

INDEPENDENT POLICE REVIEW AUTHORITY
LOG# 1045950/U#11-29

INVESTIGATION

NUMBER: Log #1045950/U #11-29

INVOLVED

OFFICER #1: “Officer A” (Chicago Police Officer); Male/White; 38 years old;
On-Duty; Full Uniform; Year of Appointment – 2002

OFFICER #1’s

INJURIES: None reported.

SUBJECT: “Subject 1”; Male/Black; 29 years old

SUBJECT’S

INJURIES: Multiple gunshot wounds; shot seven (7) total times; fatal.

SUBJECT’S

WEAPON: None

LOCATION: 6230 S. Wolcott Ave, Chicago, Illinois

DATE/TIME: 7 June 2011, 0142 hours

TIME OF IPRA

NOTIFICATION: 0239 hours

TIME OF IPRA

RESPONSE: Approximately 0330 hours

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INTRODUCTION:

On 07 June 2011, at approximately 0142 hours, Officer A, and his partner, Officer B, Unit 007, Beat 714R, responded to a Domestic Disturbance inside a residence at XXXX S. Honore Street. [Girlfriend of Subject 1] was being battered by her daughter's father, Subject 1. Subject 1 fled from the residence upon their arrival. Officer A gave chase on foot while Officer B gave chase in the squad car. During the foot pursuit, Subject 1 turned toward Officer A and pointed what Officer A believed was a handgun at him. In fear for his life, Officer A fired his service weapon at Subject 1. Subject 1 died as a result of the gunshot wounds he sustained. It was later discovered that Subject 1 did not have a firearm and that the object Officer A may have seen was a cell phone.

ALLEGATIONS:

On 07 June 2011, at approximately 0605 hours, IPRA Investigator A registered a complaint with the Independent Police Review Authority (IPRA) on behalf of CPD Assistant Deputy Superintendent A. It is alleged that on 07 June 2011, at approximately 0148 hours, at 6230 S. Wolcott Avenue, on the street, **the accused, Officer A, Unit 007:** 1) violated Department policy regarding the use of deadly force in that he shot the subject, Subject 1, without justification, in violation of Chicago Police Department General Order 03-02-03.

INVESTIGATION:

The evidence is summarized as follows:

The facts of the underlying 911 call resulting in a police response was documented by officers not involved in the discharge of a firearm. The **Original Case Report, RD#HT-334550, Battery – Aggravated of a Child**, prepared by Officer C and Officer D, documents that they responded to a Domestic Battery in progress at XXXX S. Honore Street at 0149 hours. Officers C and D knocked on the door and [Girlfriend of Subject 1] answered. [Girlfriend of Subject 1] informed Officers C and D that she and her boyfriend, Subject 1, became engaged in an altercation because Subject 1 left their children home alone to go drink with his friends. During the altercation, Subject 1 repeatedly struck [Girlfriend of Subject 1] about the head, face and body with his closed hands and repeatedly kicked her, causing bruising about the eyes and mouth, several loose teeth and the loss of consciousness. Subject 1 also kicked and punched their three year old daughter, [Daughter], causing minor swelling to her head. [Girlfriend of Subject 1] and [Daughter] were transported to Holy Cross Hospital for medical treatment.

During an **audio recorded interview with IPRA Investigator B on 8 June 2011**, [Girlfriend of Subject 1] reiterated the information that was documented in the related Case Report and stated that she and Subject 1 were fighting near the front door, inside the residence. She was holding [Daughter] in her arms. Subject 1 struck [Daughter] while attempting to strike [Girlfriend of Subject 1]. Subject 1 pushed the children out of the way, ran toward the rear of the residence, ran back toward the front of the residence, and

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then ran outside. Subject 1 ran inside and outside the residence a second time. When Subject 1 ran inside the residence a third time, [Girlfriend of Subject 1] was on the phone with the police, requesting assistance, stating that Subject 1 was trying to kill her. Subject 1 “snatched” the phone away from [Girlfriend of Subject 1], threw it and ran from the residence a third time. [Girlfriend of Subject 1] lost consciousness and as she was regaining consciousness, [Girlfriend of Subject 1] heard several gunshots. Assuming “it was just regular gunshots,” [Girlfriend of Subject 1] instructed her children to lay on the floor. Police and ambulance personnel arrived. [Girlfriend of Subject 1] and [Daughter] were transported to the hospital where [Girlfriend of Subject 1] learned that Subject 1 was shot and killed by the police. [Girlfriend of Subject 1] stated Subject 1 was in possession of both his and her cell phone when he left the residence.¹

The **Chicago Fire Department (CFD) Ambulance Report** documents that [Girlfriend of Subject 1] was found at approximately 0150 hours sitting on the floor of a residence located at XXXX S. Honore Street with a complaint of facial pain as a result of being kicked and punched by her “baby’s daddy.”

