lighter as the car drove past Officer A.