The **medical records from Holy Cross Hospital** document that [Girlfriend of Subject 1] entered the triage on 07 June 2011, at approximately 0233 hours, accompanied by police and ambulance personnel. [Girlfriend of Subject 1] informed the medical personnel that she and her daughter, [Daughter], were the victims of Domestic Battery in that Subject 1 repeatedly kicked and punched her about the body, causing her to lose consciousness, and that Subject 1 repeatedly pushed [Daughter] to the floor and struck [Daughter] about the head. [Girlfriend of Subject 1] was diagnosed with facial contusions and a closed head injury. [Daughter] was diagnosed with a closed head injury.

The **Office of Emergency Management Communications (OEMC) CD; the transcription of the OEMC CD and the related Event Queries** contain information regarding [Girlfriend of Subject 1] calling “911” and requesting assistance because her “baby daddy” battered her and her children inside a residence. [Girlfriend of Subject 1] reported that she had been “beaten real bad,” and that the suspect had, “just left.” [Girlfriend of Subject 1] provides the address of XXXX S. Honore Street to the dispatcher. The dispatcher then asks, “Is he still there, at which time [Girlfriend of Subject 1] screams and commotion can be heard. The sound of the telephone buttons being pressed on [Girlfriend of Subject 1]’s end of the call is heard, and then the call is terminated. The dispatcher remarks that it sounds as if “he just came back in.”

Beat 714R (Officers A and B) was assigned to respond and held en route to the call at 0142 hours. At 0146 hours, upon their arrival to the XXXX S. Honore Street, Officer A radioed that a black male, wearing a white shirt, fled north from the rear of XXXX S. Honore Street, then west on Wolcott Avenue.

¹ [Girlfriend of Subject 1] described Subject 1’s cell phone as a burgundy “kind of old flip phone” and her cell phone as a silver “Incognito” phone.

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At 0148 hours Officer A requested "EMS" and radioed, "Shots Fired" in the area of 6230 or 6240 S. Wolcott Avenue. Officer A also radioed for officers to go to XXXX S. Honore Street regarding the Domestic Battery victim. Beat 734R (Officers C and D) was assigned to respond to the battery victim. Beat 723R (Officers E and F) radioed that they were also at XXXX S. Honore Street regarding the Battery victim. Beat 799 (CPD Lieutenant 1) inquired as to injuries and was informed by dispatch that only the offender was injured. Beat 714R radioed that the offender was shot in the upper right shoulder; the neck, and possibly the lower back. Original Case Report, RD#HT-334550, was generated regarding the Domestic Battery. Original Case Report, RD#HT-334470, was generated regarding the police involved shooting and Officer A was documented as the shooter.

The related Original Case Reports and Case Supplementary Reports, RD#HT-334550/Domestic Battery, and RD#HT-334604/Aggravated Assault/Other Dangerous Weapon, were "Exc. Clear Closed Other Exceptional" and were to be read in conjunction with Detective Case Supplementary Report, HT-334470.

The related Detective Case Supplementary Report, RD#HT-334470/Homicide/Justifiable Homicide, contains information that is consistent with the Summary of Incident; the information contained in Original Case Report, HT-334550; the information contained on the OEMC CD; the information contained in the transcription of the OEMC CD and the information contained in the related Event Queries. The report additionally documents that technical services retrieved in-car dash camera footage from a vehicle occupied by Beat 724R (Officers G and H). The area of the shooting was described as residential, consisting of single family frame homes, in an unkempt neighborhood, with broken glass and debris from abandoned buildings littering the yards, alley and gangways. The body of Subject 1 was observed laying in a grassy parkway, on its left side, head to the northeast, feet to the south, with gunshot wounds to the left shoulder and lower back. The body was clothed in a blood stained red tee shirt, black jeans with a white cloth belt, blue plaid boxer shorts, white socks and black and white "Air" gym shoes. A dark red "Sprint" cell phone and multiple expended shell casings were discovered several inches north of the body. The shell casings were at the curb line and on the sidewalk. An empty magazine from Officer A's firearm was several feet away from the body. A piece of hair extensions, several inches long, was on the sidewalk, immediately west of the body.

Officer A was interviewed by Detectives and stated that, after he observed Subject 1 flee from the residence at XXXX S. Honore Street, he chased Subject 1 on foot southbound through the west alley of Honore Street then westbound through the gangway at 6225 S. Wolcott Avenue; then westbound across Wolcott Avenue into a vacant lot at 6230 S. Wolcott Avenue. Officer A ordered Subject 1 to stop. Subject 1 turned around and faced Officer A with his right hand inside his pocket. Officer A ordered Subject 1 to show his hands. Subject 1 withdrew his right hand from his pocket. Officer A observed that he was holding a "dark" and "shiny" object. Subject 1 raised and pointed the object and aggressively advanced toward Officer A. Officer A ordered Subject 1 to drop the object. Subject 1 failed to comply and continued to advance toward Officer A. Officer A

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discharged his firearm sixteen times at Subject 1, fearing that Subject 1 was armed with a handgun and that his life was in danger. Subject 1 fell to the parkway at 6230 S. Wolcott Avenue. Officer A immediately radioed, "Shots fired by the police," and requested medical assistance for Subject 1. Officer A was transported to Little Company of Mary Hospital for treatment of chest pain.

Officer B informed the Detectives that he heard several gun shots as he drove southbound through the alley in an effort to cut off Subject 1's flight path. When he caught up to Officer A, he observed Subject 1 lying on the ground.

Subject 1's sister, [Sister of Subject 1], was at the shooting scene following the incident. She informed Detectives that she knew Subject 1 had a history of being physically abusive toward [Girlfriend of Subject 1] and had advised Subject 1 to terminate their relationship. A canvass was conducted but no witnesses were located. The case was classified "Closed Non-Criminal."

The **Tactical Response Report** documents that Subject 1 did not follow verbal direction, fled, posed an imminent threat of Battery, attacked with a weapon² and used force likely to cause death or great bodily harm in that he charged toward Officer A with an apparent firearm. Officer A responded with his presence, verbal commands, and by firing upon Subject 1 sixteen times, fatally wounding him.

The **Officer's Battery Report** documents that Officer A did not sustain any apparent injuries.

The **related in-car dash camera footage** from the vehicle of Beat 724R depicts the shooting scene from the perspective of Beat 724R as it approaches the scene and travels southbound on Wolcott Avenue. A uniformed officer (Officer A) is depicted at the curb line of 6230 S. Wolcott Avenue, walking from the east side of the street to the west side of the street. Officer A can be seen firing upon a subject (Subject 1) who appears to be lying on the grassy parkway, just beyond the western curb line, near a tree, with his back to Officer A.

A **canvass conducted by IPRA personnel** did not produce any witnesses.

Internal Affairs Division CPD Sergeant 1, informed IPRA of a witness to the shooting. The witness was identified as Witness 1. CPD Sergeant 1's report regarding his contact with Witness 1 indicates that Witness 1 was produced by the attorney representing the estate of Subject 1; Witness 1 stated he was promised monetary compensation for his cooperation by attorney's representing the estate of Subject 1.

The R/I met with Witness 1 on 20 October 2011, at his residence; in an attempt to interview Witness 1. Witness 1 stated that he was now represented by an attorney, and

² It is noted that though this is reported in the TRR, there was no weapon recovered. This documentation is related to Officer A's apparent perception, not a fact.

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had been advised not to communicate further with IPRA; Witness 1 refused to provide a statement.

Illinois State Police Crime Lab reports document that no latent impressions were suitable for comparison from the cell phone that was inventoried from the scene of the shooting. A DNA swab from the cell phone revealed the presence of human male DNA. Though not definitively Subject 1's DNA, his could not be excluded from the profile. The reports indicate that Subject 1's DNA profile was expected to be seen in 1 in 68 quadrillion black males. The blood stain swab taken from the cell phone was found to match the DNA profile of Subject 1.³

Evidence Technician photographs from the Domestic Battery depict swelling, blood and bruising about [Girlfriend of Subject 1]'s face and head, and scratches about the rear of her neck. [Daughter] appears to be uninjured. **Evidence Technician photographs of the shooting scene** depict the residence at XXXX S. Honore Street; multiple shell casings; hair extensions; the body of Subject 1; a cartridge from the chamber of Officer A's firearm; and a cell phone. Leica scan measurements were taken at the shooting scene.

The **Medical Examiner's Report** contains information that is consistent with the R/I's interview of Doctor A. The report additionally documents that Subject 1's manner of death was a Homicide, with the cause being multiple gunshot wounds.

During an in-person interview with the R/I, Deputy Chief Medical Examiner, Doctor A stated Subject 1 was shot seven times, which included a graze wound to the left side of the back. Doctor A's report and analysis of Subject 1's wounds utilizes a numbering system for each wound; the numbering does not identify the order or sequence of the shots fired and corresponding wounds. The gunshot wounds were sustained while the shooter was at a distance of more than two feet away from Subject 1. The first gunshot wound was to the abdominal wall. There was an entry wound to the abdomen and an exit wound to the left lower back. The second gunshot wound was to the left thigh. There was an entry wound to the left front thigh and an exit wound to the left rear thigh. The bullet traveled from the front to the back, right to left, then slightly downward. The third and fourth gunshot wounds were on the left upper back, centimeters apart, consistent with Subject 1 lying down at the time he was shot, with his back toward the shooter. The bullets from these wounds entered through the back and traveled in a direct downward path to the abdominal wall, where they lodged. The fifth gunshot wound also entered through the back and was an inch lower than the third and fourth gunshot wounds. The bullet traveled the same path as the third and fourth gunshot wounds, directly downward, to the abdominal wall, where it lodged.

The sixth gunshot wound was to the right hand, and could be consistent with a defensive wound. There was an entry wound to the front web area of the hand, the area between

³ It is noted that photograph # 106 of Att. 34 depicts the cell phone approximately 12-18 inches away from Subject 1's body, on the ground behind him, not adjacent to where his hands had fallen.

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the thumb and the index finger, and an exit wound to the outside of the lower right wrist. According to Doctor A, it was possible that Subject 1 was holding something in his hand when he was shot. The seventh gunshot wound was a graze wound to the upper back, on the left side of the body. The bullet grazed the skin in the same path as the third, fourth and fifth gunshot wounds.

According to Doctor A, the third, fourth and fifth bullets were “pumped” rapidly into Subject 1’s body, traveled through loops of small intestine and instantly caused his death

The **medical records from Little Company of Mary Hospital** document that Officer A entered the triage following his involvement in a shooting. The records indicate that Officer A made statements to the attending medical personnel. The report states that: “The patient was on duty making an arrest when the subject fled on foot. The patient followed him. He states that he was able to track him down. He called out and warned not to move or he would shoot. The suspect reached into his right pocket and took out what the police officer thought was a gun. He then proceeded to run at the police officer. The officer felt afraid for his life and so shot him sixteen times. The subject is dead.”⁴

The records indicate that Officer A complained of “uncontrollable shakes.” Officer A denied having chest pains and was diagnosed with resolved anxiety.⁵

The **Synoptic Report, prepared by CPD Sergeant 2, regarding the Weapons Discharge with Hits**, documents that on 07 June 2011, at approximately 0230 hours, CPD Sergeant 2 was notified of a weapons discharge involving a 007th District officer. At approximately 0640 hours, CPD Sergeant 2 arrived at the Area One Detective Division and began the twenty minute observation period of Officer A. Officer A was presented with the Notice of Alcohol and Drug Testing Following a Firearm Discharge Incident Form. At approximately 0704 hours, Officer A was administered a Breath Test. Officer A’s Blood Alcohol Content was .000. At approximately 0715 hours, Officer A underwent a drug test. The drug test results were negative.

The **Synoptic Report, prepared by CPD Sergeant 3**, documents that Officer A was relieved of his police powers on 21 June 2011, at approximately 2103 hours, and detailed to Unit 166, pending the outcome of an IPRA investigation.

In a statement to IPRA, the witness officer, Officer D, stated that he and Officer C, were partnered on the first watch, uniformed, occupying a marked vehicle, and assigned to Beat 734R. Officer D was the driver. Officer C was the passenger. They monitored the radio transmission of an officer involved in a foot pursuit in the 5800 block of south Wolcott Avenue and of “Shots fired.” Once they got near the area, Officers C and D were instructed to relocate to XXXX S. Honore Street regarding the Domestic Battery victim. Upon arriving at the residence, Officer D knocked on the front door but received no answer. Officer D opened the front door and observed [Girlfriend of Subject 1] lying

⁴ Att. 54, page 3.

⁵ The medical records also documented this was the fourth time, within the past year, that Officer A was involved in a police shooting. The most recent shooting occurred two months earlier, in April 2011.

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on the floor, “semi-conscious,” just inside the doorway, with three children nearby. Officer D asked [Girlfriend of Subject 1] if she was okay and she informed him that she had been battered by her boyfriend (Subject 1). Paramedics arrived and Officers C and D accompanied them to the hospital. Officer D learned at the hospital that a Chicago Police Officer was involved in a shooting. Officers C and D never went to the shooting scene; never heard the shots fired; never observed who fired the shots; and never observed the subject.

In a statement to IPRA, the witness officer, Officer C, Unit 007, corroborated the account of his partner, Officer D, and identified Officer A as the officer who re-directed them to the location of the Domestic Battery. Officer C stated that he and Officer D and CFD personnel simultaneously arrived at XXXX S. Honore Street. CFD personnel pried the door open when no one answered. [Girlfriend of Subject 1] had swelling to her face and informed them that her boyfriend had physically abused her, causing her to lose consciousness, and had physically abused one of her children.

In a statement to IPRA, the witness Officer F, Unit 007, stated that he and Officer E were partnered on the first watch, uniformed, occupying a marked vehicle, and assigned to Beat 723R. They monitored the radio transmission by Officer A regarding a foot pursuit that led to “Shots fired by the police” and were assigned to do the paperwork. Officer F observed Subject 1 at the scene, lying lifeless on the ground. Officers E and F taped off the scene and had limited conversation with Officer A, only asking him if he was “okay.” Officer F never heard the actual shots fired; never observed Officer A discharge his weapon; and never went to the scene of the Domestic Battery.

In a statement to IPRA, the witness Officer E, Unit 007, corroborated the account of his partner, Officer F.

In a statement to IPRA, the witness Officer G, Unit 007, stated that he and Officer H were partnered on the first watch, uniformed, occupying a marked vehicle, and assigned to Beat 724R. Officer B was the passenger. Officer H was the driver. They monitored the radio transmission of an officer engaged in a pursuit of a Domestic Battery offender who was fleeing westbound on 62nd Street, near Wolcott Avenue. Officers E and F were turning onto southbound Wolcott Avenue when they heard approximately ten shots fired in rapid succession. Officers E and F drove further south on Wolcott Avenue and observed that Officer A had his firearm pointed at Subject 1, who was lying on the ground. Officer A was “less than five feet” away from Subject 1’s body. Officer B exited the vehicle to assist and observed that Subject 1 was lying “face forward with his arms clenched to his chest.” Officer B pointed his firearm at Subject 1 and asked to see his hands. Officer B walked closer and observed that Subject 1 was deceased. Officer B asked Officer A if he was, “okay,” and “what happened.” Officer A informed Officer B that Subject 1 turned on him with something in his hand and that he fired his weapon upon Subject 1. Officer B searched for Subject 1’s weapon and placed evidence cards on top of shell casings he observed on the ground. Officer B also observed a cell phone within a few feet of Subject 1’s body. Officer B did not recall observing any muzzle

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flashes; never observed Officer A discharge his weapon; never observed Subject 1 fleeing from Officer A and never went to the scene of the Domestic Battery.

In a statement to IPRA, the witness Officer H, Unit 007, corroborated the account of his partner, Officer G, and requested an ambulance for Subject 1. Officer H could not recall any other details including what, if any, conversation he had with Officer A regarding the shooting.

In a statement to IPRA, the witness Officer B, Unit 007, stated that he and Officer A were partnered on the first watch, uniformed, occupying a marked vehicle, and assigned to Beat 714R. Officer B was the driver. Officer A was the passenger. They arrived at XXXX S. Honore Street in response to an OEMC Domestic Battery assignment. When POs Torres and Sierra pulled in front of the residence, Officer A yelled to Officer B that a subject was fleeing from the rear of the residence. As Officer A gave chase on foot, Officer B gave chase in the vehicle, southbound on Honore Street, then drove to the alley between Honore Street and Wolcott Avenue where he observed Officer A. Officer A instructed Officer B to, "Go the other way." Officer B complied and was driving northbound when he heard Officer A radio, "A male/black with a white shirt. Going westbound. Going westbound." Officer B drove through the west alley of Wolcott Avenue, when he heard a rapid succession of gunfire. Officer B exited the vehicle and ran southbound, toward the sound of the gunfire. The gunfire ceased before Officer B reached the 6200 block of south Wolcott Avenue. Officer B observed Subject 1 at the scene, lying on the ground, bleeding, with his hands in front of him. A "black or red older model cell phone" was lying on the ground, approximately one inch away from Subject 1's hands. Officer A was standing approximately one foot away from Subject 1's body. Officer B asked Officer A if he was okay. Officer A stated that he was "fine," pointed toward the cell phone and told Officer B that Subject 1 had charged at him with the cell phone.

In a statement to IPRA, CPD Detective 1, Unit 610, stated that he and his partner of ten years, CPD Detective 2, Unit 610, were driving in the area, looking for witnesses to a homicide that occurred the night before. They heard Officer A radio that he was involved in a foot chase of a subject (Subject 1), southbound through alleys, from an address on the 6200 block of south Honore Street. They also heard Officer A radio, "Shots fired by the police" and request an ambulance.

Detectives 1 and 2 arrived at the scene, within minutes, and could smell gun smoke. They observed the area being taped and that Subject 1's bloodied body was lying face down on the grass, near a tree, on the west side of the parkway on Wolcott Avenue.

Detectives 1 and 2 conversed with Officer A and did a walk through of the scene.⁶ Officer A was "cool and calm." He did not appear to be stressed or complain of being stressed or of having chest pains.

⁶ Detectives 1 and 2 only conversed with Officer A at the scene.

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Officer A informed Detectives 1 and 2 that following his response to the domestic disturbance, he was exiting the squad car when he observed Subject 1 flee from the side door of the residence located at XXXX S. Honore Street, westbound through the gangway, and then southbound through the alley. Officer A chased Subject 1 on foot. Officer B drove the squad car around the block to cut Subject 1 off. Officer A lost sight of Subject 1 in a gangway and regained sight of Subject 1 as he fled across Wolcott Avenue, in a southwesterly direction, into a large vacant lot.

Officer A crossed from the east side of Wolcott Avenue toward the west side of Wolcott Avenue, while yelling to Subject 1, "Stop. Police." CPD Detective 1 was not told by Officer A that he yelled to Subject 1, "Stop, Police or I'll shoot," as a scare tactic

Subject 1 abruptly turned around and faced Officer A with at least one of his hands inside his pocket. Officer A ordered Subject 1 to show his hands. Subject 1 pulled a dark shiny object from his pocket and pointed it at Officer A. Officer A ordered Subject 1 to drop the object. Subject 1 charged toward Officer A while pointing the object at Officer A. Officer A "Fired until he ran out of bullets and Subject 1 fell to the ground."

CPD Detective 1 did not recall Officer A stating that he observed Subject 1's shoulder move while he was lying on the ground. According to CPD Detective 1, had Officer A provided him with this information, he would have documented the information in his notes and in the related Supplementary Report.

CPD Detective 1 did not recall Officer A mention using a tree for cover. CPD Detective 1 viewed the related video and it was his belief that Officer A used the tree that was in the parkway to keep a clear line of sight between himself and Subject 1.

In a statement to IPRA, CPD Detective 2, Unit 610, recounted his involvement in this incident and his contact with Officer A. CPD Detective 2 stated that he responded to the scene of this incident, and came in contact with Officer A, who he described as being "a little stressed." CPD Detective 2 recalled that Officer A said he observed Subject 1 fleeing from the backyard, at the rear of the residence at XXXX S. Honore, south into the alley, not from the inside of the residence. According to CPD Detective 2, Officer A stated that Subject 1's hand was still moving as he fell and Officer A saw that movement as a continuation of the threat to his life by Subject 1. During the walkthrough of the scene, Officer A moved towards the tree in the parkway, close to where Subject 1 had fallen. CPD Detective 2 inferred that Officer A had used the tree for cover as he approached Subject 1.

In a **lawsuit** filed by [Girlfriend of Subject 1] on October 18, 2011, [Girlfriend of Subject 1], et al. v. City of Chicago, et al., 11 C 7362 in the Northern District of Illinois, on behalf of Subject 1 and his estate, [Girlfriend of Subject 1] alleges that Officer A used an unnecessary amount of force against Subject 1 by shooting him multiple times, when Subject 1 was only in possession of a cell phone, and not a firearm or other dangerous weapon. This particular lawsuit was dismissed for want of prosecution on 13 December

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2011. It is noted that the City of Chicago later settled a claim out of court with the estate of Subject 1.

In a deposition on 20 NOV 12, the accused, Officer A, Unit 007, provided an account of this event; the R/I notes that there are inconsistencies between Officer A's his interview with Detectives 1 and 2, and the information Officer A provided during his deposition.

During his 19 March 2015, interview with IPRA personnel ("IPRA Interview"), Officer A stated that he observed Subject 1 exit the residence at XXXX S. Honore Street. In his deposition, Officer A stated he never observed Subject 1 exit the residence – explaining that he observed him running towards the rear of the home and that he believed he was going to exit from the rear door.⁷ In his deposition, Officer A related he yelled to Subject 1, "Stop Police or I'll shoot" as a scare tactic⁸. In their statements provided to IPRA on 7 August 2015, Detectives 1 and 2 stated that Officer A told them that he stated to Subject 1, "Stop, Police" nor did he state, "Stop Police or I'll shoot"

During his IPRA interview, Officer A stated that Subject 1 turned to face him with his right hand inside his pocket and he instructed Subject 1 to show his hands. Subject 1 withdrew his right hand, brandishing a dark shiny object and advanced toward Officer A. Officer A instructed Subject 1 to drop the object. Subject 1 failed to comply and continued to advance toward Officer A. Officer A discharged his firearm sixteen times at Subject 1, fearing that Subject 1 was armed with a handgun and that his life was in danger. Subject 1 fell to the ground. Officer A radioed "Shots fired" and requested an ambulance.

In his deposition, Officer A stated that Subject 1 turned toward him with his arms at his side, not with one hand inside his pant pocket⁹. Officer A "froze with fear" when Subject 1 brandished a dark shiny object and did not instruct Subject 1 to drop the object¹⁰. Officer A simultaneously fired upon Subject 1 and moved toward a nearby tree for cover. Subject 1 fell to the ground with his hands underneath his body. Officer A observed Subject 1's right shoulder move and fired upon Subject 1 again, fearing that the threat had not yet been eliminated.¹¹

In his deposition, Officer A stated that he did not recall informing Detectives 1 and 2 that he observed Officer A with his right hand inside his pant pocket; that he did not recall informing Detectives 1 and 2 that he instructed Subject 1 to show his hands or to drop the object he was holding; and that he did not recall informing anyone who interviewed him following the shooting that he observed Subject 1's right shoulder move as he lay on the ground.¹²

⁷ Att. 131, Page 151, Line 13-17

⁸ Att. 131, Page 165, Line 10

⁹ Att. 131, Page 181, Line 3-6

¹⁰ Att. 131, Page 177, Line 23

¹¹ Att. 131, Page 197, Line 12

¹² Att. 131, Page 219, Line 6-8

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In a statement to IPRA, on 19 MAR 2015, the involved officer, Officer A, Unit 007, provided an account of this event. Prior to the onset of the statement, the R/I allowed Officer A the opportunity to review the relevant in car video that captured this incident.

Officer A recounted the OEMC dispatch he first received regarding the call at XXXX S. Honore Street. Officer A related that there was no mention of a weapon when OEMC assigned them the Domestic Battery. Officer A stated when he arrived at XXXX S. Honore Street, he looked through the front window of the home and was able to see Subject 1 on top of [Girlfriend of Subject 1], “moving like if he was hitting her.” Subject 1 made eye contact with Officer A and fled toward the rear of the residence. Officer A presumed that Subject 1 fled the residence via the backdoor and exited the squad car to pursue him on foot. Officer A removed his gun from its holster, ran through the gangway of XXXX S. Honore Street and entered the alley between Honore Street and Wolcott Avenue. Officer A heard the sound of someone stepping on tree branches behind an abandoned house. Officer A used his flashlight and observed Subject 1 running southbound through the adjacent backyards.

Officer A ordered Subject 1 to stop but Subject 1 continued to run southbound and then westbound through a gangway, toward Wolcott Avenue. Officer A ran toward the same gangway, losing sight of Subject 1 for approximately ten seconds. Once in the gangway, Officer A observed Subject 1 run toward the west side of Wolcott Avenue. Officer A crossed from the east side of Wolcott Avenue and again ordered Subject 1 to stop.

Officer A stated as Subject 1 reached the open lot on the west side of Wolcott Avenue, he turned toward Officer A, reached inside his pocket, grabbed what Officer A believed was a gun, and charged toward Officer A. Officer A described this action as occurring “in one motion.”

Officer A stated Subject 1 had his left arm over his head and what Officer A believed was a gun in his right hand. Officer A momentarily “froze with fear” with his firearm displayed, but not pointed at Subject 1, and gave Subject 1 verbal direction. Subject 1 ignored the verbal direction and continued to charge toward Officer A, continuously pointing what Officer A believed was a gun in his right hand at Officer A. Officer A fired upon Subject 1, from the middle of the street, but Subject 1 continued to charge toward Officer A, from the open lot on the west side of Wolcott Avenue. Subject 1 tripped on what Officer A believed was uneven pavement on the sidewalk, and fell to the ground in a grassy area near a tree. Officer A momentarily stopped shooting and began “tactically moving” toward the same tree to take cover, as he could not see Subject 1’s hands and did not know if Subject 1 was still armed.

Officer A stated as he got closer to Subject 1, he observed one of Subject 1’s shoulders move. Believing that Subject 1 was still in possession of a gun, Officer A fired upon Subject 1 three additional times.

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Additional officers arrived and Officer A radioed for other units to check on the Domestic Battery victim. Officer A observed the cell phone on the ground near where Subject 1 had fallen; Officer A stated that a weapon was not found on or near Subject 1, leading him to assume that the object he had seen in Subject 1's right hand was the cell phone. Officer A reiterated that throughout the course of this event, he believed that the item was a firearm.

Officer A denied the allegation against him, that he violated Department policy regarding the use of deadly force by shooting Subject 1 without justification.

The **Department Personnel Action Request Form (PAR Form)** documents that Officer A resigned from the Department, effective 26 AUG 15.

The inconsistent accounts that Officer A provided lead the R/I to conclude that Officer A was not being truthful. Had Officer A not resigned, to address this issue, the R/I would have presented Officer A with an additional allegation for providing a false statement.

CONCLUSION:

The R/I recommends that Allegation #1 – that Officer A violated Chicago Police Department General Order 03-02-03 regarding the use of deadly force in that he shot the subject, Subject 1, without justification be **Sustained**. Specifically, this investigation finds that the final three shots fired by Officer A at Subject 1 were not in compliance with Chicago Police Department policy.

Subject 1 was the offender in a Domestic Battery against both [Girlfriend of Subject 1] and their three year old child, [Daughter]. The battery required [Girlfriend of Subject 1] and [Daughter] to seek medical treatment. After committing the battery, Subject 1 fled from the responding officers and Officer A pursued Subject 1 on foot.

According to Officer A's initial accounts of this event, he informed the On Scene Incident Commander (OCIC) and the responding Detectives, Detectives 1 and 2, that during the foot pursuit, Subject 1 brandished an object from his pocket and charged toward him. Officer A believed the object was a firearm, became fearful for his life and fired upon Subject 1 as Subject 1 continued to move toward him with the object in his hand. Officer A specifically told Detectives 1 and 2 that Subject 1 fell to the ground after he fired all sixteen (16) rounds at him.

Following the shooting, it was determined that Subject 1 did not have a firearm, but may have had a cell phone in his hand.

There is no independent witness or evidence to support or refute Officer A's account of the initial sequence of this event.

The available in-car dash camera footage captures the final moments of this event and serves as critical evidence in this investigation.

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The dash camera footage depicts Officer A simultaneously walking toward and firing three (3) shots upon Subject 1. At the time, Subject 1 is lying on the ground with his back toward Officer A. Subject 1 appears to be motionless while he is on the ground, not posing any apparent threat to Officer A. Deputy Chief Medical Examiner, Doctor A, in both an interview with IPRA and in the Postmortem Report, made specific findings regarding the injuries to Subject 1. Doctor A opined that the three shots to Subject 1's back indicate that he was laying on the ground, with the shooter standing over him. Doctor A specifically indicated that these three gunshots would have resulted in Subject 1's immediate death, given the internal damage they caused.

The R/I gave Officer A the opportunity to view the in-car dash camera footage prior to questioning him. During the interview, Officer A related that Subject 1 tripped over uneven pavement and fell to the ground in a grassy area near a tree.

In his deposition¹³ and his statement to IPRA¹⁴ Officer A stated he momentarily stopped shooting and began "tactically moving" toward the same tree to take cover. Officer A did not describe that action to the responding detectives. Further he only made that statement after observing the video. However, the video does not depict a tactical movement towards the tree for cover; instead Officer A moves closer to Subject 1 without taking advantage of the tree as cover. Also, Officer A only mentions that he stated "Stop or I'll Shoot" at his deposition, and not in his statement to IPRA.

In his deposition¹⁵ and his IPRA statement¹⁶ Officer A stated that he observed Subject 1's right shoulder move and fired three (3) additional shots because he believed Subject 1 still posed a threat to his life. However, Officer A never reported to the OCIC or the Responding Detectives that he fired additional shots at Subject 1 after Subject 1 fell to the ground or that he observed Subject 1's shoulder move while he was lying on the ground or that he still considered Subject 1 a threat after he had fallen to the ground. In fact, CPD Detective 1 stated that had Officer A told him that he fired additional shots upon Subject 1 after he observed Subject 1's shoulder move while he was lying on the ground, CPD Detective 1 stated he would have included the information in his notes and documented the same in the related Supplementary Report.

Officer A articulated his decision to use deadly force in his initial sequence of fire, prior to Subject 1 falling to the ground, explaining that he fired his weapon under the reasonable belief that Subject 1 was in possession of a firearm and that he posed an immediate threat to Officer A's life. Officer A articulated that he was responding to a violent domestic assault when he encountered Subject 1, whom he witnessed attacking [Girlfriend of Subject 1]. Officer A articulated that Subject 1 attempted to evade arrest through flight and that he failed to follow verbal direction given to him. Officer A further

¹³ Att. 131, Page 177, Line 23

¹⁴ Att. 158, Page 33, Line 17

¹⁵ Att. 131, Page 197, Line 12

¹⁶ Att. 158, Page 34, Line 21

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articulated that when Subject 1 finally did stop, he turned towards him brandishing an object Officer A believed to be a firearm.

While there are a number of factors that are undisputed regarding Subject 1's actions immediately prior to the discharge of Officer A's firearm, there remain issues relating to Officer A's statements regarding this matter. The specificity in Officer A's statement to the responding detectives and then changing narrative about his use of force in his deposition and then his statement to IPRA significantly damages his credibility especially when weighted in conjunction with the physical evidence in this matter.

As mentioned above, though there are credibility issues with Officer A's statements, there is not enough physical evidence to determine whether or not Officer A's use of force in his initial interaction with Subject 1 was reasonable. However, the preponderance of the evidence shows that Officer A acted unreasonably when he fired the final three shots at Subject 1.

According to Officer A, he fired three additional shots at Subject 1 while he was lying on the ground, when Officer A observed Subject 1 move his right shoulder. Officer A would later state to IPRA that he believed that Subject 1 was still a threat to his life. This is inconsistent with the dash-cam video which shows no such movement by Subject 1. Rather, the video shows that Subject 1 is lying motionless on the ground, posing no threat and showing no movement consistent with this claim by Officer A.

Further, Officer A's explanation for firing these three additional shots lacks credibility because he made no mention of this until he was confronted with the video evidence depicting his conduct. Officer A's different version of events in his various statements are material and undermine his credibility. Officer A had the opportunity to address these discrepancies but failed to do so.

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 not have reasonably believed that Subject 1 still posed an immediate threat to his or her safety when Subject 1 was on the ground – and that Officer A's use of deadly force relating to the final three shots is therefore objectionably unreasonable and **In Violation of Policy** as outlined by the Use of Force of 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:

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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 or she will endanger human life or inflict great bodily harm unless arrested without delay.”

FINDINGS:

Accused: **Officer A, Unit 007**

Allegation #1: **Sustained.** Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 07 June 2011, at 0148 hours, in the vicinity of 6230 S. Wolcott Avenue, Officer A violated Department policy regarding the use of deadly force when he shot Subject 1 without justification.

Count 2: **Sustained.** Violation of Rule 2, “Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department,” in that on 07 June 2011, at 0148 hours, in the vicinity of 6230 S. Wolcott Avenue, Officer A violated Department policy regarding the use of deadly force when he shot Subject 1 without justification.

Count 3: **Sustained.** Violation of Rule 38, “Unlawful or unnecessary use or display of a weapon,” in that on 07 June 2011, at 0148 hours, in the vicinity of 6230 S. Wolcott Avenue, Officer A violated Department policy regarding the use of deadly force when he shot Subject 1 without justification.